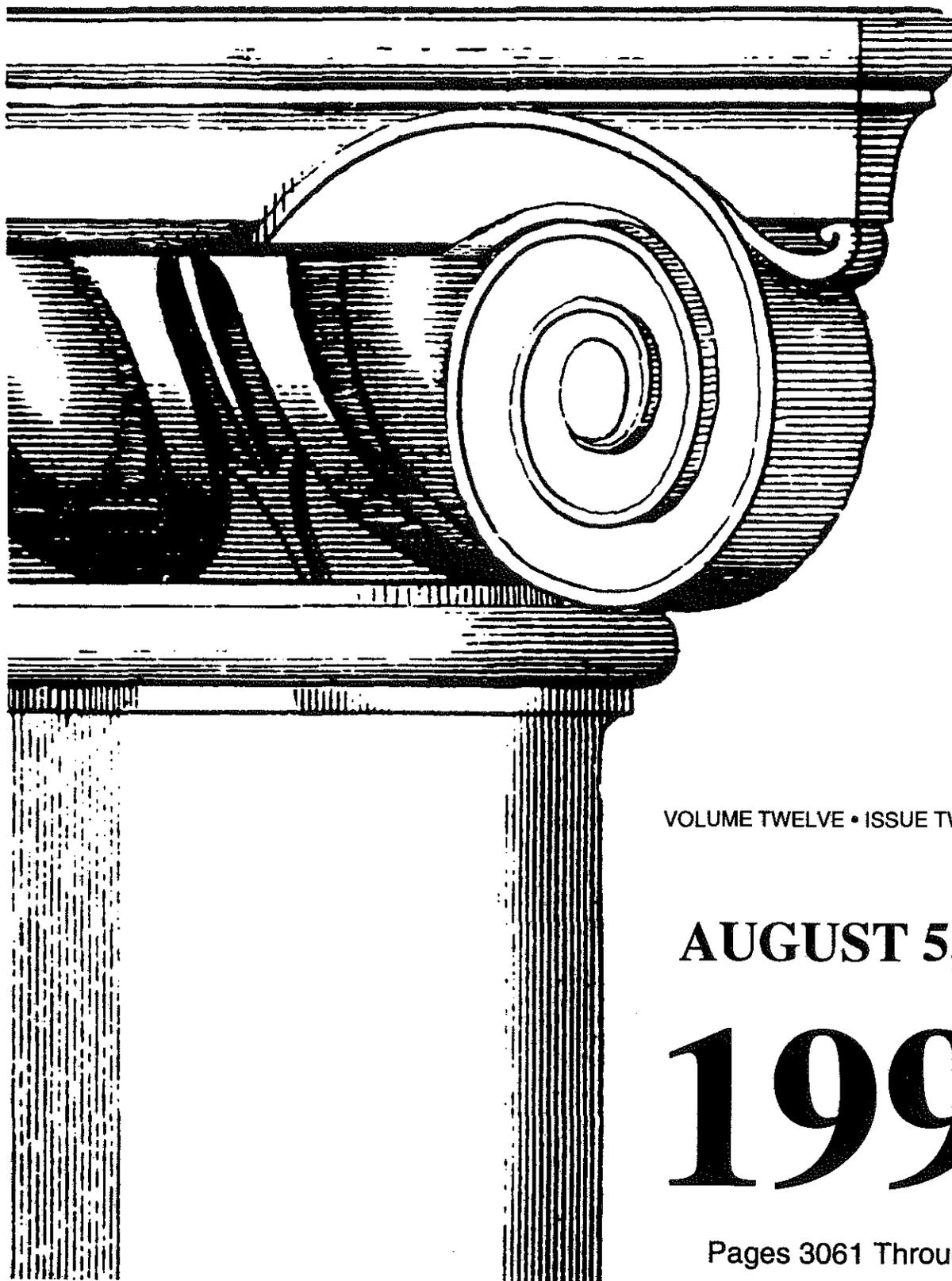


THE VIRGINIA REGISTER

OF REGULATIONS



VOLUME TWELVE • ISSUE TWENTY-THREE

AUGUST 5, 1996

1996

Pages 3061 Through 3200

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 new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in *The Virginia Register of Regulations*. In addition, the *Virginia Register* is a source of other information about state government, including all emergency regulations and executive orders issued by the Governor, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of 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 intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposal in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

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 21 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 agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate standing committees and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-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 21-day extension period; (ii) the Governor exercises his authority to require the agency to provide for 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 provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period.

Proposed regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

EMERGENCY REGULATIONS

If an agency demonstrates that (i) there is an immediate threat to the public's health or safety; or (ii) Virginia statutory law, the appropriation act, federal law, or federal regulation requires a regulation to take effect no later than (a) 280 days from the enactment in the case of Virginia or federal law or the appropriation act, or (b) 280 days from the effective date of a federal regulation, it then requests the Governor's approval to adopt 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 to addressing specifically defined situations and may not exceed 12 months in duration. Emergency regulations are published as soon as possible in the *Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) deliver the Notice of Intended Regulatory Action to the Registrar in time to be published within 60 days of the effective date of the emergency regulation; and (ii) deliver the proposed regulation to the Registrar in time to be published within 180 days of the effective date of the emergency regulation. If the agency chooses not 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 (§ 9-6.14:7.1 et seq.) of Chapter 1.1:1 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **12:8 VA.R. 1096-1106 January 8, 1996**, refers to Volume 12, Issue 8, pages 1096 through 1106 of the *Virginia Register* issued on January 8, 1996.

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Staff of the Virginia Register: **E. M. Miller, Jr.**, Acting Registrar of Regulations; **Jane D. Chaffin**, Deputy Registrar of Regulations.

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Symbol Key

† Indicates entries since last publication of the *Virginia Register*

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **2 VAC 5-180-10 et seq. Rules and Regulations Governing Pseudorabies in Virginia.** Pseudorabies is a disease that exacts a high death toll among the animals it infects, many of which are domesticated animals. Among the animals that can be infected with pseudorabies are cattle, sheep, dogs, cats, and notably, swine. There is no known evidence that humans can contract pseudorabies. Most kinds of animals infected with pseudorabies die before they can infect other animals (death usually occurs within 72 hours after infection). Swine are a different matter. Although pseudorabies can kill swine (the younger the swine, the higher the rate of mortality), they can also recover from the disease and spread it to other swine and to other kinds of animals. Virginia's regulations to eradicate pseudorabies from swine are part of a national program designed to rid the nation of pseudorabies. This regulation provides rules to govern the program for the eradication of pseudorabies from swine in Virginia. The purpose of the contemplated regulatory action is to review the regulation for effectiveness and continued need including, but not limited to, a proposal to allow Virginia to participate in the national program to eradicate pseudorabies at whatever stage its circumstances at a particular time would allow -- whether stage 1 or stage 5, or any stage in between. The agency invites comment on whether there should be an advisor appointed for the present regulatory action. An advisor is (i) a standing advisory panel, (ii) an ad-hoc advisory panel, (iii) a consultant with groups, (iv) a consultant with individuals, or (v) any combination thereof. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 3.1-724, 3.1-726 and 3.1-730 of the Code of Virginia.

Public comments may be submitted until 8:30 a.m. on August 26, 1996, to Dr. W. M. Sims, Jr., Department of Agriculture and Consumer Services, Division of Animal Industry Services, P.O. Box 1163, Richmond, VA 23218-1163.

Contact: T. R. Lee, Program Supervisor, Department of Agriculture and Consumer Services, Office of Veterinary Services, P.O. Box 1163, Richmond, VA 23218-1163, telephone (804) 786-2483.

VA.R. Doc. No. R96-388; Filed May 28, 1996, 2:30 p.m.

STATE AIR POLLUTION CONTROL 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 State Air Pollution Control Board intends to consider promulgating regulations entitled: **9 VAC 5-500-10 et seq. Exclusionary General Permit for Federal Operating Permit Program.** The purpose of the proposed action is to develop a general permit that will become a legally enforceable mechanism for stationary sources subject to the federal operating permit program (Article 1 of 9 VAC 5-80-10 et seq.) to be excluded from the program provided they maintain their actual annual emissions at a specified level that is less than the potential to emit applicability thresholds for the federal operating permit program. A public meeting will be held by the department in the Training Room, Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, at 10 a.m. on August 7, 1996, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development. The department will form a technical advisory committee to assist in the development of the regulation. If you desire to be on the committee, notify the agency contact in writing by 4:30 p.m. on August 8, 1996, and provide your name, address, phone number and the organization you represent (if any). Notification of the composition of the technical advisory committee will be sent to all applicants. If you wish to be on the committee, you are encouraged to attend the public meeting mentioned above. The primary function of the committee is to develop a recommended regulation for department consideration through the collaborative approach of regulatory negotiation and consensus. After publication in the Virginia Register of Regulations, the department will hold at least one public hearing to provide opportunity for public comment on any regulation drafted pursuant to this notice.

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

Public comments may be submitted until 4:30 p.m. on August 8, 1996, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA, 23240.

Contact: Robert A. Mann, Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA, 23240, telephone (804) 698-4419, toll-free (800) 592-5482, FAX (804) 698-4510, or (804) 698-4021/TDD ☎

Notices of Intended Regulatory Action

BOARD FOR COSMETOLOGY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Cosmetology intends to consider amending regulations entitled: **18 VAC 55-20-10 et seq. Board for Cosmetology Regulations.** The purpose of the proposed action is to revise examination language to incorporate reference to the Public Procurement Act and to simplify provisions of current regulations. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 54.1-1202 of the Code of Virginia.

Public comments may be submitted until September 5, 1996.

Contact: Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8509, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

VA.R. Doc. No. R96-479; Filed July 8, 1996, 11:58 a.m.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES 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 Criminal Justice Services Board intends to consider amending regulations entitled: **6 VAC 20-20-10 et seq. Rules Relating to Compulsory Minimum Training Standards for Law-Enforcement Officers.** The purpose of the proposed action is to amend the regulations relating to minimum training standards for law-enforcement officers to update these based on the 1995 job task analysis which identified the knowledge, skills, and abilities required to perform the duties of the position at a minimally acceptable level. Updated standards and training will be consistent with performance expectations for law-enforcement officers in the Commonwealth that best meet the goal of maintaining public safety. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 9-170 of the Code of Virginia.

Public comments may be submitted until September 5, 1996, to Lex Eckenrode, Deputy Director, Bureau of Operations, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Judy Kirkendall, Job Task Analysis Administrator, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8003 or FAX (804) 371-8981.

VA.R. Doc. No. R96-494; Filed July 17, 1996, 10:02 a.m.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to consider amending regulations entitled: **8 VAC 20-130-10 et seq., Regulations Establishing Standards for Accrediting Public Schools in Virginia.** The purpose of the proposed action is to ensure improved compliance with the Standards of Quality which require the Board of Education to promulgate regulations establishing standards for accrediting public schools in Virginia. The board seeks to amend the existing standards of accreditation to focus the accreditation and evaluation of schools more strongly on student academic achievement and school level progress toward meeting the academic objectives in the standards of learning recently adopted by the board. The Board of Education will hold preliminary public hearings in August to receive suggestions from the public for revisions to the accrediting standards. The specific dates, times, and location will be published in a future issue of the Virginia Register, as well as announced at the July 25 Board of Education meeting and advertised through the state media. Speakers are requested to provide their comments in writing, if possible, at the time they speak. Comments will also be received by mail at the Board of Education, P.O. Box 2120, Richmond, Virginia 23218-2120. In addition to these preliminary public hearings, the board will hold additional hearings following publication of the proposed revisions to the regulations.

Statutory Authority: §§ 22.1-16, 22.1-19 and 22.1-253.13:3 B of the Code of Virginia.

Public comments may be submitted until September 30, 1996.

Contact: Lin Corbin-Howerton, Policy Director, Department of Education, P.O. Box 2120, Richmond, VA, 23218-2120, telephone (804) 225-2543, toll free (800) 292-3820 or FAX (804) 225-2053.

DEPARTMENT OF FORESTRY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Forestry intends to consider repealing regulations entitled: **4 VAC 5-40-10 et seq. State Forests Regulations.** The purpose of the proposed action is to repeal regulations that regulate uses, maintain order and preserve the conditions of all state forests including the roads, ponds, lakes, streams, rivers, beaches, food patches and recreational areas where the public may visit. The Department of Forestry believes that current laws provide sufficient protection over its varied interests and allows the full enjoyment without degradation to the state forest resources. The department also believes that a separate regulation to administer state forests is redundant with many public safety laws and is not necessary. The

Notices of Intended Regulatory Action

agency does not intend to hold a public hearing on the proposed repeal of the regulation after publication.

Statutory Authority: § 10.1-1101 of the Code of Virginia.

Public comments may be submitted until September 9, 1996.

Contact: Ronald Jenkins, Administration Officer, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555, FAX (804) 293-2768, or (804) 977-6555/TDD ☎

VA.R. Doc. No. R96-492; Filed July 17, 1996, 9:44 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Forestry intends to consider repealing regulations entitled: **4 VAC 5-60-10 et seq. Reforestation of Timberlands.** The purpose of the proposed action is to repeal the regulations that provide for the administration of resources, i.e., personnel, equipment, materials and supplies. These regulations provide for the protection, preservation and perpetuation of the state's forest resources. The regulations were recommended for repeal after the Executive Order 15(94) review revealed that state law provides necessary guidance to administer the state reforestation program and protect the state's forest resources. The agency does not intend to hold a public hearing on the proposed repeal of the regulation after publication.

Statutory Authority: § 10.1-1101 of the Code of Virginia.

Public comments may be submitted until September 9, 1996.

Contact: Ronald Jenkins, Administration Officer, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555, FAX (804) 293-2768, or (804) 977-6555/TDD ☎

VA.R. Doc. No. R96-493; Filed July 17, 1996, 9:44 a.m.

STATE BOARD OF JUVENILE JUSTICE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider repealing regulations entitled: **6 VAC 35-40-10 et seq. Predispositional and Postdispositional Group Home Standards.** The purpose of the proposed action is to provide an integrated approach to the regulation of juvenile residential facilities by repealing these standards for predispositional and postdispositional group homes, to be replaced by a new, consolidated regulation governing all classes of juvenile residential facilities. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 16.1-309.9 and 66-10 of the Code of Virginia.

Public comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-429; Filed June 14, 1996, 1:19 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider amending regulations entitled: **6 VAC 35-60-10 et seq. Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grants Programs.** The purpose of the proposed action is to update this existing regulation to reflect changes in the focus of offices on youth, and to give such offices on youth greater flexibility in achieving program goals. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 66-10 and 66-30 of the Code of Virginia.

Public comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-422; Filed June 14, 1996, 1:18 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider repealing regulations entitled: **6 VAC 35-70-10 et seq. Learning Center Standards (Juvenile Correctional Center Standards).** The purpose of the proposed action is to provide an integrated approach to the regulation of juvenile residential facilities by terminating these learning center standards and other separate regulations, to be replaced by a new, consolidated regulation governing all classes of juvenile residential facilities. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 66-10 of the Code of Virginia.

Public comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-428; Filed June 14, 1996, 1:19 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider repealing regulations entitled: **6 VAC 35-80-10 et seq. Holdover Standards.** The purpose of the

Notices of Intended Regulatory Action

proposed action is to terminate this regulation which governs "holdover" operations that are intended to provide short-term placement for juveniles who do not meet the criteria for detention. To the extent that standards are necessary for such operations, they will be provided through a consolidated regulation governing nonresidential programs and services for juveniles in the community. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 66-10 of the Code of Virginia.

Public comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-424; Filed June 14, 1996, 1:18 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider repealing regulations entitled: **6 VAC 35-90-10 et seq. Standards for Postdispositional Confinement for Secure Detention and Court Service Units.** The purpose of the proposed action is to provide an integrated approach to the regulation of juvenile residential facilities by repealing these standards for postdispositional confinement of juveniles, and other separate regulations, and issuing in their place a new, consolidated regulation governing all classes of juvenile residential facilities. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 16.1-284.1 and 66-10 of the Code of Virginia.

Public comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-426; Filed June 14, 1996, 1:19 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider repealing regulations entitled: **6 VAC 35-100-10 et seq. Standards for Secure Detention.** The purpose of the proposed action is to provide an integrated approach to the regulation of juvenile residential facilities by repealing these standards for secure detention, along with other separate regulations, to be replaced by a new, consolidated regulation governing all classes of juvenile residential facilities. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 16.1-284.1 and 66-10 of the Code of Virginia.

Public comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-425; Filed June 14, 1996, 1:19 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider amending regulations entitled: **6 VAC 35-110-10 et seq. Minimum Standards for Court Service in Juvenile and Domestic Relations District Courts.** The purpose of the proposed action is to update existing standards for court service units, and possibly incorporate into this regulation additional standards to be developed for community sanctions and services pursuant to the Virginia Juvenile Community Crime Control Act, as well as standards for outreach detention. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 16.1-233 through 16.1-235; 16.1-309.9 and 66-10 of the Code of Virginia.

Public comments may be submitted until September 6, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-481; Filed July 15, 1996, 1:06 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider repealing regulations entitled: **6 VAC 35-120-10 et seq. Standards for Family Group Homes.** The purpose of the proposed action is to provide an integrated approach to the regulation of juvenile residential facilities by terminating these standards for family group homes and other separate regulations, to be replaced by a new, consolidated regulation governing all classes of juvenile residential facilities. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 16.1-309.9 and 66-10 of the Code of Virginia.

Public comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-427; Filed June 14, 1996, 1:19 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider repealing regulations entitled: **6 VAC 35-**

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130-10 et seq. Standards for Outreach Detention. The purpose of the proposed action is to provide a comprehensive regulatory approach to nonresidential programs and services for juveniles before the court, by repealing these standards for outreach detention as a separate regulation, and incorporating their essential provisions into expanded standards for court services. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 16.1-311 and 66-10 of the Code of Virginia.

Public comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-421; Filed June 14, 1996, 1:18 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider promulgating regulations entitled: **6 VAC 35-140-10 et seq. Standards for Juvenile Residential Facilities.** The purpose of the proposed action is to consolidate in one regulation simplified standards governing the operation of all types of juvenile residential facility overseen by the Board of Juvenile Justice. This new regulation will replace standards for secure detention; standards for postdispositional confinement for secure detention and court service units; predispositional and postdispositional group home standards; standards for family group homes; and standards for juvenile correctional centers, formerly known as learning center standards. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 16.1-284.1, 16.1-309.9 and 66-10 of the Code of Virginia.

Public comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-423; Filed June 14, 1996, 1:18 p.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled: **4 VAC 25-150-10 et seq. Gas and Oil Regulation.** The purpose of the proposed action is to amend the Department of Mines, Minerals and Energy's (DMME) regulations governing permitting, operations, plugging, and site

restoration of gas and oil exploration and development wells, gathering pipelines and associated facilities. The regulations are necessary to protect the public health and safety from adverse effects of gas and oil exploration and production activities. The amendments will implement the recommendation identified during DMME's regulation review under Executive Order Fifteen (94). The recommendations will streamline the regulatory process, eliminate unnecessary regulatory requirements, clarify language, and implement changes based on DMME, gas and oil operator, and citizen experience implementing the regulation since it was promulgated in 1991. Copies of the regulatory review report are available at the DMME, Division of Gas and Oil in Abingdon and DMME office in Richmond. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 45.1-161.3 and 45.1-361.27 of the Code of Virginia.

Public comments may be submitted until August 7, 1996.

Contact: B. Thomas Fulmer, Oil and Gas Inspector, Department of Mines, Minerals and Energy, Division of Gas and Oil, 230 Charwood Drive, P.O. Box 1416, Abingdon, VA, 24212, telephone (540) 676-5423, FAX (540) 676-5459, or (800) 828-1120 (VA Relay Center)/TDD ☎

VIRGINIA PUBLIC TELECOMMUNICATIONS 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 Virginia Public Telecommunications Board intends to consider repealing regulations entitled: **VR 410-01-02, Master Plan for Public Telecommunications, 1973.** The purpose of the proposed action is to repeal the 1973 plan. The revised version adopted in 1991 is not a regulation. The agency intends to hold a public hearing on the proposed repeal of the regulation after publication.

Statutory Authority: § 2.1-563.25 of the Code of Virginia.

Public comments may be submitted until September 30, 1996.

Contact: Suzanne J. Piland, Public Telecommunications Branch Manager, Department of Information Technology, 110 South 7th Street, Richmond, VA, 23219, telephone (804) 371-5544 or FAX (804) 371-5556.

REAL ESTATE APPRAISER 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 Real Estate Appraiser Board intends to consider amending regulations entitled: **18 VAC 130-20-10 et seq. Real Estate Appraiser Board Rules and Regulations.** The purpose of the proposed action is to provide for less burdensome alternatives than current regulations while still protecting the health, safety and welfare

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of the public and complying with state and federal mandates. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until September 5, 1996.

Contact: Karen O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2039, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

VA.R. Doc. No. R96-480; Filed July 8, 1996, 11:58 a.m.

PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

Effective July 1, 1995, publication of notices of public comment periods in a newspaper of general circulation in the state capital is no longer required by the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). Chapter 717 of the 1995 Acts of Assembly eliminated the newspaper publication requirement from the Administrative Process Act. In *The Virginia Register of Regulations*, the Registrar of Regulations has developed this section entitled "Public Comment Periods - Proposed Regulations" to give notice of public comment periods and public hearings to be held on proposed regulations. The notice will be published once at the same time the proposed regulation is published in the Proposed Regulations section of the *Virginia Register*. The notice will continue to be carried in the Calendar of Events section of the *Virginia Register* until the public comment period and public hearing date have passed.

Notice is given in compliance with § 9-6.14:7.1 of the Code of Virginia that the following public hearings and public comment periods regarding proposed state agency regulations are set to afford the public an opportunity to express their views.

CRIMINAL JUSTICE SERVICES BOARD

October 8, 1996 - 9 a.m. -- Public Hearing
General Assembly Building, 910 Capitol Square, Richmond, Virginia.

October 4, 1996 -- Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **6 VAC 20-170-10 et seq. Regulations Relating to Private Security Services.** The proposed amendments (i) provide an opportunity for licensed businesses and certified training schools to renew for a two-year time period, resulting in a reduction of fees; (ii) reduce the application requirement for individuals who have completed training and applied for certification as an unarmed security officer; and (iii) allow the department to issue a temporary license or certification to applicant businesses and training schools, providing the opportunity to enter the industry once initial requirements have been met.

Statutory Authority: § 9-182 of the Code of Virginia.

Contact: Lex T. Eckenrode, Bureau Director, Department of Criminal Justice Services, 805 East Broad Street, 10th Floor, Richmond, VA 23219, telephone (804) 786-4000 or FAX (804) 786-8981.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Reproposed

September 4, 1996 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50-100 et seq. Part III, Amount**

Duration and Scope of Services; 12 VAC 30-70-10 et seq. Methods and Standards for Establishing Payment Rates--Inpatient Hospital Care; and 12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates--Other Types of Care. The purpose of the proposed amendments is to reduce the lengths of inpatient hospital stays when medically appropriate in compliance with amendments to the budget, and revise the maternity length of stay and follow-up visit policies to comply with new legislation.

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

Public comments may be submitted until September 4, 1996, to Sally Rice, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

October 4, 1996 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **2 VAC 30-120-70 et seq. Part II, Home and Community Based Services for Technology Assisted Individuals.** The purpose of the proposed amendments is to (i) provide for the use of an objective scoring tool for determining whether a patient requires substantial and ongoing nursing services; (ii) allow persons who were eligible for the program prior to their 21st birthday to remain in the program and continue to receive benefits after they turn 21, providing they continue to meet certain criteria; and (iii) allow persons over 21, who are residing in a specialized care nursing facility, to be admitted to the program if the cost of their home care would be less than the cost of their current care.

Public Comment Periods - Proposed Regulations

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

Public comments may be submitted until October 4, 1996, to Michelle Baker, PDS, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

BOARD OF MEDICINE

August 9, 1996 - 8 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia.

October 4, 1996 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to **repeal** regulations entitled: **18 VAC 85-100-10 et seq., Certification of Radiological Technology Practitioners**, and **adopt** regulations entitled: **18 VAC 85-101-10 et seq. Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited**. The board proposes to repeal regulations for certification of radiologic technologists and promulgate new regulations for the licensure of radiologic technologists and radiologic technologists-limited as mandated by the 1994 Acts of the Assembly to be effective January 1, 1997.

Statutory Authority: §§ 54.1-2400, 54.1-2900, 54.1-2956.8:1 and 54.1-2956.8:2 of the Code of Virginia.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-7423, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

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.

CRIMINAL JUSTICE SERVICES BOARD

Title of Regulation: 6 VAC 20-170-10 et seq. Regulations Relating to Private Security Services (amending 6 VAC 20-170-10, 6 VAC 20-170-20, 6 VAC 20-170-50, 6 VAC 20-170-60, 6 VAC 20-170-80, 6 VAC 20-170-90, 6 VAC 20-170-100, 6 VAC 20-170-150, 6 VAC 20-170-200, 6 VAC 20-170-210, 6 VAC 20-170-230 through 6 VAC 20-170-280, 6 VAC 20-170-340 through 6 VAC 20-170-400, 6 VAC 20-170-430, 6 VAC 20-170-460, 6 VAC 20-170-470, 6 VAC 20-170-480, 6 VAC 20-170-520 through 6 VAC 20-170-550, 6 VAC 20-170-620 through 6 VAC 20-170-650, 6 VAC 20-170-730, 6 VAC 20-170-760, 6 VAC 20-170-770, 6 VAC 20-170-820, 6 VAC 20-170-830, 6 VAC 20-170-930 through 6 VAC 20-170-960, 6 VAC 20-170-1000; adding 6 VAC 20-170-45, 6 VAC 20-170-55, 6 VAC 20-170-75, 6 VAC 20-170-76, 6 VAC 20-170-475, 6 VAC 20-170-615 through 6 VAC 20-170-619, 6 VAC 20-170-625, and 6 VAC 20-170-765; repealing 6 VAC 20-170-220, 6 VAC 20-170-490, 6 VAC 20-170-500, 6 VAC 20-170-510, 6 VAC 20-170-560 through 6 VAC 20-170-610, and 6 VAC 20-170-840 through 6 VAC 20-170-890).

Statutory Authority: § 9-182 of the Code of Virginia.

Public Hearing Date: October 8, 1996 - 9 a.m.

Written comments may be submitted until October 4, 1996.

(See Calendar of Events section for additional information)

Basis: Pursuant to the statutory authority set forth by § 9-182 of the Code of Virginia, the Criminal Justice Services Board (CJSB) will amend and revise its regulations relating to private security services. The primary basis for amending the regulations is to incorporate changes that, while continuing to protect the public safety and welfare, allow the agency to more expeditiously license and certify individuals and businesses who have fulfilled initial application requirements.

Purpose: The purpose of these regulations is to set forth a regulatory program which mandates and prescribes standards, requirements, and procedures that serve to protect the public safety and welfare from unqualified, unscrupulous, and incompetent persons engaged in the activities of private security services.

Substance: The proposed amendments (i) provide an opportunity for licensed businesses and certified training schools to renew for a two-year time period, resulting in a reduction of fees; (ii) reduce the application requirement for individuals who have completed training and applied for certification as an unarmed security officer; and (iii) allow the department to issue a temporary license or certification to applicant businesses and training schools, providing the opportunity to enter the industry once initial requirements have been met.

Issues: The primary advantages that these regulations provide to the general public are: (i) sets forth standards, procedures, and requirements that serve to protect the safety and welfare of the general public from deceptive or misleading private security services business practitioners, and; (ii) secures the public safety and welfare against incompetent, unscrupulous and unqualified persons by establishing methods of licensure, registration and certification that serve to enhance the competency of persons performing or engaged in the activities of private security services. A possible disadvantage of these regulations is that the program it prescribes receives no moneys from the general fund, therefore, the cost to administer the program must be absorbed by the affected entities.

Estimated Impact: The estimated number of persons affected by the Regulations Relating to Private Security Services is approximately 18,000 to 22,000. This includes owners of private security businesses and training schools, instructors, registered and certified individuals, and others that may be engaged in the private security services industry.

As the proposed changes will refine particular application requirements, there are no additional costs projected for implementation and compliance outside the normal operating costs of the program. In addition, these regulations do not impact disproportionately upon any locality.

Department of Planning and Budget's Economic Impact

Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply; the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic affects.

Summary of the Proposed Regulation. The proposed regulation amends the existing regulation governing licensing, certification, and training requirements for the private security service industry. The primary amendments contained in the proposed regulation are as follows:

1. Certain licensing fees have been adjusted;
2. Temporary business licenses can be issued under certain circumstances;
3. Incidents involving the discharge of a firearm while on duty must be reported in writing to DCJS;

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4. Individuals who have prior felony or misdemeanor convictions are prohibited from employment as unarmed security officers, absent written approval by DCJS;
5. Persons employed as unarmed security officers must apply for certification within 120 days of employment, and firms are not permitted to employ such individuals for more than 150 days unless they have received certification; and
6. The employment category of alarm correspondent is no longer divided into armed and unarmed alarm respondents.

Estimated Economic Impact

Item 1. The proposed regulation makes three amendments to the current fee schedule. First, the fee for initial business license has been changed from \$600 to \$518. The current \$600 license fee includes two \$41 charges for processing two sets of fingerprint cards. In the proposed regulation these fingerprint card processing charges will be assessed separately. This change will reduce overall licensing costs in those situations where only one set of fingerprint cards is necessary.

The second amendment to the current fee schedule permits business and training schools to renew their licenses for either one year, as in the current regulation, or two years. Licensees who renew for two years will receive a \$50 reduction in the total fee.

The third amendment to the current fee schedule is the replacement of the annual \$10 renewal fee for instructors with a \$25 recertification fee every three years. This change will result in a \$5 fee reduction over the three year period.

Item 2. Although allowing private security firms to obtain temporary licenses under certain circumstances certainly enhances regulatory flexibility, it is not anticipated to have significant economic effect.

Item 3. The requirement that private security firms report incidents involving the discharge of a firearm while on duty to DCJS will necessarily create a small increase in regulatory compliance costs for affected firms. This increase in compliance costs is certainly outweighed by the benefit to public safety associated with making the responsible department aware of such incidents however.

Items 4 through 6. Items 4 through 6 are not anticipated to have any significant economic effects.

Businesses and Entities Particularly Affected. The proposed regulation particularly affects the approximately 900 private security firms licensed to operate in Virginia and their approximately 20,000 employees.

Localities Particularly Affected. No localities are particularly affected by the proposed regulation.

Projected Impact on Employment. The proposed regulation is not anticipated to have a significant effect on employment.

Affects on the Use and Value of Private Property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of Analysis. DPB anticipates that the only significant economic effect of the proposed amendments to the current regulation will be a modest reduction in the regulatory compliance costs associated with licensing fees.

Agency's Response to Department of Planning and Budget's Economic Impact Analysis: The Department of Criminal Justice Services concurs with the Economic Impact Analysis prepared by the Department of Planning and Budget as it pertains to 6 VAC 20-170 (Regulations Relating to Private Security Services).

Summary:

The primary proposed amendments incorporate legislative changes including the definitions of "business advertising material" and "license number" to establish the regulatory procedure for complying with the law requiring all advertisements by private security services businesses to include their license number issued by DCJS. In addition, legislation provided individuals requiring registration in any electronic security services category a 90-day time period in which they may complete the required entry-level training. Changes that were not a result of legislation, include provisions allowing an option for a two-year renewal for businesses and training schools, at a reduced fee; authorization for DCJS to issue a temporary business license, training school and instructor certification, provided basic requirements are met; allowing individuals who have completed security officer training to apply for certification by DCJS without currently being employed by a licensee, and establishing requirements; and establishing the in-service training requirements for private security instructors and compliance agents.

PART I. DEFINITIONS.

6 VAC 20-170-10. Definitions.

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

"Alarm respondent" means a natural person who responds to the signal of an alarm for the purpose of detecting an intrusion of the home, business or property of the end user.

"Any person engaged in the business of providing or who undertakes to provide" means any person who solicits business within the Commonwealth of Virginia through advertising, business cards, submission of bids, contracting, public notice for private security services, directly or indirectly, or by any other means.

"Armed security officer" means a security officer, as defined below, who carries or has immediate access to a firearm or other deadly weapon in the performance of his duties.

"Armored car personnel" means persons who transport or offer to transport under armed security from one place to another, money, negotiable instruments or other valuables in a specially equipped motor vehicle with a high degree of security and certainty of delivery.

"Board" means the Criminal Justice Services Board or any successor board or agency.

"Business advertising material" means telephone directories, stationery, business cards, local newspaper advertising and contracts.

"Central station dispatcher" means a natural person who monitors burglar alarm signal devices, burglar alarms or any other electrical, mechanical or electronic device used to prevent or detect burglary, theft, shoplifting, pilferage or similar losses; used to prevent or detect intrusion; or used primarily to summon aid for other emergencies.

"Certification" means a method of regulation whereby ~~certain individual personnel qualified individuals who are eligible to be employed by a private security services business or a private security training school are required to obtain certification from the department pursuant to the Code of Virginia have met the minimum requirements set forth in this chapter.~~

"Certified school director" means the chief administrative officer of a certified training school.

"Certified training school" means a training school which provides instruction in at least the minimum training mandated and is certified by the department for the specific purpose of training private security services business personnel.

"Class" means a minimum of 50 minutes of instruction on a particular subject.

"Combat load" means tactical loading of shotgun while maintaining coverage of threat area.

"Compliance agent" means a natural person who is an owner of, or employed by, a licensed private security services business. The compliance agent shall assure the compliance of the private security services business with all applicable requirements as provided in § 9-183.3 of the Code of Virginia.

"Courier" means any armed person who transports or offers to transport from one place to another documents or other papers, negotiable or nonnegotiable instruments, or other small items of value that require expeditious service.

"Department" means the Department of Criminal Justice Services or any successor agency.

"Director" means the chief administrative officer of the department.

"Electronic security business" means any person who engages in the business of or undertakes to (i) install, service, maintain, design or consult in the design of any electronic security equipment to an end user; or (ii) respond to or cause a response to electronic security equipment for an end user.

"Electronic security employee" means a natural person who is employed by an electronic security business in any capacity which may give him access to information concerning the design, extent or status of an end user's electronic security equipment.

"Electronic security equipment" means electronic or mechanical alarm signaling devices including burglar alarms or holdup alarms or cameras used to detect intrusion, concealment or theft.

"Electronic security sales representative" means a natural person who sells electronic security equipment on behalf of an electronic security business to the end user.

"Electronic security technician" means a natural person who installs, services, maintains or repairs electronic security equipment.

"Electronic security technician's assistant" means a natural person who works as a laborer under the supervision of the electronic security technician in the course of his normal duties, but who may not make connections to any electronic security equipment.

"End user" means any person who purchases or leases electronic security equipment for use in that person's home or business.

~~"Engaging in the business of providing or undertaking to provide private security services" means any person who solicits business within the Commonwealth of Virginia through advertising, business cards, submission of bids, contracting, public notice for private security services, directly or indirectly, or by any other means.~~

"Firearms certification" means the verification of successful completion of either initial or retraining requirements for handgun or shotgun training, or both.

"Firm" means a business entity, regardless of method of organization, applying for a private security services business license or for the renewal or reinstatement of same.

"Guard dog handler" means any person employed by a private security services business to handle dogs in the performance of duty in protection of property or persons.

"Incident" means an event which exceeds the normal extent of one's duties.

"In-service training requirement" means the compulsory in-service training standards adopted by the Criminal Justice Services Board for private security services business personnel.

"License number" means the official number issued to a private security services business licensed by the department.

"Licensed firm" means a business entity, regardless of method of organization, which holds a valid private security services business license issued by the department.

"Licensee" means a licensed private security services business.

~~"Locksmith security equipment" means mechanical, electrical or electro-mechanical locking devices for the control of ingress or egress that do not primarily detect intrusion, concealment and theft.~~

~~"On duty" means that time during which a registrant or unarmed security officer receives private security services business personnel receive or is are entitled to receive~~

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compensation for employment for which a registration or training certification is required and that time while he is traveling, immediately before and after the period of actual duty, to and from the place of duty.

"Performance of his duties" means on duty in the context of this chapter.

"Person" means any individual, group of individuals, firm, company, corporation, partnership, business, trust, association, or other legal entity.

"Personal protection specialist" means any person who engages in the business of providing protection from bodily harm to another.

"Principal" means any sole proprietor, officer or director of the corporation individual listed as an officer or director with the Virginia State Corporation Commission, member of the association, or partner of a licensed firm or applicant for licensure.

"Private investigator" means any person who engages in the business of, or accepts employment to make, investigations to obtain information on (i) crimes or civil wrongs; (ii) the location, disposition, or recovery of stolen property; (iii) the cause of accidents, fires, damages, or injuries to persons or to property; or (iv) evidence to be used before any court, board, officer, or investigative committee.

"Private security services business" means any person engaged in the business of providing, or who undertakes to provide, (i) armored car personnel, security officers, personal protection specialists, private investigators, couriers, or guard dog handlers to another person under contract, express or implied; or (ii) alarm respondents, central station dispatchers, electronic security employees, electronic security sales representatives or electronic security technicians to another person under contract, express or implied.

"Private security services business personnel" means each employee of a private security services business who is employed as an unarmed security officer, armed security officer/courier, armored car personnel, guard dog handler private investigator, personal protection specialist, alarm respondent, central station dispatcher, electronic security employee, electronic security sales representative, electronic security technician or electronic security technician's assistant.

"Registrant" means any individual who has met the requirements for registration in any of the categories listed under "registration category."

"Registration" means a method of regulation whereby certain personnel employed by a private security services business are required to obtain a registration from the department pursuant to Part V of this regulation which identifies individuals as having met the minimum requirements for a particular registration category as set forth in this chapter.

"Registration category" means any one of the following categories: (i) armed security officer/courier, (ii) guard dog handler, (iii) armored car personnel, (iv) private investigator, (v) personal protection specialist, (vi) alarm respondent, (vii)

central station dispatcher, (viii) electronic security sales representative, or (ix) electronic security technician.

"Security officer" means any person employed by a private security service business to safeguard and protect persons and property or to prevent theft, loss, or concealment of any tangible or intangible personal property.

"Session" means a group of classes comprising the total hours of mandated training in any of the following categories: unarmed security officer, armed security officer/courier, personal protection specialist, armored car personnel, guard dog handler, private investigator, alarm respondent, central station dispatcher, electronic security sales representative, electronic security technician, electronic security technician's assistant or compliance agent.

~~"Store detective" means a security officer in the context of this chapter.~~

"This chapter" means the Regulations Relating to Private Security Services (6 VAC 20-170-10 et seq.) as part of the Virginia Administrative Code.

"Training certification" means verification of the successful completion of any training requirement established in this chapter.

"Training requirement" means any initial or retraining standard established in this chapter.

"Unarmed security officer" means a security officer who does not carry or have immediate access to a firearm or other deadly weapon in the performance of his duties.

~~"Undercover person" means a private investigator in the context of this chapter.~~

"Uniform" means any clothing with a badge, patch or lettering which clearly identifies persons to any observer as private security services business personnel, not law-enforcement officers.

PART II. SCHEDULE OF FEES.

6 VAC 20-170-20. Schedule of fees.

The fees listed below reflect the costs of handling, issuance, and production associated with administering and processing applications for licensing, registration, certification and other administrative requests for services relating to private security services.

Categories	Fees
Initial business license	\$600 \$518
Business license renewal	
Renewal for one year	\$250
Renewal for two years	\$450
Initial compliance agent	\$126
Initial registration	\$76
Registration renewal	\$35
Initial training school	\$500
Training school renewal	
Renewal for one year	\$250
Renewal for two years	\$450
Instructor	\$91

Instructor renewal <i>recertification</i>	\$10 \$25
Initial unarmed security officer training certification	\$15
Unarmed security officer training certification renewal	\$15
Application for training exemption	\$25
Fingerprint card processing	\$41
Additional registration categories	\$25
Replacement photo identification	\$15
Training completion roster form	\$10
Initial Electronic Security Technician's Assistant Certification	\$56
Electronic Security Technician's Assistant Certification Renewal	\$15
Initial Electronic Security Employee Certification	\$56
Electronic Security Employee Certification Renewal	\$15

PART III.

RENEWAL EXTENSION PROVISIONS.

6 VAC 20-170-45. Extension of time period to meet renewal requirements.

A. An extension of the time period to meet renewal requirements may be approved only under specific circumstances which do not allow the private security personnel, businesses, or training schools to complete the required procedures within the prescribed time period. The private security services person, business, or training school shall be nonoperational during the period of extension. The following are the only circumstances for which extensions may be granted:

1. Illness,
2. Injury, or
3. Military service.

B. An application for extension shall:

1. Be submitted prior to the expiration date of the time limit required for completion of the requirements; and
2. Indicate the projected date the person, business, or training school will be able to comply with the requirements.

C. No extension will be approved for registrations, certifications, or business licenses which have expired.

D. Applications for additional extensions may be approved upon written request of the person, business, or training school.

PART III. IV.

LICENSING PROCEDURES AND REQUIREMENTS.

6 VAC 20-170-50. Initial licensing requirements for a private security services business.

Each person seeking a license as a private security services business shall file an application furnished by the department accompanied by a nonrefundable application fee of ~~\$600~~ \$518. Each principal of the business entity applying for a private security services business license must be listed on the application and is responsible for the firm's adherence to the Code of Virginia and this chapter. Each person *principal* listed on the application shall complete a supplemental business license application and submit his

~~fingerprint cards—fingerprints~~ on one completed set of two fingerprint cards along with a *the applicable* nonrefundable fee of \$41; however, a maximum of two sets of fingerprint cards may accompany the application at no additional cost. *Initial business* licenses shall be issued for a period not to exceed 12 months. All forms shall be completed in full compliance with the instructions provided by the department. Applicants shall meet or exceed the requirements of ~~6 VAC 20-170-60 through 6 VAC 20-170-180~~ licensure as set forth in this chapter prior to the issuance of a license.

6 VAC 20-170-55. Temporary business license.

The department may issue a letter of temporary licensure to businesses seeking licensure under § 9-183.3 of the Code of Virginia for not more than 120 days while awaiting the results of the state and national fingerprint search conducted on the principals and compliance agent of the business, provided the applicant has met the conditions and requirements set forth in this part.

6 VAC 20-170-60. Surety bond or insurance required.

Each ~~person seeking a license~~ applicant for licensure as a private security services business shall secure a surety bond in the amount of \$25,000, executed by a surety company authorized to do business in Virginia, or a certificate of insurance showing a policy of comprehensive general liability insurance with a minimum coverage of \$100,000 and \$300,000, issued by an insurance company authorized to do business in Virginia. Documentation of continuous and current coverage of the surety bond or comprehensive general liability insurance must be filed and maintained with the department.

6 VAC 20-170-75. Corporate authorization.

Each applicant for a license as a private security services business whose legal entity is a corporation or limited liability company shall, on a form provided by the department, provide the identification number issued by the Virginia State Corporation Commission for verification that the entity is authorized to conduct business in the Commonwealth.

6 VAC 20-170-76. Private security services business license number.

On or after July 1, 1997, all private security services businesses in the Commonwealth shall include their license number on all business advertising materials.

6 VAC 20-170-80. Compliance agent required; certification requirements; duties and responsibilities; restriction; retention and replacement.

A. Each firm applying for a license as a private security services business shall designate at least one individual as compliance agent who is not designated as compliance agent for any other licensee. To become a compliance agent, an individual shall file a properly completed application furnished by the department and conform to the following requirements and procedures:

1. Be a minimum of 18 years of age;
2. Have three years of managerial or supervisory experience in a private security services business, or in a

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federal, state, or local law-enforcement agency, or in a related field;

3. Successfully complete the applicable compliance agent training requirements pursuant to ~~6 VAC 20-170-540 M and 6 VAC 20-170-550~~ *Part VI (6 VAC 20-170-360 et seq.) of this chapter* and achieve a passing score on the compliance agent examination;

4. Be designated by a licensed private security services business as its compliance agent;

5. Be in good standing in every jurisdiction where licensed or registered in private security services; and

6. Submit his fingerprints on two completed fingerprint cards, as provided by the department, and a *the applicable* nonrefundable application fee of ~~\$126~~.

B. The compliance agent shall at all times comply with the following:

1. Ensure that the licensed firm is in full compliance with the Code of Virginia and this chapter;

2. Ensure that VSP Form-167 has been submitted to the Virginia State Police for processing before the individual may begin work, and maintain a copy in the firm's files for each unarmed ~~guard~~ *security officer* as required by § 9-183.3 of the Code of Virginia;

3. Ensure the maintenance of documentary evidence that each unarmed security officer or electronic security technician's assistant has complied with, or been exempted from, the compulsory minimum training standards as required by § 9-183.3 of the Code of Virginia;

4. Ensure that the licensed firm does not utilize or otherwise employ any person as an unarmed security officer or electronic security technician's assistant in excess of 90 days prior to the completion of the applicable compulsory minimum training standards;

5. *Ensure that the licensed firm does not utilize or otherwise employ any person as an unarmed security officer for which the VSP Form-167 reveals a felony or misdemeanor conviction involving moral turpitude, sexual offense, drug offense, physical injury or property damage without written approval from the department;*

6. *Ensure that the licensed firm does not utilize or otherwise employ any person as an unarmed security officer in excess of 150 days without the individual being issued a certification as an unarmed security officer from the department;*

~~5.~~ 7. Maintain training, employment, and payroll records which document the licensee's compliance with the Code of Virginia and this chapter;

~~6.~~ 8. Ensure that an irrevocable consent for the department to serve as service agent for all actions filed in any court in this Commonwealth is submitted to the department within 30 days after the licensee moves to a location outside Virginia.; and

9. *On a form provided by the department, submit a report of any incident in which any registrant has discharged a firearm while on duty, excluding any training exercise. This form shall be submitted by the licensed firm within 10 days of completion of an investigation of the incident.*

C. No individual shall be certified by the department as a compliance agent for more than one licensee at any given time.

D. 1. Each licensee shall maintain at least one individual as a compliance agent who has met the requirements of 6 VAC 20-170-80 and has been certified by the department.

2. Each licensee shall notify the department in writing within 10 calendar days of the termination of employment of a certified compliance agent.

3. Within 90 days of termination of the employment of a licensee's sole remaining compliance agent, the licensee shall submit the name of a new compliance agent who has met the requirements of 6 VAC 20-170-80.

6 VAC 20-170-90. Criminal history records search.

Upon application for a private security services business license, each compliance agent and principal of the applicant firm shall submit to the department their fingerprints on one completed set of two fingerprint cards ~~on forms~~ provided by the department, and a ~~\$41~~ *the applicable* nonrefundable fee for each set of fingerprint cards ~~beyond the allowable two sets provided with the initial business application.~~ The department shall submit those fingerprints to the Virginia State Police for the purpose of conducting a Virginia Criminal History Records search and a National Criminal Records search to determine whether the individual or individuals have a record of conviction.

6 VAC 20-170-100. Unclassifiable fingerprint cards.

Fingerprint cards found to be unclassifiable will be returned to the applicant. Action on the application will be suspended pending the resubmission of classifiable fingerprint cards. The applicant ~~should~~ *shall* be so notified in writing and shall submit new fingerprint cards and a *the applicable* nonrefundable fee of ~~\$41~~ to the department before the processing of his application shall resume. However, no such fee may be required if the rejected fingerprint cards are included and attached to the new fingerprint cards when resubmitted.

6 VAC 20-170-150. Change of ownership or entity.

A. Each licensee shall report in writing to the department any change in its ownership or principals which does not result in the creation of a new legal entity. Such written report shall be received by the department within 30 days after the occurrence of such change and shall include the application form, fingerprint cards and a *the applicable* nonrefundable fee of ~~\$41~~ for each new individual.

B. A new license is required whenever there is any change in the ownership or manner of organization of the licensed entity which results in the creation of a new legal entity.

**PART IV.
RENEWAL OF LICENSE.**

6 VAC 20-170-200. Renewal notification; invalid license.

A. The department will mail to the last known address of the licensee a renewal notification. Failure of the licensee to renew prior to the expiration of the license shall be the sole responsibility of the licensed firm's compliance agent.

B. A private security services business license not renewed on or before the expiration date of the license shall become null and void. Operating a private security services business without a valid private security services business license is a violation of § 9-183.3 of the Code of Virginia and this chapter.

6 VAC 20-170-210. License expiration; renewal; reinstatement.

A. ~~All licenses issued to private security services businesses shall be valid for a period not to exceed 12 months. Applicants for license renewal shall have the option of renewing for either a period not to exceed 12 months or a period not to exceed 24 months.~~

B. Applications for license renewal should be received by the department at least 30 days prior to expiration. License renewal applications received by the department after the expiration date shall be subject to all applicable nonrefundable renewal fees plus reinstatement fees.

C. The department may renew ~~the a~~ license for a period not to exceed 12 months from the expiration date of the license when the following are received by the department:

1. A properly completed renewal application;
2. ~~A~~ *The applicable* nonrefundable license renewal fee of \$250; and
3. Documentation that the firm has in force a policy of comprehensive general liability insurance or a surety bond in at least the amount required by 6 VAC 20-170-60; documentation of continuous and current coverage of the surety bond or comprehensive general liability insurance must be filed and maintained with the department.

D. Each compliance agent listed on the license renewal application shall have satisfactorily completed all applicable training requirements.

E. Each principal or compliance agent listed on the license renewal application shall be in good standing and free of disciplinary action in every jurisdiction where licensed or registered.

F. A renewal application received by the department within 180 days following the expiration date of the license shall be accompanied by ~~a~~ *the applicable* nonrefundable renewal fee of \$250 and ~~a~~ *the* nonrefundable reinstatement fee of \$125.

G. No license shall be renewed or reinstated when the application and fee are received by the department more than 180 days following the expiration date of the license. After that date, the applicant shall meet all initial licensing requirements.

H. The department may deny renewal or reinstatement of a license for the same reason as it may refuse initial licensure or discipline a licensee.

6 VAC 20-170-220. Extension of time period to renew a private security services business license. (Repealed.)

~~A. An extension of the time period to renew a private security services business license may be approved only under these specific circumstances which do not allow the private security services business to renew its license within the prescribed time period. The private security services business shall be nonoperational during the period of extension. The following are the only circumstances for which extensions may be granted:~~

- ~~1. Illness,~~
- ~~2. Injury, or~~
- ~~3. Military service.~~

~~B. An application for extension of the time period for renewal of a private security services business license shall:~~

- ~~1. Be submitted in writing prior to the expiration date of the private security services business license; and~~
- ~~2. Indicate the projected date the licensee will be able to comply with the requirements for private security services business license renewal.~~

~~C. An extension will not be approved for a private security services business license which has expired.~~

~~D. Applications for additional extensions may be approved upon written request of the principal of the private security services business.~~

**PART V.
REGISTRATION PROCEDURES AND REQUIREMENTS.**

6 VAC 20-170-230. Initial registration requirements.

A. Individuals seeking registration under § 9-183.3 B of the Code of Virginia shall file an application furnished by the department which shall be accompanied by ~~a~~ *the applicable* nonrefundable application fee of \$76. Each applicant shall meet or exceed the following requirements prior to the issuance of a registration:

1. Be at least 18 years of age;
2. Disclose to the department his physical address (a post office box is not a physical address);
3. Submit *his fingerprints* on two completed fingerprint cards ~~on forms~~ provided by the department; and
4. ~~(i) Successfully complete all initial training requirements for each registration category requested; or (ii) during the period of July 1, 1995, through September 30, 1995, each individual applying for registration as an electronic security technician, central station dispatcher, electronic security sales representative or personal protection specialist may be granted a temporary waiver from the requirement of complying with the compulsory minimum training standards. With the exception of the completion of the minimum training standards, all other~~

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~~initial registration requirements shall apply. Individuals issued temporary registrations in accordance with this provision shall complete the compulsory minimum training standards on or before October 31, 1995. Individuals seeking registration as alarm respondents are not eligible under this provision.~~

~~B. Individuals seeking registration under the provisions of § 9-183.3 I of the Code of Virginia, effective for a period of one year from July 1, 1995, shall file an application furnished by the department which shall be accompanied by a nonrefundable application fee of \$76. Each applicant shall meet or exceed the following requirements prior to the issuance of a registration:~~

- ~~1. Be at least 18 years of age;~~
- ~~2. Disclose to the department his physical address (a post office box is not a physical address);~~
- ~~3. Submit his fingerprints on two completed fingerprint cards provided by the department; and~~
- ~~4. Provide documentary evidence of full-time active employment as required for each category in which registration is requested:
 - ~~a. Electronic security technician employment for a period of three years immediately preceding the date of application;~~
 - ~~b. Central station dispatcher employment for a period of one year immediately preceding the date of application;~~
 - ~~c. Electronic security sales representative employment for a period of one year immediately preceding the date of application;~~
 - ~~d. Alarm respondent employment for a period of one year immediately preceding the date of application.~~~~

~~C. Individuals seeking registration under the provisions of § 9-183.3 J of the Code of Virginia, effective for a period of one year from July 1, 1995, shall file an application furnished by the department which shall be accompanied by a nonrefundable application fee of \$76. Each applicant shall meet or exceed the following requirements prior to the issuance of a registration:~~

- ~~1. Be at least 18 years of age;~~
- ~~2. Disclose to the department his physical address (a post office box is not a physical address);~~
- ~~3. Submit his fingerprints on two completed fingerprint cards provided by the department;~~
- ~~4. Provide documentary evidence of employment as a personal protection specialist for a period of the three years immediately preceding the date of application; and~~
- ~~5. Provide documentary evidence of successful completion of personal protection training approved by the department.~~

~~B. Individuals seeking registration as alarm respondent, central station dispatcher, electronic security sales representative or electronic security technician may be~~

~~employed for not more than 90 days while completing the compulsory minimum training standards, provided the individual has submitted his fingerprints on forms provided by the department. An application for registration must be received by the department within 10 calendar days of the completion of the required training.~~

6 VAC 20-170-240. Additional categories and certifications.

~~Registered individuals seeking additional registration categories or certifications shall file an application, furnished by the department, documenting that the following training requirements for the requested categories or certifications have been met: Individuals seeking certification or registration for additional categories must meet the following requirements:~~

- ~~1. The nonrefundable fee for each filing is \$25. Successful completion of applicable entry level training for each additional registration or certification category;~~
- ~~2. A properly completed application has been received by the department;~~
- ~~3. The applicable nonrefundable fee has been received by the department;~~
- ~~2- 4. Individuals may avoid paying a separate fee for additional categories or certifications when the additional registration categories or certifications are requested on the application for registration renewal.~~

6 VAC 20-170-250. Criminal history records search.

~~Upon receipt of an initial registration application, the department shall submit the fingerprints of the applicant to the Virginia State Police for the purpose of conducting a Virginia Criminal History Records search and a National Criminal Records search to determine whether the applicant has a record of conviction. Applicants submitting unclassifiable fingerprint cards shall be required to submit his fingerprints on new fingerprint cards along with a *the applicable* nonrefundable fee of \$41. However, no such fee shall be required if the rejected fingerprint cards are included and attached to the new fingerprint cards when resubmitted. In the case of registration renewal application for armored car personnel only, a Virginia Criminal History Records search and a national criminal records search to determine whether the applicant has a record of conviction shall be conducted.~~

6 VAC 20-170-260. Temporary registration.

~~The department may issue a letter of temporary registration to individuals seeking registration under § 9-183.3 of the Code of Virginia for not more than 120 days while awaiting the results of the *state and* national fingerprint search, provided the applicant has met the conditions and requirements set forth in 6 VAC 20-170-230 through 6 VAC 20-170-270 and the Virginia Criminal Records search proved negative *Part IV (6 VAC 20-170-50 et seq.) of this chapter.*~~

6 VAC 20-170-270. Duties and responsibilities of registrant.

~~The registrant must at all times comply with the following:~~

1. Carry a valid registration at all times while on duty; *Individuals requiring registration as alarm respondent, central station dispatcher, electronic security sales representative or electronic security technician may be employed for not more than 90 days while completing the compulsory minimum training standards, provided the individual has submitted his fingerprints on forms provided by the department. An application for registration must be received by the department within 10 calendar days of the completion of the required training.*

2. Perform those duties authorized by his registration only while employed by a licensed private security services business and only for the clients of the licensee. This shall not be construed to prohibit an individual who is registered as an armed security officer from being employed by a nonlicensee as provided for in § 9-183.2 of the Code of Virginia;

3. Carry or have immediate access to firearms while on duty only while possessing a valid firearms certification;

4. Carry a firearm concealed while on duty only with the expressed authorization of the licensed private security services business employing the registrant and only in compliance with § 18.2-308 of the Code of Virginia;

5. Transport, carry and utilize firearms while on duty only in a manner which does not endanger the public health, safety and welfare;

6. *Report to employer any incident in which the registrant has discharged a firearm while on duty, excluding any training exercise.*

6. 7. If authorized to make arrests, make arrests in full compliance with the law and using only the minimum force necessary to effect an arrest;

7. 8. Engage in no conduct which through word, deed or appearance suggests that a registrant is a law-enforcement officer or other government official;

8. 9. Display one's registration while on duty in response to the request of a law-enforcement officer, department personnel or client; *This shall not apply to armored car personnel or personal protection specialists.*

9. 10. Never perform any unlawful or negligent act resulting in a loss, injury or death to any person;

10. 11. Private security personnel are not required to wear a uniform while on duty; however, if wearing the military style or law-enforcement style uniform of a private security licensee while on duty, that uniform must have:

a. At least one insignia clearly identifying the name of the licensed firm employing the individual and, except armored car personnel, a name plate or tape bearing, as a minimum, the individual's last name and first and middle initials attached on the outermost garment, except rainwear worn only to protect from inclement weather; and

b. No patch or other writing (i) containing the word "police" or any other words suggesting a law-enforcement officer; (ii) containing the word "officer" unless used in conjunction with the words "security"; or (iii) resembling any uniform patch or insignia of any duly constituted law-enforcement agency of this Commonwealth, its political subdivisions or of the federal government. This restriction shall not apply to individuals who are also duly sworn special police officers, to the extent that they may display words which accurately represent that distinction;

~~11. 12. Utilize a vehicle with flashing lights in the conduct of a private security services business only as provided in § 46.2-1025 of the Code of Virginia and this chapter.~~

~~12. 13. Never use or display the state seal of Virginia as a part of any logo, stationery, business card, badge, patch, insignia or other form of identification or advertisement;~~

~~13. 14. Never display the uniform, badge or other insignia while not on duty;~~

~~14. 15. During the course of any private investigation, Never provide information obtained by any licensed firm and its employees to any person other than the client who employed secured the services of the licensee to obtain that information, without the client's prior written consent. Provision of information in response to official requests from law-enforcement agencies, or from the department, shall not constitute a violation of this chapter. Provision of information to law-enforcement agencies pertinent to criminal activity or to planned criminal activity shall not constitute a violation of this chapter;~~

~~15. 16. Inform the department and compliance agent of employer in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor involving moral turpitude, sexual offense, drug offense, physical injury or property damage;~~

~~16. 17. Inform the department and compliance agent of employer in writing within 30 days after having been found guilty by any court or administrative body of competent jurisdiction to have violated the private security services business statutes or regulations of that jurisdiction, there being no appeal therefrom or the time for appeal having elapsed;~~

~~17. 18. Acting as a registrant only in such a manner as to not endanger the public health, safety and welfare;~~

~~18. 19. Engage in no unethical, fraudulent, or dishonest conduct;~~

~~19. 20. Never represent as one's own a registration issued to another individual, or represent oneself as certified compliance agent of a licensee, training school, school director or instructor unless so certified by the department;~~

~~20. 21. Never falsify, or aid and abet others in falsifying, training records for the purpose of obtaining a license,~~

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registration, ~~unarmed security officer training~~ certification, or certification as a compliance agent, training school, school director or instructor.

6 VAC 20-170-280. Replacement photo identification.

Registered individuals seeking a replacement photo identification shall submit to the department:

1. A properly completed application; and
2. A *The applicable* nonrefundable processing fee of \$15.

6 VAC 20-170-340. Registration expiration, renewal, reinstatement; extension of time period to review.

A. The department will mail a renewal notification to the last known address of the registrant. Failure of the registrant to renew prior to the expiration date of the registration shall be the sole responsibility of the individual registrant.

B. A private security services registration not renewed on or before the expiration date of the registration shall become null and void. Performing private security services duties without a valid private security services registration is a violation of the Code of Virginia.

- C. 1. All registrations issued on or after July 1, 1993, shall be valid for a period not to exceed 12 months.
2. All registrations issued prior to July 1, 1993, shall expire on the expiration date of the registration.

D. 1. Applications for registration renewal should be received by the department at least 30 days prior to expiration. A registration renewal application received by the department after the expiration date shall be subject to all applicable nonrefundable renewal fees plus nonrefundable reinstatement fees.

2. The department may renew the registration for a period not to exceed 12 months from the expiration date of the expiring registration when each applicant meets or exceeds the following requirements:

- a. ~~Submit~~ A properly completed renewal application to *is received by* the department;
- b. Successfully complete the applicable training or retraining requirements for each registration category and each training certification requested; and
- c. A *The applicable* nonrefundable registration renewal fee of ~~\$35~~ is received by the department.

E. 1. Registration renewal applications received within 180 days following the expiration date shall be accompanied by a *the applicable* nonrefundable renewal fee of ~~\$35~~ and a *the applicable* nonrefundable reinstatement fee of ~~\$17.50~~.

2. No registration shall be renewed or reinstated when the application for renewal and fee are received by the department after 180 days following the expiration date of the registration. After that date, the applicant shall meet then current initial registration requirements.

3. The date on which the application and fee are received by the department shall determine whether the registrant is eligible for renewal or reinstatement or is required to apply for initial registration.

4. The department may deny renewal or reinstatement of a registration for the same reason as it may ~~refuse~~ deny initial registration or discipline a registrant.

~~F. 1. An extension of the time period to renew a private security services registration may be approved only under these specific circumstances which do not allow the individual to renew his registration within the prescribed time period. The individual shall not perform private security functions during the period of extension. The following are the only circumstances for which extensions may be granted:~~

- ~~a. Illness;~~
- ~~b. Injury, or~~
- ~~c. Military service.~~

~~2. An application for extension of the time period for renewal of a private security services registration shall:~~

- ~~a. Be submitted in writing prior to the expiration date of the private security services registration; and~~
- ~~b. Indicate the projected date the registrant will be able to comply with the requirements for private security services registration renewal.~~

~~3. An extension will not be approved for a private security services registration which has expired.~~

~~4. Applications for additional extensions may be approved upon written request of the registrant.~~

6 VAC 20-170-350. Firearms certification, expiration, renewal.

A. *Firearms certification is required for all registrants who carry or have immediate access to a firearm while on duty.*

~~A. B.~~ An individual who has successfully completed the handgun training requirements may submit a properly completed application for registration with handgun certification.

1. Handgun certification will be documented on the registration and shall expire on the expiration date of the registration.

2. The department may grant a handgun certification ~~upon receipt of the following:~~

- a. Upon receipt of a properly completed application; and
- b. Satisfactory completion of the applicable handgun training requirements.

~~B. C.~~ An individual who has successfully met the handgun training requirements, and has successfully completed the shotgun training requirement, may submit a properly completed application for registration with shotgun certification.

1. Shotgun certification will be documented on the registration and shall expire on the expiration date of the registration.

2. The department may grant a shotgun certification upon receipt of the following:

- a. Upon receipt of a properly completed application; and
- b. Satisfactory completion of the applicable shotgun training requirements.

~~C. D.~~ All handgun and shotgun certifications shall be issued for a period not to exceed 12 months and shall become null and void on the expiration date of the registration. "Firearms endorsements" issued prior to July 1, 1993, shall become null and void on the expiration date of the endorsement.

~~D. E.~~ The department may renew handgun and shotgun certifications for a period not to exceed 12 months from the expiration date of the registration:

1. Upon receipt of a properly completed registration renewal application;
2. Satisfactory completion of all ~~applicable~~ entry level training, firearms retraining and ~~applicable~~ in-service training requirements ~~for all registration categories; and~~
3. A ~~The applicable~~ nonrefundable renewal fee of ~~\$35~~ is received by the department. ~~(One \$35 The applicable~~ fee for registration renewal includes firearms certifications if all requirements have been met.)

~~E. F.~~ The department may deny renewal of a firearms certification for the same reason as it may ~~refuse~~ deny initial firearms certification or discipline a registrant.

PART VI.

CERTIFICATION PROCEDURES AND REQUIREMENTS.

6 VAC 20-170-360. Initial unarmed security officer training certification requirements.

A. Each person employed or utilized as an unarmed security officer shall successfully complete the compulsory minimum training standards for unarmed security officers and make application to the department for the issuance of an unarmed security officer certification, except that such persons may be employed for not more than 90 days while completing the compulsory minimum training standards. *For unarmed security officers employed by a licensed private security services business, the department must receive an application for certification within 120 days of employment.*

B. Individuals seeking unarmed security officer certification shall file an application provided by the department which shall be accompanied by a *the applicable* nonrefundable processing fee of \$15. Each applicant shall meet or exceed the following requirements prior to issuance of an unarmed security officer certification:

1. Be at least 18 years of age;
2. Disclose to the department a physical address (a post office box is not a physical address); and

3. Successfully complete the initial unarmed security officer training requirement and, if appropriate, in-service training requirements for unarmed security officers; and.

~~4. Have the compliance agent of his employer attest that documentary evidence exists that an investigation to determine suitability of the applicant has been conducted and reviewed as required by the Code of Virginia.~~

C. Each person employed or utilized as an unarmed security officer on or after July 13, 1994, shall comply with the unarmed security officer *training* certification requirements.

6 VAC 20-170-370. Initial electronic security technician's assistant certification requirements.

A. No person shall be employed or utilized as an electronic security technician's assistant until he has submitted a fingerprint processing application and his fingerprints on two cards provided by the department.

B. Each person employed or utilized as an electronic security technician's assistant shall successfully complete the compulsory minimum training standards for electronic security technician's assistants and make application to the department for the issuance of an electronic security technician's assistant certification, except that such persons may be employed for not more than 90 days while completing the compulsory minimum training standards.

C. Individuals seeking certification as an electronic security technician's assistant shall file an application provided by the department which shall be accompanied by a *the applicable* nonrefundable processing fee of \$56. Each applicant shall meet or exceed the following requirements prior to the issuance of an electronic security technician's assistant certification:

1. Be at least 18 years of age;
2. Disclose to the department his physical address (a post office box is not a physical address);
3. Submit his fingerprints on two completed fingerprint cards provided by the department; and
4. Successfully complete the initial electronic security technician's assistant training requirement.

6 VAC 20-170-380. Initial electronic security employee certification requirements.

A. No person shall be employed or utilized as an electronic security employee until he has submitted the following to the department:

1. A fingerprint processing application with his fingerprints on two fingerprint cards provided by the department; and
2. A certification application indicating the applicant has met or exceeded these requirements:
 - a. Be at least 18 years of age;
 - b. Disclose to the department his physical address (a post office box is not a physical address); and

Proposed Regulations

c. A *The applicable nonrefundable application fee of \$56.*

B. Each person must receive a temporary authorization letter from the department before being employed or utilized as an electronic security employee.

6 VAC 20-170-390. Criminal history records search.

~~A. Upon hiring a person to be employed as an unarmed security officer, the compliance agent of the business shall submit on the first day of employment, VSP Form 167 signed by the applicant to the Virginia State Police for the purpose of conducting a Virginia Criminal History Records search to determine whether the applicant has a record of conviction. An individual may not be employed for more than 30 days without documentation of the completion of the Virginia Criminal History Records search.~~

B. Upon receipt of an initial application for certification as electronic security technician's assistant or electronic security employee, the department shall submit the fingerprints of the applicant to the Virginia State Police for the purpose of conducting a Virginia Criminal History Records search and a National Criminal Records search to determine whether the applicant has a record of conviction. Applicants submitting unclassifiable fingerprint cards shall be required to submit his fingerprints on new fingerprint cards along with a *the applicable nonrefundable fee of \$44.* However, no such fee shall be required if the rejected fingerprint cards are included and attached to the new fingerprint cards when resubmitted.

6 VAC 20-170-400. Duties and responsibilities of certified unarmed security officers, electronic security technician's assistants, and electronic security employees.

The unarmed security officer, electronic security technician's assistant and electronic security employee must at all times comply with the following:

1. Carry a valid certification card at all times while on duty except under the provisions of § 9-183 D or § 9-183 F of the Code of Virginia;
2. Perform those duties authorized by this chapter only while employed by a licensed private security services business and only for the clients of the licensee. This shall not be construed to prohibit an individual who is employed as an unarmed security officer from being employed by a nonlicensee as provided for in § 9-183.2 of the Code of Virginia;
3. Never carry or have immediate access to firearms while on duty;
4. Engage in no conduct which through word, deed or appearance *falsely* suggests that an unarmed security officer, *electronic security technician's assistant or electronic security employee* is a law-enforcement officer or other government official;
5. Display one's certification while on duty in response to the request of a law-enforcement officer, department personnel or client;

6. Never perform any unlawful or negligent act resulting in a loss, injury or death to any person;

7. Private security personnel are not required to wear a uniform while on duty; however, if wearing the law-enforcement style or military style uniform of a private security licensee while on duty, that uniform must have:

a. At least one insignia clearly identifying the name of the licensed firm employing the individual and a name plate or tape bearing, as a minimum, the individual's last name and first and middle initials attached on the outermost garment, except rainwear worn only to protect from inclement weather; and

b. No patch or other writing (i) containing the word "police" or any other words suggesting a law-enforcement officer; (ii) containing the word "officer" unless used in conjunction with the word "security"; or (iii) resembling any uniform patch or insignia of any duly constituted law-enforcement agency of this Commonwealth, its political subdivisions or of the federal government. This restriction shall not apply to individuals who are also duly sworn special police officers, to the extent that they may display words which accurately represent that distinction;

8. Utilize a vehicle with flashing lights in the conduct of a private security services business only as provided in § 46.2-1025 of the Code of Virginia;

9. Never use or display the state seal of Virginia as a part of any logo, stationery, business card, badge, patch, insignia or other form of identification or advertisement;

10. Never display the uniform, badge or other insignia while not on duty;

11. Inform the department in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor involving moral turpitude, sexual offense, drug offense, physical injury or property damage;

12. Inform the department in writing within 30 days after having been found guilty by any court or administrative body of competent jurisdiction to have violated the private security services business statutes or regulations of that jurisdiction, there being no appeal therefrom or the time for appeal having elapsed;

13. Acting as an unarmed security officer, *electronic security technician's assistant or electronic security employee* only in such a manner as to not endanger the public health, safety and welfare;

14. Engage in no unethical, fraudulent, or dishonest conduct;

15. Never represent as one's own certification issued to another individual, or representing oneself as a certified compliance agent of a licensee, school director or instructor unless certified as such by this department;

16. Never falsify, or aid and abet others in falsifying, training records for the purpose of obtaining a license, registration, ~~unarmed security officer training~~

certification, or certification as a compliance agent, training school, school director or instructor.

6 VAC 20-170-430. Replacement photo identification.

Unarmed security officers, electronic security technician's assistants or electronic security employees seeking a replacement photo identification shall submit to the department:

1. A properly completed application; and
2. A *The applicable* nonrefundable processing fee of ~~\$15~~.

6 VAC 20-170-460. Certification expiration, renewal, reinstatement.

A. The department will mail a renewal notification to the last known address of the individual. Failure of the individual to renew prior to the expiration date of the certification shall be the sole responsibility of the individual.

B. A certification not renewed on or before the expiration date of the ~~certificate~~ certification shall become null and void. ~~Performing private security services duties beyond the initial 90 days of employment without a valid certification is a violation of the Code of Virginia and this chapter.~~

C. A certification shall be valid for a period not to exceed 24 months from the date of issue. All such certifications shall expire on the expiration date of the certification.

- D. 1. An application for certification renewal ~~must~~ *should* be received by the department at least 30 days prior to expiration. Certification applications received by the department after the expiration date shall be subject to all applicable nonrefundable renewal fees plus reinstatement fees.
2. The department may renew a certification for a period not to exceed 24 months from the expiration date of the certification:
- a. Upon receipt of a properly completed renewal application;
 - b. Satisfactory completion of the in-service training requirements; and
 - c. A *The applicable* nonrefundable renewal fee of ~~\$15~~ is received by the department.

E. 1. Renewal applications received within 180 days following the expiration date shall be accompanied by a *the applicable* nonrefundable renewal fee of ~~\$15~~ and a *the applicable* nonrefundable reinstatement fee of ~~\$7.50~~.

2. No certification shall be renewed or reinstated when the application for renewal and fee are received by the department after 180 days following the expiration date of the certification. After that date, the applicant shall meet then current initial certification requirements.

3. The date on which the application and fee are received by the department shall determine whether the individual is eligible for renewal or reinstatement or is required to apply for initial certification.

4. The department may deny renewal or reinstatement of a certification for the same reason as it may refuse the initial certification or discipline an unarmed security officer.

PART VII.

COMPULSORY MINIMUM TRAINING STANDARDS FOR PRIVATE SECURITY SERVICES BUSINESS PERSONNEL.

Article 1.

Registration/Certification Category Requirements.

6 VAC 20-170-470. Entry level training.

Each person employed by a private security services business or applying to the department for registration as an armed security officer/courier, personal protection specialist, armored car personnel, guard dog handler, private investigator, alarm respondent, central station dispatcher, electronic security sales representative, or electronic security technician as defined by § 9-183.1 of the Code of Virginia, or applying to the department for training certification as an unarmed security officer or certification as an *electronic security technician's assistant* as required by § 9-183.3 of the Code of Virginia, or for certification as a compliance agent as required by § 9-183.3 of the Code of Virginia, who has not met the compulsory minimum training standards prior to July 13, 1994, must meet the compulsory minimum training standards herein established, unless provided for otherwise in accordance with ~~6 VAC 20-170-480 and 6 VAC 20-170-490 of this chapter~~ 6 VAC 20-170-475.

6 VAC 20-170-475. In-service training.

A. *Each person registered with the department as an armed security officer/courier, personal protection specialist, armored car personnel, guard dog handler, private investigator, alarm respondent, central station dispatcher, electronic security sales representative, electronic security technician, or applying to the department for certification as an unarmed security officer or electronic security technician's assistant, or certified by the department to act as a compliance agent, shall complete the compulsory in-service training standard once during each 24-month period of registration or certification as determined by the department.*

B. Compliance agent.

1. *Individuals who completed entry level training after July 1, 1993, must complete in-service training within each 24-month period following the initial entry level training date.*

2. *Individuals who were certified as compliance agents prior to July 1, 1993, must complete compliance agent in-service training within each 24-month period following the original in-service training date.*

3. *In-service training must be completed within 12 months prior to the established training due date.*

4. *Individuals who fail to complete in-service training prior to the established training due date may complete in-service training within 90 days after the established training due date if a completed in-service training enrollment application and a \$25 delinquent training fee is received by the department.*

Proposed Regulations

C. Instructor.

1. All private security instructors initially certified prior to December 31, 1994, must complete instructor in-service training prior to his certification expiration in the year 1997 and thereafter within each 36-month period of certification.
2. All private security instructors initially certified after January 1, 1995, but before December 31, 1996, must complete instructor in-service training prior to his certification expiration in the year 2000 and thereafter within each 36-month period of certification.
3. All private security instructors initially certified on or after January 1, 1997, must complete instructor in-service training within each 36-month period following certification.

6 VAC 20-170-480. Exemptions.

A. Persons who meet the statutory requirements as set forth in § 9-182 of the Code of Virginia may apply for a partial exemption from the compulsory training standards. Individuals requesting such partial exemption shall file an application furnished by the department and include the applicable nonrefundable application fee of \$25. The department may issue such partial exemption on the basis of individual qualifications as supported by required documentation. Those applying for and receiving exemptions must comply with all regulations promulgated by the board. Each person receiving a partial exemption must apply to the department for registration within 12 months from the date of issuance, otherwise the partial exemption shall become null and void. The following are the requirements for qualification for a partial exemption from the compulsory training standards:

1. Entry level training.

1. a. Persons having previous employment previously employed as law-enforcement officers who have not terminated or been terminated from said employment more than five years prior to the application date must submit official documentation of the following with the application for partial exemption:

- a. (1) Completion of law-enforcement entry level training, and
- b. (2) Five continuous years of law-enforcement employment provided such employment as a law-enforcement officer was not terminated due to misconduct or incompetence.

2. b. Persons having previous training or employment in any of the classifications defined in § 9-183.1 of the Code of Virginia must submit official documentation of the following with the application for partial exemption:

- a. (1) Completion of previous private security training, which has been approved by the department and which meets or exceeds the compulsory minimum training standards promulgated by the board, or

- b. (2) Five years continuous employment in the category for which partial exemption is sought, provided such employment was not terminated due to misconduct or incompetence.

2. In-service training. Persons who have completed training which meets or exceeds the compulsory minimum training standards promulgated by the board for the in-service training required for the individuals particular category may be authorized credit for such training, provided the training has been completed within 24 months of the expiration date of the registration period during which in-service training is required. Official documentation of the following must accompany the application for partial in-service training credit:

- a. Job-related training sessions which meet or exceed Department of Criminal Justice Services standards and are offered by institutions, associations, or private firms may be approved for partial in-service training credit.

- b. Applications for partial in-service training credit shall include information relating to the sponsoring organization and a copy of the training schedule. The schedule shall contain the dates, times, subject matter and instructor for each session.

3. Prior firearms credit. Persons having previous department-approved firearms training may be authorized credit for such training which meets or exceeds the compulsory minimum training standards for private security services business personnel, provided such training has been completed within the 12 months preceding the date of application. Official documentation of completion of department approved firearms training and qualification at a Virginia criminal justice agency, academy or correctional department must accompany the application for partial in-service training credit.

6 VAC 20-170-490. Firearms training. (Repealed.)

~~Firearms certification is required for all private security services business personnel prior to carrying or having immediate access to a firearm in the performance of duty.~~

6 VAC 20-170-500. In-service training. (Repealed.)

~~Each person registered with the department as an armed security officer/courier, personal protection specialist, armored car personnel, guard dog handler, private investigator, alarm respondent, central station dispatcher, electronic security sales representative, electronic security technician, or applying to the department for certification as an unarmed security officer or electronic security technician's assistant, or certified by the department to act as a compliance agent, shall complete the compulsory in-service training standard once during each 24-month period of registration or certification as determined by the department. Compliance agent in-service training is required within 24 months of entry level training, or the last completed in-service training.~~

6 VAC 20-170-510. Instructor recertification. (Repealed.)

~~Each person certified as an instructor shall complete recertification training within each 36-month period of initial certification date.~~

6 VAC 20-170-520. Compulsory minimum entry level training by category.

Total hours do not include time for examinations, practical exercises and range qualification. Refer to 6 VAC 20-170-540 for the minimum training requirements for each category.

- Unarmed security officer - 16 hours
- Armed security officer/courier - 24 hours
- Armored car personnel - 20 hours
- Guard dog handler - 28 hours
- Private investigator - 60 hours
- Personal protection specialist - 68 hours
- ~~Unarmed Alarm respondent - 16 hours~~
- ~~Armed alarm respondent - 24 hours~~
- Central station dispatcher - 8 hours
- Electronic security sales representative - 8 hours
- Electronic security technician - 14 hours
- Electronic security technician's assistant - 4 hours
- Compliance agent - 6 hours

6 VAC 20-170-530. Compulsory minimum in-service training by category.

Total hours do not include time for examinations. Refer to 6 VAC 20-170-550 for the minimum in-service training requirements for each category.

- Unarmed security officer - 4 hours
- Armed security officer/courier - 4 hours
- Armored car personnel - 4 hours
- Guard dog handler - 8 hours
- Private investigator - 8 hours
- Personal protection specialist - 16 hours
- ~~Unarmed Alarm respondent - 4 hours~~
- ~~Armed alarm respondent - 4 hours~~
- Central station dispatcher - 4 hours
- Electronic security sales representative - 4 hours
- Electronic security technician - 6 4 hours
- Electronic security technician's assistant - 2 hours
- Compliance agent - 4 hours
- Instructor - 8 hours*

6 VAC 20-170-540. Minimum entry level training requirements.

A. *Core subjects.* The entry level curriculum for unarmed security officer, armed security officer/courier, guard dog handler, ~~unarmed alarm respondent and armed and~~ alarm respondent sets forth the following areas identified as:

Core subjects	Hours
Administration and security orientation/regulations	- 2 hours
Legal authority and arrest authority and procedures	- 6 hours
Emergency and defensive procedures	- 8 hours
Written examination	
Total hours (excluding exam)	- 16 hours

B. *Armed security officer/courier.*

~~In addition to the successful completion of the core subjects curriculum (6 VAC 20-170-540 A), each armed security officer/courier must also comply with firearms training requirements. (Firearms certification is required for all private security services business personnel prior to carrying or having immediate access to a firearm in the performance of duty.)~~

- ~~1. Handgun classroom training (refer to 6 VAC 20-170-850) - 8 hours~~
- ~~2. Shotgun classroom instruction, if applicable (refer to 6 VAC 20-170-860) - 2 hours~~
- ~~3. Written firearms examination~~
- ~~4. Range qualification. No minimum hours required (refer to 6 VAC 20-170-860). Each person who carries or has immediate access to firearms in the performance of duty shall qualify with each type and caliber of firearm to which he has access.~~

1. *Core subjects - 16 hours*
 2. *Entry level handgun training (refer to Article 2 (6 VAC 20-170-615 et seq.) of this part) - 8 hours*
 3. *Entry level shotgun training, if applicable (refer to Article 2 (6 VAC 20-170-615 et seq.) of this part) - 1 hour*
- Total hours (excluding examination, shotgun classroom instruction and range qualification) - 24 hours

C. *Armored car personnel.*

1. *Armored car orientation/state regulations - 3 hours*
 2. *Armored car procedures - 9 hours*
 3. *Written examination*
 4. *Entry-level firearms training (6 VAC 20-170-540 B) (refer to Article 2 (6 VAC 20-170-615 et seq.) of this part) - 8 hours*
- Total hours (excluding examinations and range qualification) - 20 hours

Proposed Regulations

D. Guard dog handler.

1. Prerequisites for guard dog handler entry level (official documentation required):

a. Successful completion of the core subjects curriculum (~~6 VAC 20-170-540 subsection A of this section~~) - 16 hours

b. Successful completion of basic obedience training

2. Following successful completion of the above prerequisites, each guard dog handler must also comply with the following requirements:

a. Demonstration of proficiency. The student must demonstrate his proficiency in the handling of a security canine to satisfy the minimum standards - 2 hours

Evaluation by a certified private security guard dog handler instructor *and*
Basic obedience retraining

b. Guard dog handler orientation/legal authority - 4 hours

c. Canine patrol techniques - 6 hours

d. Written examination

Total hours (excluding examinations) - 28 hours

E. Private investigator.

1. Investigator orientation/regulations - 8 hours

2. Collecting and reporting information - 6 hours

3. General investigative techniques - 20 hours

4. Interviewing techniques - 8 hours

5. Criminal law, procedure and rules of evidence - 8 hours

6. Civil law, procedure and rules of evidence - 10 hours

7. ~~Written comprehensive examination Three practical field exercises~~

8. ~~Three practical field exercises Written comprehensive examination~~

Total hours in classroom (excluding written examination and practical exercises) - 60 hours

F. Personal protection specialist. Each ~~personal protection specialist student must also comply with the following requirements:~~

1. Personal protection orientation - 4 hours

2. Assessment of threat and protectee vulnerability - 8 hours

3. Legal authority and issues - 16 hours

4. Protective detail operations - 28 hours

5. Emergency procedures - 12 hours

a. CPR - 8 hours

b. Emergency first aid

c. Defensive preparedness

d. Emergency relocation

6. Performance evaluation - Five practical exercises

7. Written examination

Total hours (excluding written examination and performance evaluation) - 68 hours

G. ~~Unarmed Alarm respondent. Each unarmed alarm respondent student must successfully complete the core subjects curriculum (6 VAC 20-170-540-A)~~

~~Core subjects (refer to subsection A of this section) - 16 hours~~

H. ~~Armed alarm respondent. In addition to the successful completion of the core subjects curriculum (6 VAC 20-170-540-A), each armed alarm respondent must also comply with firearms training requirements. Firearms certification is required for all private security services business personnel prior to carrying or having immediate access to a firearm in the performance of duty.~~

1. ~~Handgun classroom instruction (refer to 6 VAC 20-170-850-B) - 8 hours~~

2. ~~Shotgun classroom instruction (if applicable) (refer to 6 VAC 20-170-860-C) - 1 hour~~

3. ~~Written firearms examination~~

4. ~~Range qualification. No minimum hours required. Each person who carries or has immediate access to firearms in the performance of duty shall qualify with each type and caliber of firearm to which he has access.~~

~~Total hours (excluding examination, shotgun classroom instruction, and qualification on the range) - 24 hours~~

I. ~~H. Electronic security subjects. The entry level electronic security subjects curriculum for central station dispatcher, electronic security sales representative, electronic security technician and electronic security technician's assistant sets forth the following areas identified as:~~

1. Orientation

2. Code of Virginia

3. Regulations Relating to Private Security Services

4. Introduction to electronic security

5. Written examination

Total hours (excluding examination) - 4 hours

J. ~~I. Central station dispatcher.~~

1. ~~Electronic security subjects (refer to 6 VAC 20-170-540-J subsection H of this section) - 4 hours~~

2. Central station dispatcher subjects - 4 hours

a. Duties and responsibilities

b. Communications skills

- c. Emergency procedures
- d. False alarm prevention

3. Written examination

Total hours (excluding examination) - 8 hours

~~K. J. Electronic security sales representative.~~

~~1. Electronic security subjects (refer to 6 VAC 20-170-540 J subsection H of this section) - 4 hours~~

~~2. Electronic security sales representative subjects - 4 hours~~

- ~~a. Duties and responsibilities~~
- ~~b. System design/components~~
- ~~c. False alarm prevention~~

~~3. Written examination~~

~~Total hours (excluding examination) - 8 hours~~

~~L. K. Electronic security technician. Each electronic security technician student must also comply with the following requirements:~~

~~1. Electronic security subjects (refer to 6 VAC 20-170-540 J subsection H of this section) - 4 hours~~

~~2. Electronic security technician subjects - 10 hours~~

- ~~a. Duties and responsibilities~~
- ~~b. Electronics~~
- ~~c. Control panels~~
- ~~d. Protection devices and application~~
- ~~e. Test equipment~~
- ~~f. Power and grounding~~
- ~~g. National electrical code~~
- ~~h. Job safety~~
- ~~i. False alarm management prevention~~

~~3. Written examination~~

~~Total hours (excluding examination) - 14 hours~~

~~M. L. Compliance agent.~~

~~1. Industry overview and responsibilities: regulations review, business practices, ethical standards, records requirements and other related issues - 6 hours~~

~~2. Written examination~~

~~Total hours (excluding written examination) - 6 hours~~

~~N. Firearms training. Firearms certification is required for all private security services business personnel prior to carrying or having immediate access to a firearm in the performance of duty. Firearms training must be completed within 12 months immediately preceding submission of an application. Firearms training completed longer than 12 months prior to application shall not be valid.~~

~~1. Handgun classroom training (refer to 6 VAC 20-170-850) - 8 hours~~

~~2. Shotgun classroom instruction, if applicable (refer to 6 VAC 20-170-860) - 1 hour~~

~~3. Written firearms examination (refer to 6 VAC 20-170-860).~~

~~4. Range qualification. No minimum hours required. Each person who carries or has immediate access to firearms in the performance of duty shall qualify with each type and caliber of firearm to which he has access.~~

~~Total hours do not include examination shotgun classroom instruction or range qualification - 8 hours~~

~~O. Personal protection specialist advanced firearms training. In addition to the successful completion of the personal protection specialist entry level curriculum (6 VAC 20-170-540 F), each armed personal protection specialist student must also comply with the personal protection specialist advanced handgun training - 24 hours.~~

- ~~1. Weapon selection and nomenclature~~
- ~~2. Safety and functioning~~
- ~~3. Fundamentals of marksmanship~~
- ~~4. Decision making for the personal protection specialist~~
- ~~5. Firearms skill development~~
- ~~6. Virginia private security course of fire for handguns~~
- ~~7. Personal protection specialist advanced firearms course of fire for handguns~~
- ~~8. Written examination. Each private security employee who carries or has immediate access to firearms in the performance of duty shall qualify with each type and caliber of firearm to which he has access.~~

~~Total hours (excluding written examination) - 24 hours~~

6 VAC 20-170-550. Compulsory minimum in-service training requirements.

A. Core subjects. Unarmed security officer/armed security officer/courier/unarmed alarm respondent/armed alarm respondent.

Legal authority/regulations review - 2 hours

Job related training - 2 hours

Total hours - 4 hours

B. Armored car personnel.

Statutory authorization/regulations review - 2 hours

Legal authority - 2 hours

Armored car procedures - 2 hours

Total hours - 4 hours

C. Guard dog handler.

Basic obedience evaluation and retraining - 2 hours

Legal authority/regulations review - 2 hours

Proposed Regulations

- Job related training - 2 hours
Canine patrol techniques - 2 hours
Total hours - 8 hours
- D. Private investigator.
~~Legal authority/issues (civil and criminal)/regulations review civil and criminal law issues - 4 hours~~
Investigative procedures - 4 hours
Total hours - 8 hours
- E. Personal protection specialist
~~Regulations review - 1 hour~~
Legal authority and issues - 2 hours
Protective detail operations - 10 hours
Emergency procedures - 3 hours
Total hours - 16 hours
- F. Central station dispatcher
~~Code and regulation review - 1 hour~~
Job related training/false alarm prevention - 3 hours
Total hours - 4 hours
- G. Electronic security sales representative
~~Code and regulation review - 1 hour~~
Job related training/false alarm prevention - 3 hours
Total hours - 4 hours
- H. Electronic security technician
~~Code and regulation review - 1 hour~~
Job related training/false alarm prevention - 3 hours
Total hours - 4 hours
- I. Electronic security technician's assistant
Job related training
Total hours - 2 hours
- J. Compliance agent.
~~Code and regulation review - 5 hours~~
~~Job related training/false alarm prevention - 1.5 hours~~
Total - 4 hours
Industry overview and responsibilities, regulations review, business practices, ethical standards, records requirements, and other related issues
Total hours - 4 hours
- K. Instructor.
Regulations review, legal issues, ethical standards records requirements and other related topics - 2 hours

Techniques of instruction delivery including practical exercises - 6 hours

Total hours - 8 hours

6 VAC 20-170-560. ~~Partial in-service training credit. (Repealed.)~~

~~A. Partial in-service training credit may be approved for attendance at training programs which are not conducted through a Department of Criminal Justice Services certified private security training school. Individual partial in-service training credit applications must be submitted on forms provided by the department. The following procedures for applying for partial in-service training credit must be followed:~~

~~1. Job related training sessions which meet or exceed Department of Criminal Justice Services standards and are offered by institutions, associations, or private firms may be approved for partial in-service training credit.~~

~~2. Applications for partial in-service training credit shall include information relating to the sponsoring organization and a copy of the training schedule. The schedule shall contain the dates, times, subject matter and instructor for each session.~~

~~3. Applications must be submitted within 60 days of the last day of the training session.~~

~~B. Partial in-service training credit for regulations review may be approved upon successful completion of compliance agent in-service training.~~

6 VAC 20-170-570. ~~Extension of time period to meet in-service training requirement. (Repealed.)~~

~~A. An extension of the time period to complete in-service training requirements may be approved only under specific circumstances which do not allow the private security employee to complete the required in-service training within the prescribed time period. The following are the only circumstances for which extensions may be granted:~~

- ~~1. Illness,~~
- ~~2. Injury, or~~
- ~~3. Military service.~~

~~B. An application for extension shall:~~

- ~~1. Be submitted prior to the expiration date of the time limit required for completion of the compulsory in-service training requirements; and~~
- ~~2. Indicate the projected date the individual will be able to comply with the in-service training requirements.~~

~~C. No extension will be approved for registrations or certifications which have expired.~~

~~D. Applications for additional extensions may be approved upon written request of the individual.~~

6 VAC 20-170-580. ~~Firearms retraining. (Repealed.)~~

~~A. All armed private security services business personnel must satisfactorily complete two hours of firearms classroom retraining, range training, and requalify as prescribed in 6~~

Proposed Regulations

~~VAC 20-170-850 B and 6 VAC 20-170-860, if applicable, during each 12 months of registration. Certified schools providing firearms retraining must meet the requirements of Part VIII of this chapter.~~

~~B. Each armed registrant who has complied with the initial firearms training requirement shall comply annually with firearms retraining within the 12-month period preceding the expiration date of his registration. Firearms training completed longer than 12 months prior to the expiration date of his registration is not valid.~~

~~C. Firearms classroom retraining.~~

~~Handgun classroom retraining - 2 hours~~

~~Shotgun classroom retraining - 1 hour~~

~~Range qualification (no minimum hours required).~~

~~Total hours (excluding range qualification and shotgun classroom training) - 2 hours~~

6 VAC 20-170-590. Personal protection specialist advanced handgun retraining - 8 hours (Repealed.)

~~A. Each armed personal protection specialist registrant must satisfactorily complete eight hours of personal protection specialist advanced handgun classroom training, range retraining, and requalify, if applicable. Certified schools providing personal protection specialist advanced handgun retraining must meet the requirements of Part VIII of this chapter.~~

~~B. Each armed personal protection specialist registrant who has complied with the initial personal protection specialist advanced firearms training requirement, shall comply annually with personal protection specialist advanced handgun retraining within the 12-month period preceding the expiration date of his registration. Personal protection specialist advanced handgun retraining completed longer than 12 months prior to the expiration date of his registration is not valid.~~

6 VAC 20-170-600. Guard dog handler basic obedience evaluation and retraining - 2 hours (Repealed.)

~~Each guard dog handler registrant shall comply annually with the requirement for basic obedience evaluation and retraining.~~

6 VAC 20-170-610. Instructor recertification training (Repealed.)

~~A. Regulations review, legal issues, ethical standards, records requirements and other related topics - 2 hours~~

~~B. Techniques of instruction delivery - 6 hours including practical exercises.~~

~~Total hours (excluding testing) - 8 hours~~

Article 2.

Firearms Training Requirements.

6 VAC 20-170-615. Entry level firearms training requirements.

A. Firearms certification is required for all private security services business personnel who carry or have immediate

access to a firearm while on duty. Each person who carries or has immediate access to firearms while on duty shall qualify with each type and caliber of firearm to which he has access.

B. Handgun training.

1. The entry level handgun classroom training will emphasize but not be limited to:

- a. The proper care of the weapon;*
- b. Civil liability of the use of firearms;*
- c. Criminal liability of the use of firearms;*
- d. Weapons retention;*
- e. Deadly force;*
- f. Justifiable deadly force;*
- g. Range safety;*
- h. Practical firearms handling; and*
- i. Principles of marksmanship.*

Total hours (excluding written examination) - 8 hours

2. Written examination required.

3. No minimum hours are required for range qualification. The purpose of the range qualification course is to provide practical firearms training to individuals desiring to become armed private security services business personnel.

a. Prior to the date of range training, it will be the responsibility of the school director to ensure that all students are informed of the proper attire and equipment to be worn for the firing range portion of the training.

b. Ammunition - 60 rounds - factory loaded semi-wadcutter or duty ammunition may be used for practice or range qualification or both.

c. Target - Silhouette (M-9, Transitional Target 2, full-size B21, B21x or B-27) - Alternate targets may be utilized with prior approval by the department.

d. With prior approval of the department, a reasonable modification of the firearms course may be approved to accommodate qualification on indoor ranges.

e. A certified firearms instructor must be on the range during all phases of firearms training. There shall be one firearms instructor per four shooters on the line.

f. Directional draw holsters only.

g. Scoring.

(1) M-9, Transitional Target 2, B21, B21x, B27 target - (use indicated K-value) 8, 9, 10 X rings - value 5 points, 7 ring - value 4 points, other hits on silhouette - value 3 points: divide points scored by maximum possible score to obtain decimal and convert to percentage, e.g., $225 \div 300 = .75 = 75\%$.

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(2) Q targets - any fired round striking the bottle area to include its marked border - value 5 points - any fired round striking outside the bottle area - value 3 points.

h. Course: Virginia Private Security Course of Fire for Handguns.

(Strong/weak hand refers to the primary hand used in firing the weapon. The opposite hand may be used for support.)

Target -- Silhouette (B21, B21X, B27), 60 rounds

Double action, except for single action semi-automatic weapons.

Minimum qualifying score - 75%

Phase 1 -- 3 yards, point shoulder position, 18 rounds:

Load 6 rounds and holster loaded weapon.

On command, draw and fire 2 rounds (3 seconds) repeat.

Load 6 rounds and holster loaded weapon.

On command, draw and fire 6 rounds with strong hand.

Unload, reload 6 rounds and fire 6 rounds with weak hand (25 seconds).

Phase 2 -- 7 yards, point shoulder position, 24 rounds:

Load 6 rounds and holster loaded weapon.

On command, draw and fire 1 round (2 seconds), repeat.

Load 6 rounds and holster loaded weapon.

On command, draw and fire 2 rounds (3 seconds), repeat.

Load 6 rounds and holster loaded weapon.

On command, draw and fire 6 rounds, reload 6 rounds, fire 6 rounds (30 seconds).

Phase 3 -- 15 yards, 70 seconds, 18 rounds:

Load 6 rounds and holster loaded weapon.

On command, assume kneeling position, draw and fire 6 rounds with strong hand.

Assume standing position, unload, reload and fire 6 rounds from weak hand barricade position.

Unload, reload and fire 6 rounds from strong hand barricade position (70 seconds).

(Kneeling position may be fired using barricade position.)

C. Shotgun training.

1. The entry level shotgun classroom instruction will emphasize but not be limited to:

a. Safe and proper use and handling of shotgun;

b. Nomenclature; and

c. Positions and combat loading techniques.

Total hours - 1 hour

2. No minimum hours required for range firing. The purpose of the range firing course is to provide practical shotgun training to those individuals who carry or have immediate access to a shotgun in the performance of their duties.

3. For certification, 12 gauge, double aught "00" buckshot ammunition shall be used. Five rounds.

4. Scoring - 70% of available pellets must be within silhouette.

5. Course: Virginia Private Security Course of Fire for Shotguns.

	Distance	Position	No. Rounds	Target	Time
Combat load & fire	15 Yds.	Standing/Shoulder	3	B-27 Silhouette	20 sec.
Combat load & fire	25 Yds.	Kneeling/Shoulder	2	B-27 Silhouette	15 sec.

6. A certified firearms instructor must be on the range during all phases of firearms range training. There shall be one certified firearms instructor per four shooters on the line.

D. Personal protection specialist advanced handgun training. In order to be eligible for the personal protection specialist advanced handgun course of fire, each personal protection specialist student must have completed entry level handgun training and qualified on the Virginia private security course of fire for handgun by shooting a minimum score of 85%.

1. The entry level personal protection specialist advanced handgun classroom training will emphasize but not be limited to:

a. Weapon selection and nomenclature;

b. Safety and functioning;

c. Fundamentals of marksmanship review; and

d. Decision making for the personal protection specialist.

Total hours (excluding written examination) - 24 hours

2. Written examination required.

3. No minimum hours required for range qualification. The purpose of this course of fire is to assess and improve the tactical, protection-related shooting skills for personal protection specialist candidates seeking certification to be armed. This course entails five increasingly challenging stages of advanced firearms exercises with a 92% score required for qualification.

The advanced handgun course of fire is comprised of the following exercises:

- a. Shoot/don't shoot judgment;
 - b. Turn and fire drills;
 - c. Failure to stop drills;
 - d. Multiple target drills; and
 - e. Judgmental shooting.
4. For all range practicals (stage two through stage four), the student will fire at a man-size silhouette target with the following requirements:
- a. 4" diameter circle in head;
 - b. 8" diameter circle in chest/body area;
 - c. Center points of circles - 13½ inches apart;
 - d. All rounds fired must hit within these circles; and
 - e. Minimum 92% qualification score = 25 rounds total requiring 23 hits.
5. Scoring:
- a. 25 points (1 round is good for 1 point).
 - b. 92% of shots must be "in circle" hits for a passing grade (2 misses allowed on total course).
 - c. Shots not taken during stage five, when a "no-shoot" situation is presented scores a point, just as an accurate shot in a hostile situation.
 - d. 92% is 23 of 25 possible.
6. A certified personal protection specialist firearms instructor must be on the range during all phases of personal protection specialist advanced handgun training. There shall be one certified personal protection specialist firearms instructor per four students.
7. Virginia private security course of fire for personal protection specialist.

a. Stage One: Shoot/don't shoot drill. Stage one of the personal protection specialist advanced handgun course of fire is conducted in a classroom using a 16 mm film or video cassette tape of firearms combat scenarios to assess the student's decision making capability given job-related shoot/don't shoot incidents.

After the interaction of the scenario, the students must explain all their commands and actions.

Dry-fire response from a weapon rendered safe should be incorporated into the scenario interaction.

b. Stage Two: Turn-and-fire drill. Stage two of the personal protection specialist advanced handgun course of fire is held at a firing range and consists of turn-and-fire drills from varying distances (straight draw hip holsters only).

All handguns are loaded with six rounds of ammunition and safely holstered. Shooters are positioned with their backs to the targets, facing the instructor up-range. The instructor will command all shooters to walk at a normal pace, directly away from the target.

Upon the command "fire," the students must quickly turn while acquiring a firm grip on the weapon. Once facing the target and in a stable position, they must safely draw and fire two rounds at the designated target circle. After shooting, while facing the target, the student must reholster safely, then turn around to face up-range, ready to continue the exercise. The "fire" commands will be called at 3-5 yards, 5-7 yards, and then 8-10 yards.

c. Stage Three: Failure to stop drill. Stage three of the personal protection specialist advanced handgun course of fire is held at a firing range and consists of failure to stop drills fired from the seven-yard line (straight draw hip holsters only).

All handguns are loaded with six rounds of ammunition and are safely holstered. Shooters are positioned with their backs to the targets, facing the instructor up-range. The instructor will command all shooters to walk at normal pace, directly away from the target. Upon the command "fire," given at approximately the seven-yard line, each shooter must safely turn around while acquiring a firm grip on their weapon as performed in the previous drill. Once facing the target, the students will draw and fire two rounds at the 8-inch body circle, and then one immediate round to the 4-inch head circle. The student will then safely reholster. The drill will be repeated three times.

d. Stage Four: Multiple target identification drill. Stage four of the personal protection specialist advanced handgun course of fire is held at a firing range and consists of multiple target identification drills fired from varying distances (straight draw hip holsters only).

Each shooter will line up on a set of three targets. Only two shooters at one time can complete this exercise on a standard 10-12 station range. However, smaller ranges may allow for only 1 shooter at a time.

Each handgun is loaded with 6 rounds of ammunition and safely holstered. The shooters are positioned with their backs to the targets, facing the instructor up-range. The instructor will command all shooters to walk at a normal pace, directly away from the targets. Upon the command "left," "right," or "center," the student must again turn around safely while establishing a firm grip on the weapon. Then, once stable, the student must quickly draw and fire 2 rounds at the designated circle on the "called" target ("L," "R," "C"). Then, the shooter, while still facing the targets, must safely reholster, turn around to face up-range, and continue the exercise. Each two round pair must be fired within 4 seconds of the called command. Direction commands will be called at 3-5 yards, 5-7 yards, and then 8-10 yards.

e. Stage Five: Judgmental shooting. This drill combines the skills developed in the prior four stages. The shooter will be required to safely turn and fire at a "photograph" type target which may be either friendly or hostile. It requires hostile targets to be stopped

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using deadly force. Necessity (immediate jeopardy) is presumed for this exercise. This stage allows the instructor to evaluate the decision-making capability of the student as well as his shooting accuracy and safety.

Shooter is placed on the 10-yard line facing the instructor with the target to his rear. The target will be placed at any location along the range target line and should not be seen by the student until he is given the "turn" command during the drill. Each shooter has the opportunity to complete this drill four times. Each decision is worth one point. If he shoots at a hostile target, a hit anywhere on that target will score the point. If a friendly target is presented, it is clearly a no-shoot situation and the student should merely holster safely to score the point. There is a four-second time limit at this stage for any "shoot" situation.

The instructor may choose to allow each shooter only two opportunities to complete this drill and place two targets downrange for each. Four points or hits are still necessary at this stage for the total score. If two targets are used, then the time limit is raised to six seconds, regardless of whether two hostile targets are used or one hostile with one friendly. This allows the instructor the opportunity to challenge a stronger shooter.

6 VAC 20-170-616. Firearms retraining.

A. Handgun retraining.

1. All armed private security services business personnel must satisfactorily complete two hours of firearms classroom training and range training, and requalify as prescribed in 6 VAC 20-170-615 for handgun within the 12-month period immediately preceding the expiration date of his registration.

2. Approved schools providing handgun retraining must meet the requirements of Part VIII (6 VAC 20-170-620 et seq.) of this chapter.

3. Handgun classroom retraining.

Range qualification - (no minimum hours required)

Total hours (excluding range qualification and shotgun classroom training) - 2 hours

B. Shotgun retraining.

1. All armed private security services business personnel must satisfactorily complete one hour of classroom training and range training, and requalify with the shotgun as prescribed in 6 VAC 20-170-615, if applicable.

2. Approved schools providing handgun retraining must meet the requirements of Part VIII (6 VAC 20-170-620 et seq.) of this chapter.

3. Shotgun classroom retraining.

Range qualification - (no minimum hours required)

Total hours (excluding range qualification) - 1 hour

C. Personal protection specialist advanced handgun retraining.

1. Personal protection specialist advanced handgun course of fire (not including range qualification)

a. Legal authority and decision making - 4 hours

b. Handgun safety, marksmanship and skill development - 4 hours

Total hours (excluding range qualification) - 8 hours

Article 3.

Guard Dog Handler Retraining.

6 VAC 20-170-617. Guard dog handler retraining.

Each guard dog handler registrant shall comply annually with the requirement for basic obedience evaluation and retraining (refer to Article 1 (6 VAC 20-170-470 et seq.) of this part).

Guard dog handler basic obedience evaluation and retraining

Total hours - 2 hours

6 VAC 20-170-618 and 6 VAC 20-170-619. Reserved.

PART VIII.

PRIVATE SECURITY SERVICES TRAINING SCHOOLS.

Article 1.

School Certification.

6 VAC 20-170-620. Initial requirements for the certification of a private security services training school.

In accordance with § 9-182 of the Code of Virginia, the department may certify those schools which on the basis of curricula, instructors and facilities, provide training which meets the compulsory minimum training standards. Each person seeking to certify a private security services training school shall file an application, provided by the department, accompanied by a *the applicable* nonrefundable fee of \$500. Each principal of the business entity applying for certification as a private security services training school must be listed on the application and is responsible for the school's adherence to the Code of Virginia and this chapter. Each person listed on the application shall complete a supplemental fingerprint processing application and submit his fingerprints on one completed set of two fingerprint cards along with a *the applicable* nonrefundable fee of \$41; however, a maximum of two sets of fingerprint cards may accompany the application at no additional cost. Certifications shall be issued for a period not to exceed 12 months. All forms shall be completed in full compliance with the instructions provided by the department. Applicants shall meet or exceed all of the requirements contained in this part prior to the issuance of a training school certification.

6 VAC 20-170-625. Temporary training school certification.

The department may issue a letter of temporary certification to a training school applicant for not more than 120 days while awaiting the results of the state and national fingerprint search conducted on the principals of the business

entity, provided the applicant has met the conditions and requirements set forth in this part.

6 VAC 20-170-630. Certification requirements; designation of school director; school director duties and responsibilities; retention and replacement of school director.

A. Each person seeking to establish a certified private security services training school shall designate a school director. The school director shall be an individual, who is not designated as school director for any other certified private security services training school, and shall possess current certification as a private security instructor.

B. The certified school director shall at all times comply with the following:

1. Ensure that the certified training school is in full compliance with the Code of Virginia and this chapter;
2. Ensure that all sessions conducted meet the requirements for mandated training;
3. Ensure that all instructors of the certified training school have been certified by the department as private security instructors and instruct in accordance with the Code of Virginia and this chapter;
4. Ensure that all training completion rosters are filed with the department within seven business days of the training completion date;
5. Ensure the maintenance of training, employment and payroll records which document compliance with the Code of Virginia and this chapter.

C. 1. Each certified training school shall maintain an individual as school director who has met the requirements of this chapter and has been certified by the department.

2. Each training school shall notify the department in writing within 10 calendar days of the termination of employment of a certified school director.

3. Within 90 days of termination of the school's certified director, the school shall submit, on a form provided by the department, the name of a new school director who has met the requirements of this chapter.

6 VAC 20-170-640. Criminal history records search.

Upon application for certification as a private security services training school, each training director and principal of the applicant firm shall submit his fingerprints to the department on one completed set of two fingerprint cards on forms provided by the department, and a ~~\$44~~ the applicable nonrefundable processing fee for each set of fingerprint cards beyond the allowable two sets provided with the initial training school application. The department shall submit those fingerprints to the Virginia State Police for the purpose of conducting a Virginia Criminal History Records search and a National Criminal Records search to determine whether the individual has a record of conviction.

6 VAC 20-170-650. Unclassifiable fingerprint cards.

Fingerprint cards found to be unclassifiable will be returned to the applicant. Action on the application will be suspended pending the resubmittal of classifiable fingerprint cards. The applicant should be so notified in writing and shall submit his fingerprints on new fingerprint cards and a the applicable nonrefundable fee of ~~\$44~~ to the department before the processing of his application shall resume. However, no such fee may be required if the rejected fingerprint cards are included and attached to the new fingerprint cards when resubmitted.

6 VAC 20-170-730. School expiration, renewal, reinstatement.

A. The department will mail a renewal application to the last known address of the certified school director. Failure of the certified school director to renew certification prior to the expiration date of the certification shall not be the responsibility of the department.

B. A private security training school not renewed on or before the expiration date of the certification shall become null and void. Operating a training school without valid certification is a violation of the Code of Virginia and this chapter.

C. All certifications granted to private security services training schools shall be valid for a period not to exceed ~~12~~ 24 months.

D. Applications for renewal must be received 30 days prior to expiration. School renewal applications received by the department after the expiration date shall be subject to all applicable nonrefundable renewal fees plus nonrefundable reinstatement fees.

E. Applicants for renewal of training school certification shall have the option of renewing for either a period not to exceed 12 months or a period not to exceed 24 months.

~~F. The department may renew the certification of a training school for a period not to exceed 12 24 months when the following are received by the department requirements are met:~~

~~a. 1. A properly completed renewal application is submitted to the department; and~~

~~b. 2. A The applicable nonrefundable renewal fee of \$250; is submitted to the department;~~

~~3. The certified school director and each certified instructor listed on the school renewal application must have satisfactorily completed all applicable instructor training requirements; and~~

~~4. Each certified director, principal or certified instructor listed on the school renewal application shall be in good standing and free of disciplinary action in every jurisdiction where licensed or certified.~~

~~G. A renewal application received by the department within 180 days following the expiration date of the certification shall be accompanied by a the applicable nonrefundable renewal fee of \$250 and the nonrefundable reinstatement fee of \$125.~~

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2- H. No training school shall be renewed or reinstated when the renewal application and fee are received by the department after 180 days following the expiration date of the approval. After that date, the applicant shall meet then current initial school certification requirements.

3- I. The date on which the application and fee are received by the department shall determine whether the applicant is eligible for renewal or reinstatement or is required to apply for initial certification as a private security training school.

Article 2. Instructor Certification.

6 VAC 20-170-760. Certified instructors.

A. Instructors desiring to instruct in a certified training school shall submit an application for instructor certification. The applicant must provide documentation of previous work experience, instructor experience, training and education for those subjects in which certification is requested. The department will evaluate qualifications based upon the justification provided. In addition, all instructor applicants shall meet the following requirements and provide documentation thereof:

1. Have a minimum of three years management or supervisory experience with a private security services business or with any federal, military police, state, county or municipal law-enforcement agency, or in a related field; or have a minimum of one year experience as an instructor or teacher at an accredited educational institution or agency in the subject matter for which certification is requested, or in a related field;
2. Have a high school diploma or equivalent (GED);
3. Successful completion of an instructor development program, within the three years immediately preceding the date of the application, that meets or exceeds standards established by the department; or successful completion of an instructor development program longer than three years prior to the date of application, and has provided instruction during the three years immediately preceding, or has provided instruction in a related field at an institution of higher learning;
4. Submit his fingerprints on one set of two completed fingerprint cards on forms provided by the department; and
5. Submit a properly completed instructor application and a the applicable nonrefundable application fee of \$91.

B. In addition to the instructor qualification requirements described in subsection A of this section, each firearms instructor must have completed a firearms instructors school specifically designed for law-enforcement or private security personnel. Each firearms instructor candidate must provide documentation of range qualification with a minimum range qualification of 85% with each of the following:

1. A revolver;
2. A semi-automatic handgun; and

3. A shotgun.

The firearms instructor training must have been completed within the three years immediately preceding the date of the instructor application; or in the event that the school completion occurred prior to three years, the applicant shall have provided firearms instruction during the three years immediately preceding.

~~C. In addition to the requirements of subsection A of this section, each candidate for certification as a guard dog handler instructor, armored car personnel instructor, personal protection specialist instructor, and electronic security instructor shall submit to the department official documentation of qualifications in each specified area.~~

6 VAC 20-170-765. Temporary instructor certification.

The department may issue a letter of temporary certification to an instructor applicant for not more than 120 days while awaiting the results of the state and national fingerprint search conducted on the applicant, provided the applicant has met the conditions and requirements, set forth in this part.

6 VAC 20-170-770. Criminal history records search.

Upon receipt of an initial application for instructor certification, the department shall submit the fingerprints of the applicant to the Virginia State Police for the purpose of conducting a Virginia Criminal History Records search and a national criminal records search to determine whether the applicant has a record of conviction. Applicants submitting unclassifiable fingerprint cards shall be required to submit their fingerprints on new fingerprint cards along with a the applicable nonrefundable fee of \$41. However, no such fee shall be required if the rejected fingerprint cards are included and attached to the new fingerprint cards when resubmitted.

6 VAC 20-170-820. Renewal of instructor certification. Registration/certification in-service training credit.

~~A. The department may deny renewal of instructor certification for the same reason as it may refuse initial certification or discipline an instructor.~~

~~B. Instructors certified to teach mandatory in-service training classes, except firearms retraining, may receive credit for hours towards the in-service training requirements for the categories for which they are currently registered. Instructors receive credit for classes in which they provide instruction, upon submission of proper documentation and department approval by submitting their names on the training completion roster for that session.~~

~~C. Each person certified as a private security instructor shall complete the instructor recertification requirements by December 31 of the third calendar year following initial certification and every third calendar year thereafter. All private security instructors certified prior to June 30, 1994, must comply with this requirement by December 31, 1997.~~

6 VAC 20-170-830. Certification expiration, renewal, reinstatement.

A. The department will mail to the last known address of the instructor a renewal notification. Failure of the instructor

to renew prior to the expiration of the certification shall be the sole responsibility of the instructor.

A private security services instructor certification not renewed on or before the expiration date shall become null and void. Operating as a private security services instructor without a valid private security services instructor certification is a violation of the Code of Virginia and this chapter.

B. All certifications issued to private security services instructors shall be valid for a period not to exceed 42 36 months.

C. 1. Applications for *renewal* of instructor certification must be received by the department at least 30 days prior to expiration. Renewal applications received by the department after the expiration date shall be subject to all applicable nonrefundable renewal fees plus reinstatement fees.

2. The department may renew the instructor certification for a period not to exceed 42 36 months from the expiration date of the certification when the following are received by the department:

- a. A properly completed renewal application;
- b. A *the applicable* nonrefundable renewal fee of \$10; and
- c. Documentation that the instructor has met the applicable recertification training standards.

3. Each instructor must have satisfactorily completed all applicable training requirements.

4. Each instructor shall be in good standing and free of disciplinary action in every jurisdiction where licensed, registered or certified.

5. A renewal application received by the department within 180 days following the expiration date of the certification shall be accompanied by a *the applicable* nonrefundable renewal fee of \$10 and a *the applicable* nonrefundable reinstatement fee of \$5.00.

6. No instructor certification shall be renewed or reinstated when the application and fee are received by the department more than 180 days following the expiration date of the certification. After that date, the applicant shall meet all initial instructor certification requirements.

7. The department may deny renewal or reinstatement of an instructor for the same reason as it may refuse initial certification or discipline a licensee.

PART IX.
FIREARMS TRAINING.

6 VAC 20-170-840. ~~Firearms training requirements. (Repealed.)~~

~~A. Private security services business personnel who apply for armed registration shall be required to meet the provisions of 6 VAC 20-170-850 and, if applicable, 6 VAC 20-170-860.~~

~~B. Every student must qualify with each type and caliber of firearm he will have access to while on duty.~~

6 VAC 20-170-850. ~~Handgun training. (Repealed.)~~

~~A. The eight hours of classroom training will emphasize but not be limited to:~~

- ~~1. The proper care of the weapon;~~
- ~~2. Civil liability of the use of firearms;~~
- ~~3. Criminal liability of the use of firearms;~~
- ~~4. Weapons retention;~~
- ~~5. Deadly force;~~
- ~~6. Justifiable deadly force;~~
- ~~7. Range safety;~~
- ~~8. Practical firearms handling; and~~
- ~~9. Principles of marksmanship;~~

~~B. No minimum hours are required for range qualification. The purpose of the range qualification course is to provide practical firearms training to individuals desiring to become armed private security services business personnel.~~

~~1. Prior to the date of range training, it will be the responsibility of the school director to ensure that all students are informed of the proper attire and equipment to be worn for the firing range portion of the training.~~

~~2. Ammunition — 60 rounds — factory loaded semi-wadcutter or duty ammunition may be used for practice or range qualification or both.~~

~~3. Target — Silhouette (M-9, Transitional Target 2, full-size B21, B21x or B-27) — Alternate targets may be utilized with prior approval by the department.~~

~~4. With prior approval of the department, a reasonable modification of the firearms course may be approved to accommodate qualification on indoor ranges.~~

~~5. A certified firearms instructor must be on the range during all phases of firearms training. There shall be one firearms instructor per four shooters on the line.~~

~~6. Directional draw holsters only.~~

~~7. Scoring:~~

~~a. M-9, Transitional Target 2, B21, B21x, B27 target — (use indicated K value) 8, 9, 10 X rings — value 5 points, 7 ring — value 4 points, other hits on silhouette — value 3 points: divide points scored by maximum possible score to obtain decimal and convert to percentage, e.g., 225 ÷ 300 = .75 = 75%.~~

~~b. Q targets — any fired round striking the bottle area to include its marked border — value 5 points — any fired round striking outside the bottle area — value 3 points.~~

~~8. Course: Virginia Private Security Course of Fire for Handguns.~~

~~Target — Silhouette (B21, B21X, B27) — 60 rounds~~

~~Double action, except for single action semi-automatic weapons.~~

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~~Minimum qualifying score 75%~~

~~Phase 1 3 yards, point shoulder position, 18 rounds:~~

~~Load 6 rounds and holster loaded weapon.~~

~~On command, draw and fire 2 rounds (3 seconds) repeat.~~

~~Load 6 rounds and holster loaded weapon.~~

~~On command, draw and fire 6 rounds with strong hand.~~

~~Unload, reload 6 rounds and fire 6 rounds with weak hand (25 seconds).~~

~~Phase 2 7 yards, point shoulder position, 24 rounds:~~

~~Load 6 rounds and holster loaded weapon.~~

~~On command, draw and fire 1 round (2 seconds), repeat.~~

~~Load 6 rounds and holster loaded weapon.~~

~~On command, draw and fire 2 rounds (3 seconds), repeat.~~

~~Load 6 rounds and holster loaded weapon.~~

~~On command, draw and fire 6 rounds, reload 6 rounds, fire 6 rounds (30 seconds).~~

~~Phase 3 15 yards, 70 seconds, 18 rounds:~~

~~Load 6 rounds and holster loaded weapon.~~

~~On command, assume kneeling position, draw and fire 6 rounds with strong hand.~~

~~Assume standing position, unload, reload and fire 6 rounds from weak hand barricade position.~~

~~Unload, reload and fire 6 rounds from strong hand barricade position (70 seconds).~~

~~(Kneeling position may be fired using barricade position.)~~

6 VAC 20-170-860. Shotgun training. (Repealed.)

~~A. The one hour of classroom instruction will emphasize but not be limited to:~~

- ~~1. Safe and proper use and handling of shotgun;~~
- ~~2. Nomenclature; and~~
- ~~3. Positions and combat loading techniques.~~

~~B. No minimum hours required for range firing. The purpose of the range firing course is to provide practical shotgun training to those individuals who carry or have immediate access to a shotgun in the performance of their duties.~~

~~C. For certification, 12 gauge, double aught "00" buckshot ammunition shall be used. Five rounds.~~

~~D. Scoring 70% of available pellets must be within silhouette.~~

~~E. Course: Virginia Private Security Course of Fire for Shotguns.~~

	Distance	Position	No. Rounds	Target	Time
Combat load & fire	15 Yds.	Standing/ Shoulder	3	B-27 Silhouette	20 sec.
Combat load & fire	25 Yds.	Kneeling/ Shoulder	2	B-27 Silhouette	15 sec.

~~F. A certified firearms instructor must be on the range during all phases of firearms range training. There shall be one certified firearms instructor per four shooters on the line.~~

6 VAC 20-170-870. Firearms retraining. (Repealed.)

~~A. All armed private security services business personnel must satisfactorily complete two hours of firearms classroom training, range training, and requalify as prescribed in 6 VAC 20-170-860 B for handgun, and one hour of classroom training, range training, and requalify with the shotgun as prescribed in 6 VAC 20-170-860, if applicable, within the 12-month period immediately preceding the expiration date of his registration.~~

~~B. Approved schools providing firearms retraining must meet the requirements of Part VIII of this chapter.~~

6 VAC 20-170-880. Personal protection specialist advanced handgun training. (Repealed.)

~~A. The personal protection specialist advanced handgun training will emphasize but not be limited to:~~

- ~~1. Weapon selection and nomenclature;~~
- ~~2. Safety and functioning;~~
- ~~3. Fundamentals of marksmanship review; and~~
- ~~4. Decision making for the personal protection specialist.~~

~~B. No minimum hours required for range qualification. The purpose of this course of fire is to assess and improve the tactical, protection-related shooting skills for personal protection specialist candidates seeking certification to be armed. This course entails five increasingly challenging stages of advanced firearms exercises with a 92% score required for qualification.~~

~~1. In order to be eligible for the personal protection specialist advanced handgun course of fire, each personal protection specialist student must qualify on the Virginia private security course of fire for handgun by shooting a minimum score of 85%.~~

~~2. The advanced handgun course of fire is comprised of the following exercises:~~

- ~~a. Shoot/don't shoot judgment~~
- ~~b. Turn and fire drills~~
- ~~c. Failure to stop drills~~
- ~~d. Multiple target drills~~
- ~~e. Judgmental shooting~~

3. For all range practicals (stage two through stage four), the student will fire at a man-size silhouette target with the following requirements:

- a. 4" diameter circle in head
- b. 8" diameter circle in chest/body area
- c. Center points of circles 13 1/2 inches apart
- d. All rounds fired must hit within these circles
- e. Minimum 92% qualification score = 25 rounds total requiring 23 hits

4. Scoring:

- a. 25 points (1 round is good for 1 point)
- b. 92% of shots must be "in circle" hits for a passing grade (2 misses allowed on total course)
- c. Shots not taken during stage five, when a "no-shoot" situation is presented scores a point, just as an accurate shot in a hostile situation.
- d. 92% is 23 of 25 possible

5. A certified personal protection specialist firearms instructor must be on the range during all phases of personal protection specialist advanced handgun training. There shall be one certified personal protection specialist firearms instructor per four students.

6. Virginia private security course of fire for personal protection specialist:

a. Stage One: Shoot/don't shoot drill Stage one of the personal protection specialist advanced handgun course of fire is conducted in a classroom using a 16 mm film or video cassette tape of firearms combat scenarios to assess the student's decision making capability given job-related shoot/don't shoot incidents.

After the interaction of the scenario, the students must explain all their commands and actions.

Dry-fire response from a weapon rendered safe should be incorporated into the scenario interaction.

b. Stage Two: Turn and fire drill

Stage two of the personal protection specialist advanced handgun course of fire is held at a firing range and consists of turn and fire drills from varying distances (straight draw hip holsters only).

All handguns are loaded with six rounds of ammunition and safely holstered. Shooters are positioned with their backs to the targets, facing the instructor up-range. The instructor will command all shooters to walk at a normal pace, directly away from the target. Upon the command "fire," the students must quickly turn while acquiring a firm grip on the weapon. Once facing the target and in a stable position, they must safely draw and fire two rounds at the designated target circle. After shooting, while facing the target, the student must reholster safely, then turn around to face up-range, ready to continue the exercise. The

"fire" commands will be called at 3-5 yards, 5-7 yards, and then 8-10 yards.

c. Stage Three: Failure to stop drill

Stage three of the personal protection specialist advanced handgun course of fire is held at a firing range and consists of failure to stop drills fired from the seven yard line (straight draw hip holsters only).

All handguns are loaded with six rounds of ammunition and are safely holstered. Shooters are positioned with their backs to the targets, facing the instructor up-range. The instructor will command all shooters to walk at normal pace, directly away from the target. Upon the command "fire," given at approximately the seven yard line, each shooter must safely turn around while acquiring a firm grip on their weapon as performed in the previous drill. Once facing the target, the students will draw and fire two rounds at the 8 inch body circle, and then one immediate round to the 4 inch head circle. The student will then safely reholster. The drill will be repeated three times.

d. Stage Four: Multiple target identification drill

Stage four of the personal protection specialist advanced handgun course of fire is held at a firing range and consists of multiple target identification drills fired from varying distances (straight draw hip holsters only).

Each shooter will line up on a set of three targets. Only two shooters at one time can complete this exercise on a standard 10-12 station range. However, smaller ranges may allow for only 1 shooter at a time.

Each handgun is loaded with 6 rounds of ammunition and safely holstered. The shooters are positioned with their backs to the targets, facing the instructor up-range. The instructor will command all shooters to walk at a normal pace, directly away from the targets. Upon the command "left," "right," or "center," the student must again turn around safely while establishing a firm grip on the weapon. Then, once stable, the student must quickly draw and fire 2 rounds at the designated circle on the "called" target ("L," "R," "C"). Then, the shooter, while still facing the targets, must safely reholster, turn around to face up-range, and continue the exercise. Each two round pair must be fired within 4 seconds of the called command. Direction commands will be called at 3-5 yards, 5-7 yards, and then 8-10 yards.

e. Stage Five: Judgmental shooting

This drill combines the skills developed in the prior four stages. The shooter will be required to safely turn and fire at a "photograph" type target which may be either friendly or hostile. It requires hostile targets to be stopped using deadly force. Necessity (immediate jeopardy) is presumed for this exercise. This stage allows the instructor to evaluate the decision making capability of the student as well as his shooting accuracy and safety.

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~~Shooter is placed on the 15-yard line facing the instructor with the target to his rear. The target will be placed at any location along the range target line and should not be seen by the student until he is given the "turn" command during the drill. Each shooter has the opportunity to complete this drill four times. Each decision is worth one point. If he shoots at a hostile target, a hit anywhere on that target will score the point. If a friendly target is presented, it is clearly a no-shoot situation and the student should merely holster safely to score the point. There is a four-second time limit at this stage for any "shoot" situation.~~

~~The instructor may choose to allow each shooter only two opportunities to complete this drill and place two targets downrange for each. Four points or hits are still necessary at this stage for the total score. If two targets are used, then the time limit is raised to six seconds, regardless of whether two hostile targets are used or one hostile with one friendly. This allows the instructor the opportunity to challenge a stronger shooter.~~

6 VAC 20-170-890. Personal protection specialist advanced handgun retraining. (Repealed.)

- ~~1. Legal authority and decision making—4 hours~~
- ~~2. Handgun safety, marksmanship and skill development—4 hours~~

~~Personal protection specialist advanced handgun course of fire total hours (not including range qualification)—8 hours~~

PART X.

CERTIFIED PRIVATE SECURITY SERVICES TRAINING SCHOOLS ATTENDANCE AND ADMINISTRATIVE REQUIREMENTS.

6 VAC 20-170-930. Examination and testing.

A. A written examination shall be administered at the conclusion of each entry level training session. Each examination shall include three ~~two~~ questions based on each learning objective for the compulsory minimum training session. The student must attain a minimum grade of 70% to satisfactorily complete the training session.

B. Firearms classroom training shall be separately tested and graded. Individuals must achieve a minimum score of 70% on the firearms classroom training examination.

C. Failure to achieve a minimum score of 70% on the firearms classroom written examination will exclude the individual from the firearms range training.

D. To successfully complete the firearms range training, the individual must achieve a minimum qualification score of 75% of the scoring value of the target.

E. To successfully complete the private investigator entry level training session, the individual must:

1. Complete each of the three graded practical exercises required; and

2. Pass the written examination with a minimum score of 70%.

F. To successfully complete the personal protection specialist entry level training session, the individual must:

1. Complete each of the five graded practical exercises required under Protective Detail Operations (the practical exercises in total must be passed with a minimum 70% score and must be successfully completed prior to the written examination); and

2. Pass the written examination with a minimum score of 70%.

6 VAC 20-170-940. Training completion forms.

On forms provided by the department, each training director shall issue an original training completion form to each student who satisfactorily completes a training session, no later than seven business days following the training completion date. ~~A copy shall be retained on file with the certified training school for a minimum of three years.~~

6 VAC 20-170-950. Training completion roster.

The school director shall submit *to the department* a private security training roster affirming each student's successful completion of the session. The training completion roster *and the applicable nonrefundable fee* shall be received by the department within seven business days of the completion date of an ~~approved~~ *the* training session. One copy shall be retained on file with the ~~approved~~ *certified* training school for a minimum of three years. ~~The nonrefundable fee for processing a training completion roster is \$10 per roster. The training completion roster for each session must be accompanied by the applicable nonrefundable processing fee.~~

6 VAC 20-170-960. Sanctions.

The private security services training *school* director, training school and instructor shall be subject to disciplinary action for violation or noncompliance with the Code of Virginia and this chapter. Failure to file the forms and reports required by the Code of Virginia and this chapter shall be a basis for imposition of sanctions.

PART XI.

STANDARDS OF PRACTICE AND PROHIBITED ACTS.

6 VAC 20-170-1000. Prohibited acts.

It shall be unlawful for a person to engage in any of the following acts. Each of the acts listed below is cause for disciplinary action:

1. Violating or aiding and abetting others in violating the provisions of Article 2.1 (§ 9-183.1 et seq.) of Chapter 27 of Title 9 of the Code of Virginia or this chapter.

2. Having committed any act or omission which resulted in a private security license or registration being suspended, revoked, not renewed or being otherwise disciplined in any jurisdiction.

3. Having been convicted or found guilty, regardless of adjudication in any jurisdiction of the United States, of any felony or a misdemeanor involving moral turpitude,

sexual offense, drug offense, physical injury, or property damage, from which no appeal is pending, the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purpose of this chapter. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be prima facie evidence of such guilt.

4. Failing to inform the department in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor involving moral turpitude, sexual offense, drug offense, physical injury or property damage.
5. Obtaining a license, license renewal, registration, registration renewal, training certification, training certification renewal, or certification to act as compliance agent for a licensee, a training school, school director, or instructor, through any fraud or misrepresentation.
6. Failing or refusing to produce to the department, during regular business hours, for inspection or copying any document or record in the compliance agent's or the licensed firm's possession which is pertinent to the records required to be kept by the Code of Virginia or by this chapter.
7. Engaging in conduct which through word, deed, or appearance falsely suggests that a private security registrant or employee is a law-enforcement officer or other government official.
8. Failing to inform the department in writing within 30 days after having been found guilty by any court or administrative body of competent jurisdiction to have violated the private security services business statutes or regulations of that jurisdiction, there being no appeal therefrom or the time for appeal having elapsed.
9. Conducting a private security services business or acting as a registrant or compliance agent in such a manner as to endanger the public health, safety and welfare.
10. Engaging in unethical, fraudulent or dishonest conduct.
11. Falsifying, or aiding and abetting others in falsifying, training records for the purpose of obtaining a license, registration, certification, or certification as a compliance agent, training school, school director or instructor.
12. Representing as one's own a license issued to another private security services business or a registration issued to another individual, or representing oneself as a certified compliance agent of a licensee, training school, school director or instructor.
13. Employing individuals who do not possess a valid registration issued by the department showing the registration categories required to perform one's duties. *Individuals requiring registration as alarm respondent, central station dispatcher, electronic security sales representative or electronic security technician may be employed for not more than 90 days while completing the compulsory minimum training standards, provided*

the individual has submitted his fingerprints on forms provided by the department. An application for registration must be received by the department within 10 calendar days of the completion of the required training.

14. Utilizing a person as an armed security officer who has not successfully completed the compulsory minimum standards for armed security officers or who does not have a valid firearms certification.
15. Performing any unlawful or negligent act resulting in loss, injury or death to any person.
16. If wearing while on duty the law-enforcement style or military style uniform of a private security licensee:
 - a. Which does not have at least one insignia clearly identifying the name of the licensed firm employing the individual and, except armored car personnel, a name plate or tape bearing, as a minimum, the individual's last name and first and middle initials attached on the outermost garment, except rainwear worn only to protect from inclement weather; and
 - b. Having a patch or other writing containing the word "police" or any other words suggesting a law-enforcement officer, or "officer," unless used in conjunction with the word "security"; or resembling any uniform patch or insignia of any duly constituted law-enforcement agency of this Commonwealth, its political subdivisions or of the federal government. This restriction shall not apply to individuals who are also duly sworn special police officers, to the extent that they may display words which accurately represent that distinction.
17. Utilizing a vehicle for a private security services business which uses or displays a flashing light not specifically authorized by the Code of Virginia.
18. Using or displaying the state seal of Virginia as a part of any licensed firm's logo, stationery, business card, badge, patch, insignia or other form of identification or advertisement.
19. Displaying of the uniform, badge or other insignia by employees of licensed firms while not on duty.
20. ~~During the course of any private investigation,~~ Providing information obtained by any licensed firm and its employees to any person other than the client who ~~employed secured the services of the licensee to obtain that information,~~ without the client's prior written consent. Provision of information in response to official requests from law-enforcement agencies, or from the department, shall not constitute a violation of this chapter. Provision of information to law-enforcement agencies pertinent to criminal activity or to planned criminal activity shall not constitute a violation of this chapter.
21. The failure of a licensee's approved compliance agent to at all times comply with the following:
 - a. Ensure that the licensed firm is at all times in full compliance with the Code of Virginia and this chapter;

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- b. Ensure that the documentary evidence concerning unarmed security officers required by § 9-183.3 D of the Code of Virginia is maintained;
- c. Ensure that the documentary evidence concerning electronic security technician's assistant required by § ~~9-193.3~~ 9-183.3 E of the Code of Virginia is maintained.
- d. Ensure that the licensed firm does not utilize or otherwise employ any person as an unarmed security officer or electronic security technician's assistant in excess of 90 days prior to the completion of the compulsory minimum training standards for unarmed security officer or electronic security technician's assistant; and
- e. Maintain VSP Forms 167, training, employment and payroll records which document the licensed firm's compliance with the Code of Virginia and this chapter.
- f. *Ensure that the licensed firm does not utilize or otherwise employ any person as an unarmed security officer for which the VSP Form-167 reveals a felony or misdemeanor conviction involving moral turpitude, sexual offense, drug offense, physical injury or property damage without written approval from the department.*
- g. *Ensure that the licensed firm does not utilize or otherwise employ any person as an unarmed security officer in excess of 150 days without the individual being issued a certification as an unarmed security officer from the department.*
22. Failure of the certified school director or certified instructor to comply with the following:
- a. Conduct training in compliance with the compulsory minimum training standards;
- b. Utilize only certified training instructors;
- c. Provide only accurate and current instruction and information to students;
- d. Maintain and file with the department all records required by the Code of Virginia and this chapter;
- e. Ensure that the certified training school is in compliance with the Code of Virginia and this chapter; or
- f. Submit training completion rosters and fees to the department within seven business days of the completion of training.
23. Soliciting private security services business through advertising, business cards, bidding on contracts, or other means without having first obtained a private security services business license.
24. Failing to carry the private security photo identification card at all times while on duty.
25. Failure of an individual to present his private security registration photo identification card while on duty in response to the request of a law-enforcement officer,

department personnel or client. This shall not apply to armored car personnel or personal protection specialists.

EDITOR'S NOTICE: The forms used in administering the Regulations Relating to Private Security Services (6 VAC 20-170-10 et seq.) are listed below. Added, amended, or deleted forms are reflected on the listing. The forms are available for review at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia, and at the Department of Criminal Justice Services, 805 E. Broad Street, Richmond, Virginia.

~~Initial License Application— Private Security Services Initial Business (PSS BL 7-193) License Application (PSS LA 1.96)~~

~~Supplemental Private Security Services Business License Application~~

~~Certificate of Insurance (PSS BL 7-293)~~

~~Private Security Services Bond (PSS BL 7-393)~~

~~Irrevocable Consent for Service (PSS 7-493)~~

~~Fingerprint Processing Application (PSS FP 7-94) (PSS FP 1.96)~~

~~Application for Compliance Agent Training and Certification (PSS CA 7-94) (PSS CA 1.96)~~

~~Private Security Services Business License Renewal Application (PSS LR 7-94) (PSS LR 1.96)~~

~~Application for Initial Private Security Registration (PSS RA 7-94) (PSS RA 1.96)~~

~~Renewal Application for Private Security Registration (PSS RR 7-94) (PSS RR 1.96)~~

~~Unarmed Security Officer Training Certification Application (PSS UA 7-94)~~

~~Application for Partial Exemption from the Compulsory Minimum Training Standards for Private Security Services Business Personnel (PSS WA 7-94) (PSS WA 1.96)~~

~~Private Security Training Completion Roster (PSS TGR) (PSS SA 1.96)~~

~~Private Security Instructor Certification Application (PSS IS 7-94) (PSS IA 1.96)~~

~~Private Security Instructor Certification Renewal Application (PSS IR 7-94) (PSS IR 1.96)~~

~~Complaint Form— Private Security Services (PSS C-0793) Complaint Form (PSS C 1.96)~~

~~Application for Duplicate/Replacement Photo Identification (PSS ICR S-793) Application (PSS 2MP 1.96)~~

~~Private Security General Instructor School Application (PSS GI 7-94) (PSS GI 1.96)~~

~~Compliance Agent In-Service Training Enrollment (PSS CT) (PSS CT 1.96)~~

~~Training Completion Form (PSS TCF 7-94) (PSS TCF 1.96)~~

~~Private Security Services Certification Application (PSS UA 1.96)~~

Private Security Services Certification Renewal Application (PSS UR 1.96)

Application for Additional Registration Category (PSS IMP 1.96)

Notification of Private Security Services Training Session (PSS TN 1.96)

Private Security Services Training School Certification Application (PSS TA 1.96)

Private Security Services Training School Certification Renewal Application (PSS TR 1.96)

General Instructor Re-Certification Training Enrollment (PSS GI2 1.96)

Private Security Personal Protection Specialist Advanced Firearms Instructor School Application (PSS FI3 1.96)

Private Security Firearms Instructor School Application (PSS FI 1.96)

Firearms Instructor Re-Certification Training Enrollment (PSS FI2 1.96)

VA.R. Doc. No. R96-482; Filed July 16, 1996, 2:19 p.m.

**DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
REPROPOSED**

EDITOR'S NOTICE: The Department of Medical Assistance Services has proposed additional changes to the following regulations from the amendments published in 12:12 VA.R. 1629-1638 March 4, 1996. Differences between the proposed and repropoed regulations are shown in brackets. The initial public comment period ended May 4, 1996; however, the agency is soliciting comments on the repropoed regulations for an additional 30-day period beginning August 5, 1996, and ending September 4, 1996.

Title of Regulations: **State Plan for Medical Assistance Relating to Reductions in Covered Inpatient Hospital and Physician Services; Home Tomorrow Program; and Maternity Length of Stay and Early Discharge.**

12 VAC 30-50-10 et seq. Part III, Amount, Duration and Scope of Services (amending 12 VAC 30-50-100, 12 VAC 30-50-140, and 12 VAC 30-50-220).

12 VAC 30-70-10 et seq. Methods and Standards for Establishing Payment Rates--Inpatient Hospital Care (amending 12 VAC 30-70-50).

12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates--Other Types of Care (adding 12 VAC 30-80-115).

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

Public Hearing Date: N/A -- Public comments may be submitted until September 4, 1996.

(See Calendar of Events section for additional information)

Basis and Authority: Section 32.1-325 of the Code of Virginia grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. Section 32.1-324 of the Code of Virginia authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the board's requirements. The director approved, on July 16, 1996, the initiation of a public comment period for the revised proposed regulations. The Code of Virginia, in § 9-6.14:7.1 et seq., requires agencies to adopt and amend regulations subject to public notice and comment when the action being taken does not meet one of the statutory exemptions.

Subsequent to two separate emergency adoption actions, the agency initiated the public notice and comment process as contained in Article 2 for the APA. These related regulations are being promulgated as one regulatory change through the Article 2 process. The Code of Virginia, at § 9-6.14:4.1 C, requires the agency to publish the Notice of Intended Regulatory Action within 60 days of the effective date of the emergency regulation if it intends to promulgate a permanent replacement regulation. The Notice of Intended Regulatory Action for this regulatory change was published in the Virginia Register on October 30, 1995.

The Governor's 1995 amendments to the 1994-96 Appropriations Act included cost savings for Fiscal Year 1996 that must be achieved from a reduction in the average length of stay for inpatient hospital services and a shorter stay for obstetrical services for patients with uncomplicated vaginal deliveries. These budget amendments are identified as Numbers 710 and 712 respectively in the Department of Planning and Budget's budget system.

Chapter 201 of the 1996 Virginia Acts of Assembly requires the Medicaid State Plan to provide for inpatient lengths of stay for pregnant women in accordance with the "Guidelines for Perinatal Care" as developed by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists. The language also requires payment for a follow-up visit as recommended by the attending physician within the time limits and in accordance with the guidelines.

Purpose: The purpose of this proposal is to make permanent policies to reduce the lengths of inpatient hospital stays when medically appropriate in compliance with amendments to the budget, and to revise the maternity length of stay and follow-up visit policies to comply with new legislation.

Summary and Analysis: The sections of the State Plan affected by this action are Supplement 1 to Attachments 3.1A&B: Amount, Duration and Scope of Services (12 VAC 30-50-100: Inpatient Hospital Services; 12 VAC 30-50-140: Physician's Services; and 12 VAC 30-50-220: Other diagnostic, screening, preventive, and rehabilitative services, other than those provided elsewhere in this plan); Attachment 4.19A: Methods and Standards for Establishing Payment Rates (12 VAC 30-70-50: Hospital Reimbursement System); and Attachment 4.19 B: Methods and Standards for Establishing Payment Rate (12 VAC 30-80-115: Fee-for-service: Early Discharge Follow-up Visit for Mothers and Newborns).

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DMAS completed an analysis of inpatient hospital claims which showed that the length of stay for inpatient services among Medicaid patients in Virginia, by admission diagnosis and procedure performed, is higher than the lengths of stay among patients covered by private insurance. By reducing the average Medicaid length of stay in inpatient hospitals to levels similar to that of patients with private insurance, DMAS estimated that the Commonwealth could generate significant cost savings in Medicaid expenditures. Based on this analysis, the Governor included in his 1995 amendments to the 1994-96 Appropriations Act two amendments reducing the Medicaid budget by decreasing the average length of stay for inpatient hospital services from six days to five days and by decreasing the length of stay for obstetric services to one day.

DMAS has adopted a four-part approach to adjust Medicaid policies to more accurately reflect current medical practice. The four parts address the documentation of medical necessity for hospital admissions exceeding three days, for preoperative stays, for weekend admissions based on the redefinition of a weekend, and for obstetrical services. All of these changes affect the State Plan for Medical Assistance and are required to achieve the cost savings in FY 1996 as required by the Governor's budget amendments. The advantage of these changes is that they enhance the economical performance of Virginia's Medicaid Program by preventing reimbursement for services that are not medically necessary.

Currently under the State Plan, DMAS requires hospitals to submit documentation of medical necessity for claims for inpatient hospital services on all admissions that exceed seven days. The purpose of this requirement is to ensure that the Virginia Medicaid Program is only reimbursing for services that are truly medically necessary. In order to decrease Medicaid's average length of stay, DMAS is reducing the current standard for submission of documentation of medical necessity from "admissions that exceed seven days" to "admissions that exceed three days." Claims requiring this additional justification will continue to be reviewed by DMAS utilization review analysts to determine the medical necessity of the length of stay. Days that are determined medically unnecessary by the utilization review analyst are denied payment. The change in the medical necessity documentation standard will require that hospital providers of inpatient services submit medical justification for all inpatient hospital admissions that exceed three days. This change is consistent with insurance practices under indemnity and managed care plans.

A second change to the State Plan needed to achieve the reduction in the average length of stay addresses medical justification for preoperative stays. DMAS currently allows payment for a one day stay prior to surgery without submission of documentation of medical necessity. Only stays beyond one day prior to surgery require medical justification to be considered for payment. Since this policy was promulgated in the early 1980's, medical practice has changed so that preoperative stays are almost nonexistent. The majority of preoperative procedures are now conducted on an outpatient basis. Therefore, DMAS is revising its policy so that any admission for which preoperative days are

necessary be medically justified. Utilization review analysts will review all preoperative days for medical necessity.

The third change to the State Plan needed to achieve the reduction in the average length of stay is to redefine a weekend admission to be more consistent with current medical practices. DMAS currently prohibits reimbursement for weekend admissions unless medically justified. A weekend admission is defined as an admission on Friday or Saturday. By redefining a weekend admission to be an admission on Saturday or Sunday, DMAS anticipates that medically unnecessary admissions on Sunday will be reduced or avoided, thereby reducing the overall average Medicaid length of stay. Sunday admission must be for medically justified emergencies. Not only will this change prevent the payment of claims for medically unnecessary admissions on Sunday, but it will also prevent hospitals from having to provide documentation of medical necessity for Friday admissions. At the time a weekend admission was originally defined, Friday was not a routine surgery day and, therefore, any admission on a Friday had to be a medically justified emergency. Medical practice has since changed, so that Friday is now a routine day for surgery. Therefore, by eliminating Friday from and adding Sunday to the definition of a weekend admission, DMAS' State Plan will be brought up-to-date with current medical practices, which in turn will contribute to the reduction in the average length of stay. Saturday admissions will continue to require documentation of medical necessity.

The fourth change involves obstetrical services for patients with uncomplicated deliveries. The Governor's second amendment mentioned above was also included to shorten the stay for these services. The department originally proposed to address this mandate in two ways. First, DMAS addressed the requirements for documentation of medical necessity for obstetrical admissions for uncomplicated vaginal deliveries. DMAS proposed changing the standard for submission of documentation to "admissions that exceed one day." At the time of the original proposal, this change was consistent with insurance practices under indemnity and managed care plans. Secondly, DMAS proposed that hospitals be offered the option of participating in the Home Tomorrow Program. No documentation of medical justification would be required for deliveries billed under the Home Tomorrow Program.

The Home Tomorrow Program was the result of a pilot program implemented successfully in several hospitals in the Commonwealth in cooperation with the Virginia Hospital Association (VHA). Beginning in 1992, the pilot program consisted of a trial period of special obstetric services. These pilots basically provided for one day of inpatient hospital care (24 hours to 36 hours) to be followed by a home health visit for those women and their newborns who met certain health standards. The referenced home health visit was provided either directly by the hospital's affiliated home health agency or was contracted out by the hospital to a nonaffiliated home health agency. The women selected for the trial Home Tomorrow programs were those who were expected to have normal vaginal deliveries, at term, without significant medical, obstetric or peri- or post-natal complications, nor prolonged labor or difficult instrument delivery and who delivered a healthy term infant, and also who had good social support

systems. The services which were required to be covered were the short inpatient stay followed by a home visit by registered nurses trained in mother and infant assessments. The nurses' home visit assessments contained required minimum components for both the new mother and newborn. Also, these participating hospitals were reimbursed one fee for these bundled services: inpatient hospital care for a normal, uncomplicated vaginal delivery, home visit post-delivery and any educational efforts provided at that time.

However, during the 1996 General Assembly session, new legislation was passed that supersedes the provisions of the Home Tomorrow Program. Chapter 201 of the 1996 Virginia Acts of Assembly requires the Medicaid State Plan to provide for inpatient lengths of stay for pregnant women in accordance with the "Guidelines for Perinatal Care" as developed by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists. The language also requires payment for a follow-up visit as recommended by the attending physician within the time limits and in accordance with the guidelines. The language in this legislation necessitates the replacement of the Home Tomorrow Program with a new policy. Therefore, the provisions of this regulatory change that relate to the Home Tomorrow Program are being stricken from this package.

Under the new policy the Department of Medical Assistance Services (DMAS) will cover maternity inpatient hospital charges as follows. DMAS will cover the day of delivery plus an additional two days for a normal, uncomplicated vaginal delivery without requiring documentation of medical necessity. DMAS will cover the day of delivery plus an additional four days without requiring documentation of medical necessity for cesarean births. Claims for any additional days must be medically justified.

If the mother and newborn are discharged earlier than 48 hours after the day of delivery, DMAS will cover an early discharge follow-up visit if recommended by the physician. The visit must be provided in accordance with the "Guidelines for Perinatal Care." The mother and newborn must both meet the criteria for early discharge to be eligible for the early discharge follow-up visit. If only the newborn is discharged earlier than 48 hours, he must meet the early discharge criteria to be eligible for the follow-up visit. This early discharge follow-up visit does not affect or apply to any usual postpartum or well-baby care provided to all new mothers and babies; it is tied directly to an early discharge.

Physicians have their choice of providers with whom they coordinate to provide the early discharge follow-up visit, within limitations. The care given at the follow-up visit must be provided by, at a minimum, a registered nurse having training and experience in maternal and child health. The visit must be provided within 48 hours of discharge.

The early discharge follow-up visit is intended to provide for care that would have been provided in the hospital in the past. Since many neonatal problems do not become apparent until several days following birth, the follow-up visit provides an opportunity to check on the condition of the mother and newborn shortly after they leave the care of the hospital. In this way, the mother and newborn can return home earlier, while being assured of quality care.

Issues: This program is expected to provide benefits to both the providers and the Commonwealth. Medicaid recipients, other than new mothers, who are hospitalized will not be adversely affected by these changes since they reflect current medical practice and are based on medical necessity. New mothers and newborns may receive additional services beyond current service limits. The advantage of these changes to the Commonwealth is that they enhance the economical performance of Virginia's Medicaid Program by preventing reimbursement for services that are not medically necessary.

The disadvantage of this action is the increase in justification of medical necessity. In addition to the increase in providing medical justification, hospital providers will have to ensure that medical staff, utilization review committee staff, and reimbursement staff are aware of these changes. Medical and nursing staff will need to ensure that medical justification is documented in the chart.

The agency projects no negative issues involved in implementing this proposed change.

Summary of Public Comments Received: DMAS' proposed regulations were published in the March 4, 1996, Virginia Register for their public comment period from March 4, 1996, to May 4, 1996. Comments were received from the Virginia Department of Health and the Virginia Association for Home Care. Both parties were concerned about the qualifications of staff providing the home visits under the Home Tomorrow Program. Description of the visit as a "comprehensive home health visit" generated confusion over the differences between this type of visit and a home health visit as provided by a home health agency. DMAS had also identified the description of this visit as an area of concern. However, legislation passed by the 1996 General Assembly required changes that supersede the provisions of the Home Tomorrow Program. These comments have been considered during the development of the policy that addresses the General Assembly mandate. Both commenters were notified that the Home Tomorrow Program portions of this regulatory package are not being finalized and that their comments were being used in the development of the replacement policy.

Because of the substantive changes to this regulation as a result of the new legislative mandate, the agency is publishing the revised proposed regulation for an additional comment period.

Fiscal/Budget Impact: The 1995 Appropriation Act reduced DMAS' FY 1996 appropriation by \$10 million (\$5.0 million GF; \$5.0 million NGF) and authorized DMAS to reduce the average length of stay for inpatient hospital services from six to five days. Also, DMAS' FY 1996 appropriation was reduced by \$6 million (\$3.0 million GF; \$3.0 million NGF) and DMAS was authorized to implement shorter hospital stays for obstetrical services for uncomplicated vaginal deliveries. DMAS achieved these savings by implementing the changes under the authority of emergency regulations. This savings is now reflected in the agency's base budget.

Those affected by these changes include Medicaid providers of inpatient hospital and maternity services, Medicaid recipients who are hospitalized, and DMAS utilization review staff.

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The impact of lowering the threshold for providing medical justification and requiring medical justification for all preoperative days and Saturday/Sunday admissions is that hospital providers will have to submit medical justification for approximately 10,000 claims that previously did not require justification. This estimate accounts for the fact that elimination of medical justification for Friday admissions will result in a decrease of approximately 2,000 claims. Also, instituting the more rigorous requirements for medical justification will result in hospitals avoiding unnecessary preoperative days and weekend admissions.

In addition to the increase in providing medical justification, hospital providers will need to ensure that medical staff, utilization review committee staff, and reimbursement staff are aware of these changes. Medical and nursing staff will need to ensure that medical justification is documented in the chart. If claims are submitted without the appropriate medical justification, hospitals may experience an aging of their accounts receivable until the claim is resubmitted with the proper justification.

The estimated 102,000 Medicaid recipients who are hospitalized annually will not be adversely affected by these changes since they reflect current medical practice and are based on medical necessity.

DMAS will reallocate one staff member to assist the Utilization Review staff with the increased number of claims to review. Therefore, no additional costs will be incurred by DMAS for these changes.

This change will also affect all providers of maternity services. The requirement for hospitals to submit additional documentation after a specified number of days is current policy. However, the number of days covered for a cesarean birth is longer than the current limit, so this will represent a loosening of requirements for those cases. The most significant change is the arrangement for an early discharge follow-up visit when appropriate. Only those hospitals that have been participating in the Home Tomorrow Program have an established procedure for arranging this visit. This will be a new requirement for all other hospitals, physicians, and clinics. In addition, those hospitals that have been participating in the Home Tomorrow Program have been receiving an all-inclusive fee to cover both the inpatient hospital services and the follow-up visit. This will no longer be the case; hospitals will only be reimbursed for the inpatient services provided, as defined under the provisions of the inpatient hospital reimbursement methodology. The provider of the early discharge follow-up visit must bill separately, and will be reimbursed under a fee-for-service methodology.

This policy change will represent an increase in the numbers and types of providers who can offer the follow-up visit. Under the Home Tomorrow Program, the criteria for the provider of the follow-up visit was not clearly defined. Many of the comments received regarding the Home Tomorrow program indicated concerns regarding the qualifications of those providing the follow-up examinations. In addition, because of the way in which the hospitals were reimbursed, there was a financial incentive for the hospitals to utilize their own nurses to provide the follow-up visit. DMAS considered these comments regarding the existing program during the

development of the new program. The new policy provides criteria for the provider of the follow-up visit, and, by reimbursing the follow-up visit independently of the inpatient services, removes the incentive for hospitals to utilize only their own employees to provide the follow-up care. This will allow other types of providers more opportunity to participate in this program than were able to participate in the Home Tomorrow Program.

This policy change will result in an overall increase in services provided by hospitals, public health clinics and other providers of the early discharge follow-up visit. The Home Tomorrow Program required dismissal after only 24 hours to qualify for the follow-up visit. The new policy requires a follow-up visit be covered for recipients who remain in the hospital up to 48 hours after the day of delivery. By allowing an extra day of inpatient care prior to discharge while still being eligible for the follow-up visit, DMAS anticipates the number of follow-up visits will increase under the new program.

Currently, DMAS estimates coverage of approximately 1,212 follow-up visits under the Home Tomorrow Program during the past year. Because these visits were part of an all-inclusive fee to the hospital, this number does not equate to a direct dollar figure. In state Fiscal Year 1995, Medicaid received 16,922 claims for normal vaginal deliveries that did not exceed a three-day inpatient stay, and 5,335 claims for cesarean births that did not exceed a five-day inpatient stay. Based on these figures, the agency anticipates covering as many as 22,250 early discharge follow-up visits in fiscal year 1997. This is 21,045 more visits than provided under the Home Tomorrow Program. At a maximum reimbursement rate of \$76.64 per visit, this could amount to an increase of \$1,612,889 in payments for this service. This estimate is based on the assumption that this regulatory change will result in increased follow-up visits and will not impact hospital length of stay for deliveries. If this regulatory change does affect the length of stay, the fiscal impact has the potential to be greater.

There are no localities which are uniquely affected by these regulations as they apply statewide.

Summary:

This proposal reduces the lengths of inpatient hospital stays when medically appropriate in compliance with amendments to the budget, and revises the maternity length of stay and follow-up visit policies to comply with new legislation.

The Home Tomorrow Program was the result of a pilot program implemented successfully in several hospitals in the Commonwealth in cooperation with the Virginia Hospital Association (VHA). Beginning in 1992, the pilot program consisted of a trial period of special obstetric services. These pilots basically provided for one day of inpatient hospital care (24 hours to 36 hours) to be followed by a home health visit for those women and their newborns who met certain health standards.

However, during the 1996 General Assembly session, new legislation was passed that requires changes to the maternity length of stay and follow-up visit policies.

Chapters 155 and 201 of the 1996 Virginia Acts of Assembly require the Medicaid State Plan to provide for inpatient lengths of stay for pregnant women in accordance with the "Guidelines for Perinatal Care" as developed by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists. The language also requires payment for a follow-up visit as recommended by the attending physician within the time limits and in accordance with the guidelines. The language in this legislation necessitates revisions to this agency's regulations.

Under the revised policy, if the mother and newborn are discharged earlier than 48 hours after the day of delivery, DMAS will cover an early discharge follow-up visit if recommended by the physician. The visit must be provided in accordance with the "Guidelines for Perinatal Care." Since many neonatal problems do not become apparent until several days following birth, the follow-up visit provides an opportunity to check on the condition of the mother and newborn shortly after they leave the care of the hospital. In this way, the mother and newborn can return home earlier while being assured of quality care.

12 VAC 30-50-100. Inpatient hospital services other than those provided in an institution for mental diseases.

A. Medicaid inpatient hospital admissions (lengths-of-stay) are limited to the 75th percentile of PAS (Professional Activity Study of the Commission on Professional and Hospital Activities) diagnostic/procedure limits. For admissions under 8 four days that exceed the 75th percentile, the hospital must attach medical justification records to the billing invoice to be considered for additional coverage when medically justified. For all admissions that exceed 7 three days up to a maximum of 21 days, the hospital must attach medical justification records to the billing invoice. (See the exception to subsection F of this section.)

B. Medicaid does not pay the Medicare (Title XVIII) coinsurance for hospital care after 21 days regardless of the length-of-stay covered by the other insurance. (See exception to subsection F of this section.)

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

~~D. Reimbursement for covered hospital days is limited to one day prior to surgery, unless medically justified. Hospital claims with an admission date more than one day prior to the first surgical date will pend for review by medical staff to determine appropriate medical justification., regardless of the number of days prior to surgery, must be medically justified.~~ The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement for additional all preoperative days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admissions will be denied.

E. Reimbursement will not be provided for weekend (Friday/Saturday/Sunday) admissions, unless medically

justified. Hospital claims with admission dates on Friday or Saturday or Sunday will be pended for review by medical staff to determine appropriate medical justification for these days. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement coverage for these days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admissions will be denied.

F. Coverage of inpatient hospitalization will be limited to a total of 21 days for all admissions within a fixed period, which would begin with the first day inpatient hospital services are furnished to an eligible recipient and end 60 days from the day of the first admission. There may be multiple admissions during this 60-day period; however, when total days exceed 21, all subsequent claims will be reviewed. Claims which exceed 21 days within 60 days with a different diagnosis and medical justification will be paid. Any claim which has the same or similar diagnosis will be denied. EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Medical documentation justifying admission and the continued length of stay must be attached to or written on the invoice for review by medical staff to determine medical necessity. Medically unjustified days in such admissions will be denied.

~~G. Repealed. [Coverage shall be limited to one day of inpatient hospital care for obstetrical services for uncomplicated vaginal deliveries unless additional days are medically justified. The hospital must attach medical justification to the billing invoice for consideration of reimbursement coverage for these days. Medically unjustified days in such admission shall be denied. Coverage for a normal, uncomplicated vaginal delivery shall be limited to the day of delivery plus an additional two days unless additional days are medically justified. Coverage for cesarean births shall be limited to the day of delivery plus an additional four days unless additional days are medically justified.]~~

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

I. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Transplant services for kidneys and corneas shall be covered for all eligible persons. Transplant services for liver, heart, and bone marrow transplantation and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be limited to children (under 21 years of age). Kidney, liver, heart, and bone marrow transplants and any other medically necessary

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transplantation procedures that are determined to not be experimental or investigational require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. Reimbursement for covered liver, heart, and bone marrow transplant services and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be a fee based upon the greater of a prospectively determined, procedure-specific flat fee determined by the agency or a prospectively determined, procedure-specific percentage of usual and customary charges. The flat fee reimbursement will cover procurement costs; all hospital costs from admission to discharge for the transplant procedure; and total physician costs for all physicians providing services during the transplant hospital stay, including radiologists, pathologists, oncologists, surgeons, etc. The flat fee reimbursement does not include pre- and post-hospitalization for the transplant procedure or pretransplant evaluation. Reimbursement for approved transplant procedures that are performed out of state will be made in the same manner as reimbursement for transplant procedures performed in the Commonwealth. Reimbursement for covered kidney and cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in 12 VAC 30-50-540.

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

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

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

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

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

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

12 VAC 30-50-140. Physician's services whether furnished in the office, the patient's home, a hospital, a skilled nursing facility or elsewhere.

A. Elective surgery as defined by the Program is surgery that is not medically necessary to restore or materially improve a body function.

B. Cosmetic surgical procedures are not covered unless performed for physiological reasons and require Program prior approval.

C. Routine physicals and immunizations are not covered except when the services are provided under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and when a well-child examination is performed in a private physician's office for a foster child of the local social services department on specific referral from those departments.

D. Psychiatric services.

1. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension (subject to the approval of the Psychiatric Review Board) of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period.

2. Psychiatric services can be provided by psychiatrists, clinical psychologists licensed by the State Board of Medicine, psychologists clinical licensed by the Board of Psychology, or by a licensed clinical social worker under the direct supervision of a psychiatrist, licensed clinical psychologist or a licensed psychologist clinical.

3. Psychological and psychiatric services shall be medically prescribed treatment which is directly and specifically related to an active written plan designed and signature-dated by either a psychiatrist or a clinical psychologist licensed by the Board of Medicine, a psychologist clinical licensed by the Board of Psychology, or a licensed clinical social worker under the direct supervision of a licensed clinical psychologist, a licensed psychologist clinical, or a psychiatrist.

4. Psychological or psychiatric services shall be considered appropriate when an individual meets the following criteria:

a. Requires treatment in order to sustain behavioral or emotional gains or to restore cognitive functional levels which have been impaired;

b. Exhibits deficits in peer relations, dealing with authority; is hyperactive; has poor impulse control; is clinically depressed or demonstrates other dysfunctional clinical symptoms having an adverse impact on attention and concentration, ability to learn, or ability to participate in employment, educational, or social activities;

c. Is at risk for developing or requires treatment for maladaptive coping strategies; and

d. Presents a reduction in individual adaptive and coping mechanisms or demonstrates extreme increase in personal distress.

5. Psychological or psychiatric services may be provided in an office or a mental health clinic.

E. Any procedure considered experimental is not covered.

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

G. Physician visits to inpatient hospital patients are limited to a maximum of 21 days per admission within 60 days for the same or similar diagnoses and is further restricted to medically necessary inpatient hospital days as determined by the Program. EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Payments for physician visits for inpatient days determined to be medically unjustified will be adjusted.

H. Repealed.

I. ~~Repealed. Reimbursement shall not be provided for physician services provided to recipients in the inpatient setting whenever the facility is denied reimbursement.~~

J. Reimbursement will not be provided for physician services performed in the inpatient setting for those surgical or diagnostic procedures listed on the mandatory outpatient surgery list unless the service is medically justified or meets one of the exceptions. The requirements of mandatory outpatient surgery do not apply to recipients in a retroactive eligibility period.

K. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Transplant services for kidneys and corneas shall be covered for all eligible persons. Transplant services for liver, heart, and bone marrow and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be limited to children (under 21 years of age). Kidney, liver, heart, and bone marrow transplants and

any other medically necessary transplantation procedures that are determined to not be experimental or investigational require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. Reimbursement for covered liver, heart, and bone marrow transplant services and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be a fee based upon the greater of a prospectively determined, procedure-specific flat fee determined by the agency or a prospectively determined, procedure-specific percentage of usual and customary charges. The flat fee reimbursement will cover procurement costs; all hospital costs from admission to discharge for the transplant procedure; and total physician costs for all physicians providing services during the transplant hospital stay, including radiologists, pathologists, oncologists, surgeons, etc. The flat fee reimbursement does not include pre- and post-hospitalization for the transplant procedure or pretransplant evaluation. Reimbursement for approved transplant procedures that are performed out of state will be made in the same manner as reimbursement for transplant procedures performed in the Commonwealth. Reimbursement for covered kidney and cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in 12 VAC 30-50-540.

12 VAC 30-50-220. Other diagnostic, screening, preventive, and rehabilitative services, i.e., other than those provided elsewhere in this plan.

A. Diagnostic services are not provided.

B. Screening services. Screening mammograms for the female recipient population aged 35 and over shall be covered, consistent with the guidelines published by the American Cancer Society.

C. ~~[Preventive services are not provided. Maternity length of stay and early discharge.~~

1. *If the mother and newborn, or the newborn alone, are discharged earlier than 48 hours after the day of delivery, DMAS will cover one early discharge follow-up visit as recommended by the physicians in accordance with and as indicated by the "Guidelines for Perinatal Care" as developed by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists (1992). The mother and newborn, or the newborn alone if the mother has not been discharged, must meet the criteria for early discharge to be eligible for the early discharge follow-up visit. This early discharge follow-up visit does not affect or apply to any usual postpartum or well-baby care or any other covered care to which the mother or newborn is entitled; it is tied directly to an early discharge. The criteria for an early discharge are as follows:*

a. *Discharge criteria for early discharge of mother.*

(1) *Uncomplicated vaginal, full-term delivery following a normal antepartum course;*

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(2) Postpartum observation has sufficiently documented a stable course, including the following observations:

- (a) Vital signs are stable;
- (b) Uterine fundus is firm, bleeding (lochia) is controlled, of normal amount and color;
- (c) Hemoglobin is greater than eight, hematocrit is greater than or equal to 24 and estimated blood loss is not greater than 500 cc or blood loss does not result in the patient being symptomatic for anemia, i.e., lightheadedness, syncope, tachycardia, or shortness of breath;
- (d) Episiotomy/repai red laceration is not inflamed and there is no evidence of infection or hematoma;
- (e) Tolerating prescribed diet post delivery;
- (f) Voiding without difficulty and passing flatus. Bowel sounds present; and
- (g) If not previously obtained, ABO and Rh typing must be done and, if indicated, the appropriate amount of Rho(D) immunoglobulin must be administered.

b. Discharge criteria for early discharge of infant. The newborn must be deemed normal by physical examination and stable meeting the following criteria:

- (1) Term delivery and weight is considered normal;
- (2) Infant is able to maintain a stable body temperature under normal conditions;
- (3) Infant is able to take and tolerate feedings by mouth and demonstrates normal sucking and swallowing reflexes;
- (4) Laboratory data must be reviewed to include:
 - (a) Maternal testing for syphilis and hepatitis B surface antigen;
 - (b) Cord or infant blood type and direct Coombs test (if the mother is Rho(D) negative, or is type O, or if screening has not been performed for maternal antibodies;
 - (c) Hemoglobin or hematocrit and blood glucose determinations, as clinically indicated; and
 - (d) Any screening tests required by law; and
- (5) Initial hepatitis B vaccine must have been administered.

c. Discharge criteria for early discharge of mother and infant.

- (1) Family members or other support persons must be available to the mother for the first few days following discharge;
- (2) The mother or caretaker has demonstrated the ability to care for her infant, including feeding,

bathing, cord care, diapering, body temperature assessment and measurement with a thermometer;

(3) The mother or caretaker has been taught basic assessment skills, including neonatal well-being and recognition of illness. She verbalizes understanding of possible complications and has been instructed to notify the appropriate practitioner as necessary; and

(4) A physician-directed source of continuing medical care for both mother and baby must be identified and arrangements made for the baby to be examined within 48 hours of discharge.

2. The early discharge follow-up visit must be provided as directed by a physician. The physician may coordinate with the provider of his choice to provide the early discharge follow-up visit, within the following limitations. Qualified providers are those hospitals, physicians, nurse midwives, nurse practitioners, federally qualified health clinics, rural health clinics, and health departments clinics that are enrolled as Medicaid providers and are qualified by the appropriate state authority for delivery of the service. The staff providing the follow-up visit, at a minimum, must be a registered nurse having training and experience in maternal and child health. The visit must be provided within 48 hours of discharge.

3. The visit must include, at a minimum, the following:

a. Maternal assessment must include, but is not limited to:

- (1) Vital signs;
- (2) Assessment of lochia, height and firmness of the uterus;
- (3) Assessment of the episiotomy, if applicable;
- (4) Assessment for and of hemorrhoids;
- (5) Assessment of bowel and bladder function;
- (6) Assessment of the breasts, especially the nipples if the mother is breast feeding. Assessment of the mother's understanding of breast/nipple care and understanding of proper care;
- (7) Assessment of eating habits for nutritional balance, stressing good nutrition especially in the breast feeding mother;
- (8) Assessment for signs and symptoms of anemia and, if present, notification of the responsible physician for further instructions;
- (9) Confirmation that the mother has an appointment for a six-week postpartum check-up; and
- (10) Identification of the need for and make referrals to the appropriate resources for identified medical, social, and nutritional concerns and needs.

b. Newborn assessment must include, but is not limited to:

- (1) Vital signs;

- (2) *Weight;*
- (3) *Examination of the umbilical cord and circumcision, if applicable;*
- (4) *Assessment of hydration status;*
- (5) *Evaluation of acceptance and tolerance of feedings, including the frequency of feeds and the amount taken each feed. If possible, observation of the mother or caretaker feeding the infant for technique assessment;*
- (6) *Assessment of bowel and bladder function;*
- (7) *Assessment of skin coloration; if the infant demonstrates any degree of jaundice, notification of the physician for further instruction. If infant is pale, mottled, lethargic, or with poor muscle tone, immediate notification of the physician for further instruction;*
- (8) *Assessment of infant behavior, sleep/wake patterns;*
- (9) *Assessment of the quality of mother/infant interaction, bonding;*
- (10) *Blood samples for lab work, or a urine sample as directed by state law, physician, or clinical judgment;*
- (11) *Confirmation that the infant has an appointment for routine two-week check up;*
- (12) *Discussion with the mother or caretaker planning for health maintenance, including preventive care, periodic evaluations, immunizations, signs and symptoms of physical change requiring immediate attention and emergency services available; and*
- (13) *Identification of the need for and make referrals to any other existing appropriate resources for identified medical, social and nutritional concerns and needs.]*

D. Rehabilitative services.

1. Intensive physical rehabilitation.

- a. Medicaid covers intensive inpatient rehabilitation services as defined in subdivision D 1 d in facilities certified as rehabilitation hospitals or rehabilitation units in acute care hospitals which have been certified by the Department of Health to meet the requirements to be excluded from the Medicare Prospective Payment System.
- b. Medicaid covers intensive outpatient physical rehabilitation services as defined in subdivision D 1 d in facilities which are certified as Comprehensive Outpatient Rehabilitation Facilities (CORFs).
- c. These facilities are excluded from the 21-day limit otherwise applicable to inpatient hospital services. Cost reimbursement principles are defined in 12 VAC 30-70-10 through 12 VAC 30-70-130.

d. An intensive rehabilitation program provides intensive skilled rehabilitation nursing, physical therapy, occupational therapy, and, if needed, speech-language pathology, cognitive rehabilitation, prosthetic-orthotic services, psychology, social work, and therapeutic recreation. The nursing staff must support the other disciplines in carrying out the activities of daily living, utilizing correctly the training received in therapy and furnishing other needed nursing services. The day-to-day activities must be carried out under the continuing direct supervision of a physician with special training or experience in the field of physical medicine and rehabilitation.

e. Nothing in this regulation is intended to preclude DMAS from negotiating individual contracts with in-state intensive physical rehabilitation facilities for those individuals with special intensive rehabilitation needs.

f. For continued intensive rehabilitation services, the patient must demonstrate an ability to actively participate in goal-related therapeutic interventions developed by the interdisciplinary team. This shall be evidenced by regular attendance in planned activities and demonstrated progress toward the established goals.

g. Intensive rehabilitation services shall be considered for termination regardless of the preauthorized length of stay when any of the following conditions are met:

- (1) No further potential for improvement is demonstrated. The patient has reached his maximum progress and a safe and effective maintenance program has been developed.
- (2) There is limited motivation on the part of the individual or caregiver.
- (3) The individual has an unstable condition that affects his ability to participate in a rehabilitative plan.
- (4) Progress toward an established goal or goals cannot be achieved within a reasonable period of time.
- (5) The established goal serves no purpose to increase meaningful functional or cognitive capabilities.
- (6) The service can be provided by someone other than a skilled rehabilitation professional.

2. Community mental health services. Definitions. The following words and terms, when used in these regulations, shall have the following meanings unless the context clearly indicates otherwise:

"Code" means the Code of Virginia.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"DMHMRSAS" means Department of Mental Health, Mental Retardation and Substance Abuse Services

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consistent with Chapter 1 (§ 37.1-39 et seq.) of Title 37.1 of the Code of Virginia.

a. Mental health services. The following services, with their definitions, shall be covered:

(1) Intensive in-home services for children and adolescents under age 21 shall be time-limited interventions provided typically but not solely in the residence of an individual who is at risk of being moved into an out-of-home placement or who is being transitioned to home from out-of-home placement due to a disorder diagnosable under the Diagnostic and Statistical Manual of Mental Disorders-III-R (DSM-III-R). These services provide crisis treatment; individual and family counseling; life (e.g., counseling to assist parents to understand and practice proper child nutrition, child health care, personal hygiene, and financial management, etc.), parenting (e.g., counseling to assist parents to understand and practice proper nurturing and discipline, and behavior management, etc.), and communication skills (e.g., counseling to assist parents to understand and practice appropriate problem-solving, anger management, and interpersonal interaction, etc.); case management activities and coordination with other required services; and 24-hour emergency response. These services shall be limited annually to 26 weeks.

(2) Therapeutic day treatment for children and adolescents shall be provided in sessions of two or more hours per day, to groups of seriously emotionally disturbed children and adolescents or children at risk of serious emotional disturbance in order to provide therapeutic interventions. Day treatment programs, limited annually to 780 units, provide evaluation, medication education and management, opportunities to learn and use daily living skills and to enhance social and interpersonal skills (e.g., problem solving, anger management, community responsibility, increased impulse control and appropriate peer relations, etc.), and individual, group and family counseling.

(3) Day treatment/partial hospitalization services for adults shall be provided in sessions of two or more consecutive hours per day, which may be scheduled multiple times per week, to groups of individuals in a nonresidential setting. These services, limited annually to 780 units, include the major diagnostic, medical, psychiatric, psychosocial and psychoeducational treatment modalities designed for individuals with serious mental disorders who require coordinated, intensive, comprehensive, and multidisciplinary treatment.

(4) Psychosocial rehabilitation for adults shall be provided in sessions of two or more consecutive hours per day to groups of individuals in a nonresidential setting. These services, limited annually to 936 units, include assessment, medication education, psychoeducation, opportunities to learn and use independent living skills and to enhance social and interpersonal skills,

family support, and education within a supportive and normalizing program structure and environment.

(5) Crisis intervention shall provide immediate mental health care, available 24 hours a day, seven days per week, to assist individuals who are experiencing acute mental dysfunction requiring immediate clinical attention. This service's objectives shall be to prevent exacerbation of a condition, to prevent injury to the client or others, and to provide treatment in the context of the least restrictive setting. Crisis intervention activities, limited annually to 180 hours, shall include assessing the crisis situation, providing short-term counseling designed to stabilize the individual or the family unit or both, providing access to further immediate assessment and follow-up, and linking the individual and family with ongoing care to prevent future crises. Crisis intervention services may include, but are not limited to, office visits, home visits, preadmission screenings, telephone contacts, and other client-related activities for the prevention of institutionalization.

b. Mental retardation services/related conditions. Day health and rehabilitation services shall be covered for persons with MR or related conditions and the following definitions shall apply:

Day health and rehabilitation services (limited to 780 units per year) shall provide individualized activities, supports, training, supervision, and transportation based on a written physician's order/plan of care to eligible persons for two or more hours per day scheduled multiple times per week. These services are intended to improve the recipient's condition or to maintain an optimal level of functioning, as well as to ameliorate the recipient's disabilities or deficits by reducing the degree of impairment or dependency. Therapeutic consultation to service providers, family, and friends of the client around implementation of the physician's order/plan of care may be included as part of the services provided by the day health and rehabilitation program. The provider shall be licensed by DMHMRSAS as a Day Support Program. Specific components of day health and rehabilitation services include the following as needed:

- (1) Self-care and hygiene skills;
- (2) Eating and toilet training skills;
- (3) Task learning skills;
- (4) Community resource utilization skills (e.g., training in time, telephone, basic computations with money, warning sign recognition, and personal identifications, etc.);
- (5) Environmental and behavior skills (e.g., training in punctuality, self-discipline, care of personal belongings and respect for property and in wearing proper clothing for the weather, etc.);
- (6) Medication management;

(7) Travel and related training to and from the training sites and service and support activities;

(8) Skills related to the above areas, as appropriate that will enhance or retain the recipient's functioning.

3. Coverage shall be provided for investigations by local health departments to determine the source of lead contamination in the home as part of the management and treatment of Medicaid-eligible children who have been diagnosed with elevated blood lead levels. Only costs that are eligible for federal funding participation in accordance with current federal regulations shall be covered. Payments for environmental investigations under this section shall be limited to no more than two visits per residence.

12 VAC 30-70-50. Hospital reimbursement system.

The reimbursement system for hospitals includes the following components:

A. Hospitals were grouped by classes according to number of beds and urban versus rural. (Three groupings for rural - 0 to 100 beds, 101 to 170 beds, and over 170 beds; four groupings for urban - 0 to 100, 101 to 400, 401 to 600, and over 600 beds.) Groupings are similar to those used by the Health Care Financing Administration (HCFA) in determining routine cost limitations.

B. Prospective reimbursement ceilings on allowable operating costs were established as of July 1, 1982, for each grouping. Hospitals with a fiscal year end after June 30, 1982, were subject to the new reimbursement ceilings.

The calculation of the initial group ceilings as of July 1, 1982, was based on available, allowable cost data for hospitals in calendar year 1981. Individual hospital operating costs were advanced by a reimbursement escalator from the hospital's year end to July 1, 1982. After this advancement, the operating costs were standardized using SMSA wage indices, and a median was determined for each group. These medians were readjusted by the wage index to set an actual cost ceiling for each SMSA. Therefore, each hospital grouping has a series of ceilings representing one of each SMSA area. The wage index is based on those used by HCFA in computing its Market Basket Index for routine cost limitations.

Effective July 1, 1986, and until June 30, 1988, providers subject to the prospective payment system of reimbursement had their prospective operating cost rate and prospective operating cost ceiling computed using a new methodology. This method uses an allowance for inflation based on the percent of change in the quarterly average of the Medical Care Index of the Chase Econometrics - Standard Forecast determined in the quarter in which the provider's new fiscal year began.

The prospective operating cost rate is based on the provider's allowable cost from the most recent filed cost report, plus the inflation percentage add-on.

The prospective operating cost ceiling is determined by using the base that was in effect for the provider's fiscal year that began between July 1, 1985, and June 1, 1986. The allowance for inflation percent of change for the quarter in

which the provider's new fiscal year began is added to this base to determine the new operating cost ceiling. This new ceiling was effective for all providers on July 1, 1986. For subsequent cost reporting periods beginning on or after July 1, 1986, the last prospective operating rate ceiling determined under this new methodology will become the base for computing the next prospective year ceiling.

Effective on and after July 1, 1988, and until June 30, 1989, for providers subject to the prospective payment system, the allowance for inflation shall be based on the percent of change in the moving average of the Data Resources, Incorporated Health Care Cost HCFA-Type Hospital Market Basket determined in the quarter in which the provider's new fiscal year begins. Such providers shall have their prospective operating cost rate and prospective operating cost ceiling established in accordance with the methodology which became effective July 1, 1986. Rates and ceilings in effect July 1, 1988, for all such hospitals shall be adjusted to reflect this change.

Effective on or after July 1, 1989, for providers subject to the prospective payment system, the allowance for inflation shall be based on the percent of change in the moving average of the Health Care Cost HCFA-Type Hospital Market Basket, adjusted for Virginia (DRI-V), as developed by Data Resources, Incorporated, determined in the quarter in which the provider's new fiscal year begins. Such providers shall have their prospective operating cost rate and prospective operating cost ceiling established in accordance with the methodology which became effective July 1, 1986. Rates and ceilings in effect July 1, 1989, for all such hospitals shall be adjusted to reflect this change.

Effective on and after July 1, 1992, for providers subject to the prospective payment system, the allowance for inflation, as described above, which became effective on July 1, 1989, shall be converted to an escalation factor by adding two percentage points, (200 basis points) (DRI-V+2) to the then current allowance for inflation. The escalation factor shall be applied in accordance with the current inpatient hospital reimbursement methodology in effect on June 30, 1992. On July 1, 1992, the conversion to the new escalation factor shall be accomplished by a transition methodology which, for non-June 30 year end hospitals, applies the escalation factor to escalate their payment rates for the months between July 1, 1992, and their next fiscal year ending on or before May 31, 1993.

The new method will still require comparison of the prospective operating cost rate to the prospective operating ceiling. The provider is allowed the lower of the two amounts subject to the lower of cost or charges principles.

C. Subsequent to June 30, 1992, the group ceilings shall not be recalculated on allowable costs, but shall be updated by the escalator factor.

D. Prospective rates for each hospital shall be based upon the hospital's allowable costs plus the escalator factor, or the appropriate ceilings, or charges; whichever is lower. Except to eliminate costs that are found to be unallowable, no retrospective adjustment shall be made to prospective rates.

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Depreciation, capital interest, and education costs approved pursuant to PRM-15 (§ 400), shall be considered as pass throughs and not part of the calculation.

E. An incentive plan should be established whereby a hospital will be paid on a sliding scale, percentage for percentage, up to 25% of the difference between allowable operating costs and the appropriate per diem group ceiling when the operating costs are below the ceilings. The incentive should be calculated based on the annual cost report.

The table below presents three examples under the new plan:

Group Ceiling	Hospital's Allowable Cost Per Day	Difference		Sliding Scale Incentive %	
		\$	% of Ceiling	\$	% of Difference
\$230.00	\$230.00	-0-	-0-	-0-	-0-
230.00	207.00	23.00	10%	2.30	10%
230.00	172.00	57.50	25%	14.38	25%
230.00	143.00	76.00	33%	19.00	25%

F. There will be special consideration for exception to the median operating cost limits in those instances where extensive neonatal care is provided.

G. Disproportionate share hospitals defined.

The following criteria shall be met before a hospital is determined to be eligible for a disproportionate share payment adjustment.

1. Criteria.

a. A Medicaid inpatient utilization rate in excess of 8% for hospitals receiving Medicaid payments in the Commonwealth, or a low-income patient utilization rate exceeding 25% (as defined in the Omnibus Budget Reconciliation Act of 1987 and as amended by the Medicare Catastrophic Coverage Act of 1988); and

b. At least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to such services under a State Medicaid plan. In the case of a hospital located in a rural area (that is, an area outside of a Metropolitan Statistical Area, as defined by the Executive Office of Management and Budget), the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures.

c. ~~Subsection A.2 Subdivision 1 b of this subsection~~ does not apply to a hospital:

- (1) At which the inpatients are predominantly individuals under 18 years of age; or
- (2) Which does not offer nonemergency obstetric services as of December 21, 1987.

2. Payment adjustment.

a. Hospitals which have a disproportionately higher level of Medicaid patients shall be allowed a disproportionate share payment adjustment based on the type of hospital and on the individual hospital's

Medicaid utilization. There shall be two types of hospitals: (i) Type One, consisting of state-owned teaching hospitals, and (ii) Type Two, consisting of all other hospitals. The Medicaid utilization shall be determined by dividing the number of utilization Medicaid inpatient days by the total number of inpatient days. Each hospital with a Medicaid utilization of over 8.0% shall receive a disproportionate share payment adjustment.

b. For Type One hospitals, the disproportionate share payment adjustment shall be equal to the product of (i) the hospital's Medicaid utilization in excess of 8.0%, times (ii) the lower of the prospective operating cost rate or ceiling. For Type Two hospitals, the disproportionate share payment adjustment shall be equal to the product of (i) the hospital's Medicaid utilization in excess of 8.0%, times (ii) the lower of the prospective operating cost rate or ceiling.

c. No payments made under subdivision 1 or 2 of this subsection shall exceed any applicable limitations upon such payments established by federal law or regulations.

H. Outlier adjustments.

1. DMAS shall pay to all enrolled hospitals an outlier adjustment in payment amounts for medically necessary inpatient hospital services provided on or after July 1, 1991, involving exceptionally high costs for individuals under one year of age.

2. DMAS shall pay to disproportionate share hospitals (as defined in paragraph G above) an outlier adjustment in payment amounts for medically necessary inpatient hospital services provided on or after July 1, 1991, involving exceptionally high costs for individuals under six years of age.

3. The outlier adjustment calculation.

a. Each eligible hospital which desires to be considered for the adjustment shall submit a log which contains the information necessary to compute the mean of its Medicaid per diem operating cost of treating individuals identified in subdivision H 1 or 2 above. This log shall contain all Medicaid claims for such individuals, including, but not limited to: (i) the patient's name and Medicaid identification number; (ii) dates of service; (iii) the remittance date paid; (iv) the number of covered days; and (v) total charges for the length of stay. Each hospital shall then calculate the per diem operating cost (which excludes capital and education) of treating such patients by multiplying the charge for each patient by the Medicaid operating cost-to-charge ratio determined from its annual cost report.

b. Each eligible hospital shall calculate the mean of its Medicaid per diem operating cost of treating individuals identified in subdivision H 1 or 2 above. Any hospital which qualifies for the extensive neonatal care provision (as governed by paragraph F, above) shall calculate a separate mean for the cost of

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providing extensive neonatal care to individuals identified in subdivision H 1 or 2 above.

c. Each eligible hospital shall calculate its threshold for payment of the adjustment, at a level equal to two and one-half standard deviations above the mean or means calculated in subdivision H 3 (II) above.

d. DMAS shall pay as an outlier adjustment to each eligible hospital all per diem operating costs which exceed the applicable threshold or thresholds for that hospital.

4. Pursuant to 12 VAC 30-50-100, there is no limit on length of time for medically necessary stays for individuals under six years of age. This section provides that consistent with the ~~EPSDT program referred to in 42 CFR 441.57~~, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Medical documentation justifying admission and the continued length of stay must be attached to or written on the invoice for review by medical staff to determine medical necessity. Medically unjustified days in such admissions will be denied.

~~1. All inclusive rate for one-day maternity and newborn services.~~

~~1. Hospitals may voluntarily participate in a program (the Home Tomorrow program) wherein women who have uncomplicated vaginal deliveries may be discharged from the hospital within 24 hours of such deliveries. If providers choose to participate and the patients are determined to be medically appropriate to participate, coverage is provided for routine inpatient services plus a comprehensive home health visit, including a maternal assessment, a newborn assessment, and a home assessment. Reimbursement for the total package of inpatient and outpatient services will be a fixed per case rate. The Home Tomorrow package of services includes one day of inpatient services and one comprehensive home visit provided within 48 hours of discharge. Cases with longer lengths of stay or where a home visit does not occur within 48 hours of discharge shall not be reimbursed under the Home Tomorrow program. These cases will be reimbursed at the normal per diem reimbursement rate.~~

~~2. The Home Tomorrow total fixed per case rates in effect from October 1, 1995, through June 30, 1996, shall be:~~

Northern Virginia	\$1,200
Rest of State	\$1,100
State Teaching Hospitals	\$1,700

~~These amounts shall be considered to constitute reimbursement both for operating and fixed costs. Disproportionate share hospital payments associated with these services, if applicable, will be reimbursed upon year-end cost settlement.~~

~~3. These per case rates will be updated at the beginning of each state fiscal year using the same inflation factor used for hospitals with fiscal years ending at that time. (Refer to subsection B of this section.)~~

[12 VAC 30-80-115. Fee-for-service: Early Discharge Follow-up Visit for Mothers and Newborns.

The early discharge follow-up visit for mothers and newborns covered under the provisions of 12 VAC 30-50-220 C shall be reimbursed at the lower of the state agency fee schedule or actual charges. Providers qualified for reimbursement of this service are those hospitals, physicians, nurse midwives, nurse practitioners, federally qualified health clinics, rural health clinics, and health department clinics that are enrolled as Medicaid providers and are qualified by the appropriate state authority for delivery of the service. The service shall be delivered either by the appropriate professional who is an employee of the participating provider or is under contract with the participating billing providers listed in this section. The staff providing the follow-up visit, at a minimum, shall be a registered nurse having training and experience in maternal and child health.]

Document Incorporated by Reference

Guidelines for Perinatal Care, 1992, American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

VA.R. Doc. No. R96-497; Filed July 17, 1996, 11:43 a.m.

Title of Regulation: 12 VAC 30-120-70 et seq. Part II: Home and Community Based Services for Technology Assisted Individuals (amending 12 VAC 30-120-70 through 12 VAC 30-120-120; adding 12 VAC 30-120-115; repealing 12 VAC 30-120-130).

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

Public Hearing Date: N/A -- Public comments may be submitted until October 4, 1996.

(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 board action pursuant to the board's requirements. Sections 9-6.14:7.1 and 9-6.14:9.1 of the Administrative Process Act provide for this agency's promulgation of proposed regulations subject to the Governor's review.

Purpose: The purpose of this proposal is to amend the Technology Assisted Waiver Program to update the definition of those eligible to receive services and to conform the financial eligibility criteria to correspond to the current HCFA interpretation.

Summary and Analysis: The Technology Assisted Waiver Program provides home and community-based services (care coordination and private duty nursing) to recipients who are

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dependent on a technology as a substitute for a vital function, e.g., ventilators, trachiestomies, and tube feedings. The waiver services allow the recipient to remain in the home rather than being institutionalized at an increased cost. The changes to the regulation allow DMAS to ensure that this service is only offered to persons who meet all criteria for service. This will allow DMAS to focus the available limited dollars to those most in need of home nursing and case management.

There have been many changes in the administration of the Technology Assisted Waiver Program since the program began in 1988. The current regulations no longer accurately reflect the program which has been federally approved. Failure to re-conform the agency's existing regulations to the current federally approved waiver policies will jeopardize the agency's standing in potential appeals and lawsuits. Without regulations which have been duly amended via the Administrative Process Act, the agency lacks the needed state authority to expend general funds dollars for these federally approved policy changes.

A. Definition of Persons Eligible to Receive Services. One of the criteria used to determine eligibility for technology-assisted waiver services is the need for substantial and ongoing skilled nursing. When waiver services are requested, it is relatively easy to determine if a child is dependent on a technology. However, deciding whether the child needs substantial and ongoing nursing care is currently being determined using subjective impressions. Decisions made with this method have been difficult to defend and may have resulted in recipients with similar conditions not being treated equally. Agency staff are often overturned during appeal hearings when the issue is whether a child needs substantial nursing care. The use of an objective scoring tool to determine if a recipient needs substantial and ongoing skilled nursing services will ensure that such requests are consistently evaluated. An objective method of measuring the need for nursing ensures that all recipients are treated equitably and decisions based on its use are easily defended during challenges.

The Technology Assisted Waiver Program was originally developed for coverage of children under the age of 21. In 1991, the technology assisted waiver was amended to allow persons who are eligible under the waiver prior to their 21st birthday to remain in the program and continue to receive services even after they turn 21, as long as they meet the medical and target population criteria. HCFA approved this change to the waiver; however, the regulations were never amended to reflect this change. Currently there are six persons over the age of 21 receiving waiver services under this waiver amendment. This regulatory change will bring the regulations into agreement with the waiver as HCFA has approved it.

Although these regulations currently limit the services to persons under the age of 21 at the time of program admission, there are frequent requests for home-based care for adults (those over the age of 21) who also meet all the waiver services criteria except the age requirement. These adults must, in the absence of home-based care, remain in an institutional setting. In August 1995, HCFA approved an additional amendment that allows persons over the age of 21,

who are currently residing in a specialized care nursing facility, to be admitted to the technology assisted waiver when the cost of their home care is less than or equal to the cost of their continued care in the nursing facility. These changes will allow disabled adults to transfer to cost-effective, home-based services. For young adults, the opportunity to reside in the community rather than a nursing facility is desirable to maintain maximum function, participate in rehabilitative services, and become a productive adult member of society.

Persons requesting waiver services must have resided in a nursing facility, or a higher level institution, reimbursed by Medicaid, for a minimum of 90 days prior to admission to waiver services. Citizens and advocacy groups have already expressed their concerns to DMAS about this requirement. By restricting this new eligible population to those currently in a specialized care nursing facility, Medicaid reimbursed home care will not be substituted for care currently being provided by community or family support systems. Meeting the 90-day requirement also ensures that the technology dependent patient meets the federal individual cost effectiveness standard. It is estimated that in the first year that this service is offered, eight adults will be admitted to waiver services.

B. Financial Eligibility Criteria. In 1994, HCFA issued revised preprinted waiver form pages to the states. These wording changes have been incorporated into the proposed regulation package and do not affect the type or number of persons eligible to receive services through the waiver.

Issues:

A. Definition of Persons Eligible to Receive Services. The use of an objective system for determining eligibility for the program is an advantage for providers and recipients. Based on clear, easily interpreted criteria, providers and the public will be able to easily determine if a potential recipient meets the criteria for services. This will avoid inappropriate referrals and allow physicians and other health care workers to appropriately plan for discharge. This is also an advantage to DMAS because it saves staff time by reducing the number of unnecessary assessments for services. During the trial period of the objective scoring tool, there were no appeals of decisions to deny or terminate services because the child did not meet the criteria. Based on this experience, implementation of this system will also result in a significant savings to the agency in staff time needed for participation in the appeals process.

The policy to allow persons who were admitted to the waiver prior to their 21st birthday to continue receiving services after they turn 21 has been in place since 1991. Since that time there have been no issues arising from this programmatic change. However, without regulatory foundation, the six adults who are receiving services under this provision will have to be discharged from the program. Discharge from the program would result in substantial negative reaction from nursing providers, physicians, hospitals, and advocacy groups, and would increase DMAS costs for coverage of these individuals for institutional care.

The proposed changes in the regulation will improve the recipients and providers access to technology assisted waiver services. More recipients will be able to access

community based services at reduced cost to Medicaid thereby avoiding prolonged institutionalization. This is a primary advantage for young technology dependent adults who otherwise would have to remain in nursing facilities away from educational or vocational opportunities. Several young adults currently in nursing homes are aware that this change has been requested and are anticipating discharge into the community. Failure to change the regulation will result in these recipients having to remain in a nursing facility at increased cost to Medicaid.

B. Financial Eligibility Criteria. The revision of financial eligibility criteria to conform with HCFA's current interpretation does not affect providers or recipients. It is a wording change only and does not affect determination of eligibility.

The agency projects no negative issues involved in implementing these proposed changes.

Fiscal/Budget Impact: There will be no negative financial impact on providers or recipients from these regulatory changes. There are no localities which are uniquely affected by these regulations as they apply statewide.

A. Definition of Persons Eligible to Receive Services. The adoption of an objective scoring system to determine eligibility for these services will not financially impact providers or recipients. Recipients who are determined to be ineligible for services, would have been ineligible using the current subjective system. The objective system may generate small, yet undetermined, cost savings for DMAS which is expected to negate the need for additional staff in the future.

Allowing recipients who began services prior to their 21st birthday to continue receiving services will have no fiscal impact because this change has been in place since 1991. The six adults currently receiving services under this provision are monitored to ensure their home-based care remains no more costly than institutional care. Any increased financial impact for DMAS has been included in budget projections since 1991.

The addition of adults in nursing facilities to the target population for waiver services will be cost effective for DMAS. Adults will not be eligible for the program unless their home-based care services will be no more costly than the cost of their care in a nursing facility. The agency currently estimates that eight adults will be added during the first year. Waiver related costs will be approximately \$36,000 (\$17,485 GF; \$18,515 NGF) per year for each recipient or \$288,000 (\$139,881 GF; \$148,118 NGF) for FY '97. In comparison, the approximate cost of caring for these individuals in specialized care settings (which their medical needs require) is \$10,358 per month per individual or \$124,296 total funds per year each for a total of \$994,368 (\$482,964 GF; \$511,403 NGF) for FY '97.

B. Financial Eligibility Criteria. If these changes are not implemented, Virginia's continued receipt of federal matching funds might be jeopardized. The agency's total expenditures for this program in the waiver year December 1, 1992, to November 30, 1993, were \$5,877,100.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply; the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic affects.

Summary of the Proposed Regulation. The proposed regulation amends the current regulation governing the Technology Assisted Waiver Program. The Technology Assisted Waiver Program provides home-based and community-based services to patients who are dependent on a technology as a substitute for some vital function (e.g., ventilators, tube feedings, etc.). The primary amendments contained in the proposed regulation are as follows:

1. Use of an objective scoring tool for determining whether a patient requires substantial and ongoing nursing services;
2. Allowing persons who were eligible for the program prior to their 21st birthday to remain in the program and continue to receive benefits after they turn 21, providing they continue to meet certain criteria; and
3. Allowing persons over 21, who are residing in a specialized care nursing facility, to be admitted to the program if the cost of their home care would be less than the cost of their current care.

Estimated Economic Impact

Item 1. The use of an objective scoring tool to determine the need for substantial and ongoing nursing care will have at least two effects. First, it will simplify the process of making such decisions. The economic consequence of this effect is likely to be a reduction in agency resource requirements. Insufficient information exists at this time to quantify the exact magnitude of this reduction, however.

Second, the use of an objective scoring tool will reduce the uncertainty associated with the determination process and, thereby, reduce the likelihood that agency determinations will be appealed. The economic consequence of this effect is a likely reduction in the legal and other expenses associated with the appeals process. DMAS reports that in the past approximately three to four decisions were appealed per year, and each appeal involved roughly ten hours of staff time in addition to litigation costs, which are highly variable. It is probable that objective scoring will reduce these expenses in the future. It is currently not possible to know the exact magnitude of this reduction, however.

Items 2 and 3. Adults are not eligible for the waiver program unless the cost of their home care is less than the cost of their care in an institutional facility. As a result, the addition

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of these individuals to the program can only reduce medical costs by providing cost-effective alternatives to institutional care. DMAS estimates that overall medical expenditures will be reduced by roughly \$88,300 for each adult who qualifies to enter the waiver program.

Businesses and Entities Particularly Affected. The proposed regulation particularly affects medical care facilities and individuals eligible for the Technology Assisted Waiver Program.

Localities Particularly Affected. No localities are particularly affected by the proposed regulation.

Projected Impact on Employment. The proposed regulation is not anticipated to have a significant effect on employment.

Affects on the Use and Value of Private Property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of Analysis. The proposed regulation amends the current regulation governing the Technology Assisted Waiver Program to: (i) require the use of an objective scoring tool in determining the need for substantial and ongoing nursing services, and (ii) allow the individuals over 21 to qualify for the program under certain conditions. These amendments are expected to have two primary economic effects: (i) reduce agency resource requirements, and (ii) reduce medical expenditures.

Agency's Response to Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis prepared by the Department of Planning and Budget regarding the regulations concerning Home and Community Based Care Services for Technology Assisted Individuals.

Summary:

The proposed amendments (i) provide for the use of an objective scoring tool for determining whether a patient requires substantial and ongoing nursing services; (ii) allow persons who were eligible for the program prior to their 21st birthday to remain in the program and continue to receive benefits after they turn 21 providing they continue to meet certain criteria; and (iii) allow persons over 21 who are residing in a specialized care nursing facility to be admitted to the program if the cost of their home care would be less than the cost of their current care.

12 VAC 30-120-70. Definitions.

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

"Activities of daily living (ADL)" means personal care tasks, i.e., bathing, dressing, toileting, transferring, bowel/bladder control, and eating/feeding. A person's degree of independence in performing these activities is a part of determining appropriate level of care and services.

"Congregate private duty nursing" means nursing provided to two or more recipients in a group setting.

"DMAS" means the Department of Medical Assistance Services.

"Health care coordinator" means the health-care professional designated by the provider contracted with DMAS to perform health care coordination as registered nurse who is responsible for ensuring that the assessment, care planning, monitoring, and review activities as required by DMAS are accomplished. This individual may be either an employee of DMAS or a DMAS contractor.

"Health care coordination" means a comprehensive needs assessment, determination of cost effectiveness, and the coordination of the service efforts of multiple providers in order to avoid duplication of services and to ensure the individual's access to and receipt of needed services.

"Instrumental activities of daily living (IADL)" means social tasks, i.e., meal preparation, shopping, housekeeping, laundry, money management. A person's degree of independence in performing these activities is a part of determining appropriate level of care and services. Meal preparation is planning, preparing, cooking and serving food. Shopping is getting to and from the store, obtaining/paying for groceries and carrying them home. Housekeeping is dusting, washing dishes, making beds, vacuuming, cleaning floors, and cleaning kitchen/bathroom. Laundry is washing/drying clothes. Money management is paying bills, writing checks, handling cash transactions, and making change.

"Medical equipment and supplies" means those articles prescribed by the attending physician, generally recognized by the medical community as serving a diagnostic or therapeutic purpose and as being a medically necessary element of the home care plan. Items covered are medically necessary equipment and supplies needed to assist the individual in the home environment, without regard to whether those not already available under other services items are covered by the Plan.

"Objective Scoring Criteria" means the evaluative tool to be used to determine the appropriateness for an individual's admission to these services.

"Personal assistance" means care provided by an aide or respiratory therapist trained in the provision of assistance with ADLs or IADLs.

"Plan of care" means the written plan of services and supplies certified by the attending physician needed by the individual to ensure optimal health and safety for an extended period of time.

"Primary caregiver" means either a family member or other person who takes primary responsibility for providing personal care, assistance with ADLs or IADLs or both, and other care needs the recipient is unable to provide for himself.

"Private duty nursing" means individual and continuous nursing care provided by a registered nurse or a licensed practical nurse under the supervision of a registered nurse.

"Providers" means those individuals or facilities registered, licensed, or certified, or both, as appropriate, and enrolled by

DMAS to render services to Medicaid recipients eligible for services.

"Respite care services" means temporary skilled nursing services designed to relieve the family of the care of the technology assisted individual (up to age 21) for a short period or periods of time (a maximum of 15 days per year or 360 hours per 12-month period). Respite care shall be provided in the home of the individual's family or caretaker.

"Routine respiratory therapy" means services that can be provided on a regularly scheduled basis. Therapy interventions may include: (i) monitoring of oxygen in blood; (ii) evaluation of pulmonary functioning; and (iii) maintenance of respiratory equipment.

"State Plan for Medical Assistance" or "the Plan" means the document containing the covered groups, covered services and their limitations, and provider reimbursement methodologies as provided for under Title XIX of the Social Security Act.

"Technology assisted" means any ~~child, younger than 21 years individual~~, defined as chronically ill or severely impaired ~~whose illness or disability would, in the absence of home care services, precipitate admission to or prolong that child's stay in a hospital, nursing facility, or other long-term care facility. This individual must need who needs both a medical device to compensate for the loss of a vital body function and substantial and ongoing skilled nursing care to avert death or further disability. The technology assisted child shall include one or more of the following categories: and whose illness or disability would, in the absence of services approved under this waiver require admission to or prolonged stay in a hospital, nursing facility, or other medical long-term care facility.~~

- ~~1. Children dependent at least part of each day on mechanical ventilators.~~
- ~~2. Children requiring prolonged intravenous administration of nutritional substances or drugs.~~
- ~~3. Children having daily dependence on other device-based respiratory or nutritional support, including tracheostomy tube care, suctioning, oxygen support, or tube feeding.~~

12 VAC 30-120-80. Coverage statement. General coverage and requirements for technology assisted waiver services.

A. Coverage statement.

1. Coverage shall be provided under the administration of DMAS for certain technology assisted individuals ~~up to the age of 21 who would otherwise remain in hospitals (for individuals under 21) or specialized care nursing facilities (for those over 21) for which Medicaid reimbursement would be made.~~

~~B. 2. The objective of this waiver is to provide for medically appropriate and cost-effective coverage of services necessary to maintain these individuals in the community.~~

~~C. 3. Coverage shall not be provided for these services in board and care facilities or adult care residences.~~

~~D. Coverage shall be provided for private duty nursing, respite care, nutritional supplements (nonlegend drugs) and medical supplies and equipment not otherwise available under the State Plan. All such services shall be covered only in the individual's home.~~

~~B. Patient qualifications. A Medicaid eligible technology assisted individual shall be eligible for services if he meets the following requirements:~~

~~1. The technology assisted individual shall be determined to need a medical device when the individual meets one or more of the following categories:~~

- ~~a. Individuals depending at least part of each day on mechanical ventilators.~~
- ~~b. Individuals requiring prolonged intravenous administration of nutritional substances or drugs.~~
- ~~c. Individuals having daily dependence on other device-based respiratory or nutritional support, including tracheostomy tube care, oxygen support, or tube feeding.~~

~~2. The individual's attending physician must certify the individual's need for this level of care.~~

~~3. In addition to the medical needs identified in subdivision 1 of this subsection, the technology assisted individual shall be determined to need substantial and ongoing skilled nursing care. This determination shall be made using an objective tool approved by DMAS. The recipient shall be required to meet a minimum standard on the Objective Scoring Criteria to be eligible to be admitted to technology assisted waiver services.~~

~~4. In addition to the medical needs identified in subdivision 1 of this subsection, Medicaid eligible individuals younger than 21 shall be admitted to this service only if the anticipated cost to Medicaid of home care will be less than the cost to Medicaid of the individual in a hospital or nursing facility.~~

~~5. In addition to the medical needs identified in subdivision 1 of this subsection, Medicaid eligible individuals older than 21 must enter this service from a specialized nursing facility or other comparable or higher level of care Medicaid-reimbursed institution when it is determined that the individual will require care from that institution for an extended period of time or would be transferred to a specialized nursing facility for that level of care, or both. Such other comparable Medicaid reimbursed institution could be a general acute care hospital, an inpatient rehabilitation hospital, or other subacute setting. Before this individual can be approved for this community-based Medicaid reimbursed service, the individual must have been residing at the facility for a minimum of 90 days. At least a portion of the cost for each of the 90 days must have been reimbursed by Medicaid. If the recipient has been in the facility for more than 90 days at the time of the request for waiver services, at least a portion of the cost for each of these~~

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days in the most recent 90-day period must have been paid by Medicaid. An individual older than 21 shall be admitted to this waiver service only if the anticipated cost to Medicaid of his home care will be less than the current average cost of care in a specialized nursing facility.

6. If a person is over age 21 and already a waiver recipient and requires admission to a nursing facility or rehabilitation hospital for more than 30 days but less than 90 days, the recipient will be discharged from the waiver. To be readmitted to the waiver services, the recipient must be assessed to determine that the recipient currently meets the specialized nursing facility and waiver criteria. If these criteria are met, the recipient shall be readmitted to waiver services without having to first be admitted to a specialized care bed for 90 days.

7. If a recipient over age 21 is discharged from the waiver for any reason other than admission to a specialized nursing facility or other comparable or higher level of care for more than 90 days, the recipient must be admitted to a specialized care facility level of care for at least 90 days before the recipient can be readmitted to the waiver in order to ensure that community care being provided by other sources is not supplanted by Medicaid reimbursed care.

8. The individual shall have a live-in primary caregiver who accepts responsibility for the individual's health and welfare or the individual shall be over the age of 21 and share a home with one or more other waiver recipients.

9. These services shall not be available to individuals while an inpatient in general acute care hospitals, skilled nursing facilities, intermediate care facilities, or intermediate care facilities for the mentally retarded.

10. Any individual, regardless of age, who requires admission to any type of medical care facility for fewer than 30 days shall again be eligible for waiver services upon discharge from the facility so long as all other requirements continue to be met.

C. Patient eligibility requirements.

1. Individuals receiving services under this waiver must be eligible under one of the following eligibility groups: ADC and AFDC-related recipients, SSI and SSI-related recipients, aged, blind or disabled recipients eligible under 42 CFR 435.121, and the special home and community-based waiver group at 42 CFR 435.217 which includes individuals who are eligible under the State Plan if they were institutionalized. The income level used for the special home and community-based waiver group at 42 CFR 435.217 is 300% of the current Supplemental Security Income payment standard for one person. Medically needy individuals are eligible if they meet the medically needy financial requirements for income and resources.

2. Under this waived service, the coverage groups authorized under § 1902(a)(10)(C)(i)(III) of the Social Security Act (42 USC § 1396a(a)(10)) will be considered as if they were institutionalized for the purpose of applying institutional deeming rules. All recipients under

the waiver must meet the financial and nonfinancial Medicaid eligibility criteria and be Medicaid eligible in an institution. The deeming rules are applied to waiver eligible individuals as if the individuals were residing in an institution or would require that level of care.

3. Virginia shall reduce its payment for home and community-based services provided for an individual by that amount of the individual's total income (including amounts disregarded in determining eligibility) that remains after allowable deductions for personal maintenance needs, deductions for other dependents and medical needs have been made according to the requirements in 42 CFR 435.726.

4. Individuals who are eligible for third party payment for the alternative institutional services shall not be eligible for these waived services. If an individual or their legally responsible party voluntarily cancels enrollment in any insurance plan which would have provided coverage for institutional services in order to become eligible for waiver services, eligibility for the waiver shall be denied.

12 VAC 30-120-90. Covered services and provider requirements.

A. Private duty nursing service shall be covered for individuals up to the age of 21 qualified for enrolled in the technology assisted waiver services. This service shall be provided only through either a home health agency licensed or certified by the Virginia Department of Health for Medicaid participation, and with which DMAS has a contract for private duty nursing or a day care center licensed by the Virginia Department of Social Services which employs registered nurses and is enrolled by DMAS to provide congregate private duty nursing. At a minimum, the private duty nurse shall either be a licensed practical nurse or a registered nurse with a current and valid license issued by the Virginia State Board of Nursing.

1. For individuals under 21, during the first 30 days after the individual's admission to the waiver service, private duty nursing is covered for 24 hours per day if needed and appropriate to assist the family in adjustment to the care associated with technology assistance. After 30 days, private duty nursing shall be reimbursed for a maximum of 16 hours per 24-hour period. The department may grant individual exceptions, not to exceed 30 total days per annum, to these maximum limits based on documented emergency needs of the individual and continued aggregate the case, without inclusion of additional emergency costs, which continue to meet requirements for cost effectiveness of community services.

2. If the individual is weaned from no longer dependent upon the technology, reimbursement may be available for private duty nursing for a maximum of 16 hours the number of hours previously approved in the plan of care per 24-hour period not to exceed two weeks from the date the attending physician certifies the cessation of technology assistance.

3. The hours of private duty nursing *approved for coverage* shall be limited by medical necessity and cost effectiveness.

4. *Congregate private duty nursing shall be limited to a maximum ratio of one private duty nurse to two adult waiver recipients except when two or more waiver recipients share a home where ratios will be determined by the combined needs of the residents.*

B. Respite care service shall be covered for individuals ~~up to the age of 21~~ who are qualified for technology assisted waiver services and who have a primary caregiver, other than the provider, who requires relief from the burden of caregiving. This service shall be provided by skilled nursing staff (registered nurse or licensed practical nurse licensed to practice in the Commonwealth) under the direct supervision of a home health agency licensed or certified by the Virginia Department of Health for Medicaid participation and with which DMAS has a contract to provide private duty nursing.

C. Durable medical equipment and supplies ~~not otherwise covered in the State Plan~~ shall be provided for individuals qualified for technology services. This service shall be provided by persons qualified to render it.

1. Durable medical equipment and supplies shall be necessary to maintain the individual in the home environment.

a. Medical equipment and supplies shall be prescribed by the attending physician and included in the plan of care, and shall *must* be generally recognized as serving a diagnostic or therapeutic purpose and being medically necessary for the home care of the individual.

b. Vendors of durable medical equipment and supplies related to the technology upon which the individual is dependent shall have a contract with DMAS to provide services.

c. In addition to providing the ventilator or other respiratory-devised support and associated equipment and supplies, the vendor providing the ventilator shall ensure the following:

- (1) 24 hour on-call for emergency services;
- (2) Technicians to make regularly scheduled maintenance visits at least every ~~15~~ 30 days and more often if called;
- (3) Replacement or repair of equipment and supplies as required; and
- (4) Respiratory therapist registered or certified with the National Board for Respiratory Care (NBRC) on-call 24 hours per day and stationed within two hours of the individual's home to facilitate immediate response. The respiratory therapist shall be available for routine respiratory therapy as well as emergency care. In the event that the Department of Health Professions implements through state law a regulation requiring registration, certification or licensure for respiratory therapists to practice in the Commonwealth, DMAS shall require all respiratory

therapists providing services to this technology assisted population to be duly registered, licensed or certified.

2. Medical equipment and supplies include:

a. All durable medical equipment and supplies which are covered under the State Plan. ~~See the attachment listing for specific items which are covered, and those medical equipment and supplies, including such items which may be defined as assistive technology and environmental modifications which are not covered under the State Plan but are medically necessary and cost effective for the individual's maintenance in the community; and~~

b. Apnea monitor *Nutritional supplements.*

~~D. Nutritional supplements (nonlegend drugs) shall be covered for those individuals for whom the physician has determined that these are medically necessary and who are receiving other waiver services. Personal assistance services shall be covered for individuals over the age of 21 who require some assistance with activities of daily living and instrumental activities of daily living but do not require and are able to do without skilled interventions during portions of their day or are able to self perform or direct their skilled care needs during the period when personal assistance would be provided. This service shall be provided by durable medical equipment agencies contracted with DMAS.~~

12 VAC 30-120-100. Provider reimbursement.

A. All private duty nursing services shall be reimbursed at an hourly negotiated fee.

B. Respite care shall be reimbursed at an hourly negotiated fee.

C. *Prior approval for durable medical equipment and supplies shall be requested from DMAS by the durable medical equipment provider. The request must be submitted to the health care coordinator. Prior approval by DMAS shall be required for all durable medical equipment and other medically related supplies furnished under this program before the individual's admission to waiver services and before reimbursement. If additional equipment and supplies are needed following the individual's admission to waiver services, the Health Care Coordinator shall durable medical equipment provider must obtain DMAS' prior approval. This prior authorization requirement shall apply to all durable medical equipment and supplies that are covered under the State Plan or the waiver.*

~~D. Prior approval by DMAS shall be required for nutritional supplements furnished under this program before the individual's admission to waiver services and before reimbursement. If nutritional supplements are needed following the individual's admission to waiver services, the health care coordinator must obtain DMAS' approval. Personal assistance shall be reimbursed at an hourly negotiated fee.~~

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12 VAC 30-120-110. ~~Patient qualification and eligibility requirements. Assessment and plan of care requirements.~~

~~A. Medicaid-eligible individuals, younger than 21, shall be entitled to this service based on the anticipated cost to Medicaid of home care being less than the anticipated cost to Medicaid of the individual remaining in the hospital and based on continued aggregate cost effectiveness of community services.~~

~~B. The individual shall have a live-in primary care giver who accepts responsibility for the individual's health and welfare.~~

~~C. These services shall not be available to individuals receiving care in general acute care hospitals, skilled nursing facilities, intermediate care facilities, or intermediate care facilities for the mentally retarded.~~

~~D. Virginia will apply the financial eligibility criteria contained in the State Plan for the categorically needy and the medically needy. Virginia has elected to cover the optional categorically needy group under 42 CFR 435.211, 435.231 and 435.217. The income level used for 435.211, 435.231 and 435.217 is 300% of the current Supplemental Security Income payment standard for one person.~~

~~1. Under this waiver, the coverage groups authorized under § 1002(a)(10)(A)(ii)(VI) of the Social Security Act will be considered as if they were institutionalized for the purpose of applying institutional deeming rules. All recipients under the waiver must meet the financial and nonfinancial Medicaid-eligibility criteria and be Medicaid eligible in an institution. The deeming rules are applied to waiver eligible individuals as if the individuals were residing in an institution or would require that level of care.~~

~~2. Virginia shall reduce its payment for home and community-based services provided to an individual who is eligible for Medicaid services under 42 CFR 435.217 by that amount of the individual's total income (including amounts disregarded in determining eligibility) that remains after allowable deductions for personal maintenance needs, deductions for other dependents, and medical needs have been made, according to the guidelines in 42 CFR 435.735 and § 1015(c)(3) of the Social Security Act as amended by the Consolidated Omnibus Budget Reconciliation Act of 1986. DMAS will reduce its payment for home and community based waiver services by the amount that remains after deducting the following amounts in the following order from the individual's income:~~

~~a. For individuals to whom § 1024(d) applies, Virginia intends to waive the requirement for comparability pursuant to § 1020(a)(10)(B), to allow for the following:~~

~~(1) An amount for the maintenance needs of the individual which is equal to the categorically needy income standard for a noninstitutionalized individual.~~

~~(2) For an individual with only a spouse at home, the community spousal income allowance determined in~~

~~accordance with § 1024(d) of the Social Security Act.~~

~~(3) For an individual with a family at home, an additional amount for the maintenance needs of the family determined in accordance with § 1024(d) of the Social Security Act.~~

~~(4) Amount for incurred expenses for medical or remedial care that are not subject to payment by a third party including Medicare and other health insurance premiums, deductibles, or coinsurance charges and necessary medical or remedial care recognized under state law but covered under the Plan.~~

~~b. For all other individuals:~~

~~(1) An amount for the maintenance needs of the individual which is equal to the categorically needy income standard for a noninstitutionalized individual.~~

~~(2) For an individual with a family at home, an additional amount for the maintenance needs of the family which shall be equal to the medically needy income standard for a family of the same size.~~

~~(3) Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party including Medicare and other health insurance premiums, deductibles, or coinsurance charges and necessary medical or remedial care recognized under state law but covered under the state Medical Assistance Plan.~~

~~E. Assessment and Plan of Care requirements.~~

~~1. A. The initial assessment and development of the plan of care shall be conducted by a multidisciplinary team. The team shall include an attending physician, a nurse, and a social worker and a health care coordinator.~~

~~a. 1. The physician shall be currently certified by the Board of Medicine and have a currently valid license to practice medicine in the Commonwealth. The physician shall have experience in the needs and care of technology assisted persons and the needs of children if the individual being admitted to waiver services is a child.~~

~~b. 2. The nurse shall health care coordinator must be a registered nurse currently and validly licensed to practice nursing in the Commonwealth. The nurse shall have experience in the needs and care of technology assisted persons and the needs of children if the individual being admitted to waiver services is a child.~~

~~c. The social worker shall have a master's degree in social work. The social worker shall have experience in the needs and care of technology assisted persons and the needs of children.~~

~~d. 3. Other specialists who are currently and validly licensed, registered or certified to practice their specialties within the Commonwealth may participate in the assessment and care planning process. These other specialists shall have experience in the needs and care~~

of technology assisted persons and the needs of children if the person being admitted to waiver services is a child.

e. 4. The health care coordinator is ~~shall be~~ responsible for ensuring that the assessment, care planning, monitoring, and review activities required by DMAS are accomplished ~~and documented consistent with DMAS' requirements. The Health Care Coordinator shall be either a nurse or a social worker meeting the requirements of subdivision b or e above.~~

2. B. Referral for waiver services and assessment.

a. 1. For individuals under age 21, a service referral may originate from either the clinical staff in the hospital where the individual is located or from the ~~clinical staff a~~ health care professional in the community where the individual is receiving non-Medicaid funded home and community-based services. For individuals over age 21, the referral may originate from the discharge planning staff in the nursing facility where the individual resides or from persons in the community who are aware of the needs of the individual.

b. 2. The health care coordinator shall ~~meet with the family and representatives of the clinical patient care team to preliminarily assess the individual's needs, first determine that Medicaid would be the source of payment for the individual's institutional care if waiver services are not available. An individual for whom third party payment is available for the alternative institutional care is not eligible for the waiver service nor is an individual whose insurance has been voluntarily dropped in anticipation of waiver application and an assessment for waiver services is not to be completed.~~

c. 3. Upon receiving parental or guardian consent from the adult individual (or a parent or guardian in the case of a child) to explore the possibility of home care, the health care coordinator shall arrange for the assessment process for waiver services. The initial assessment and development of the plan of care for a potential waiver participant ~~will shall~~ be conducted by the health care ~~coordination multidisciplinary team coordinator.~~

d. 4. At the time of assessment, certification from the attending physician that the individual would otherwise require continued acute care or skilled nursing facility care ~~will shall~~ be necessary to continue the assessment process.

e. ~~If the physician certifies the need for care and if the family desires community-based care, the Health Care Coordinator shall continue the assessment process. The Health Care Coordinator shall perform a home visit to ensure suitability of the home environment for the individual's placement. Concurrently, the Health Care Coordinator or social worker of the multidisciplinary team shall conduct a family assessment to ensure the family's willingness and ability to participate in home care. Consideration shall also be given to the extent of family and community support available to meet the care needs of the technology assisted individual.~~

5. Upon the completion of the assessment process the health care coordinator shall make a determination of the need for substantial and ongoing skilled nursing care. This determination will be made using an objective tool approved by DMAS. For admission to or continuation in the technology assisted waiver program, the recipient will be required to meet a score of 50 or more on the Objective Scoring Criteria form.

3. C. Development of the plan of care.

a. 1. Upon completion of the ~~medical/nursing/functional assessment and the family and home assessment, required assessments and a determination that the individual needs substantial and ongoing skilled nursing care,~~ the plan of care is developed by the health care coordinator.

b. 2. At minimum, the plan of care shall include:

(1) a. A statement of the appropriateness of the home in which the individual is to be placed.

(2) b. Identification of the type, frequency, and amount of nursing care ~~and personal assistance~~ needed. This shall include the name of the provider agency, whether the nurse is an RN or an LPN, and verification that the nurse is licensed to practice in the Commonwealth ~~and the professional qualifications of the personnel required to provide personal assistance.~~ This shall also contain documentation that the health care coordinator has verified that the provider agency is an enrolled provider with DMAS to provide ~~skilled nursing the appropriate waiver services for this population the~~ individual.

(3) c. Identification of all other services that are needed for the individual to be maintained in the home. The statement shall include, as appropriate, speech therapy, occupational therapy, physical therapy, transportation, physician services, the frequency and amount of service needed, the provider of the service, and the payment source.

(4) d. A complete list of equipment and supply needs, and identification of the provider and source of payment.

(5) e. Identification of the type, frequency, and amount of care that the family or other informal care givers shall provide.

(6) ~~Identification of the anticipated utilization of respite care during the 12-month period after admission to the waiver services.~~

(7) f. Other referrals for assessment for services (as needed and appropriate) to include but not be limited to the school system; Women, Infants, and Children Program (WIC); child development clinic services; and Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT) services.

(8) g. Identification of the primary care physician in the community who has agreed to ~~follow manage the~~ medical care of the individual in the community.

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~~(9) h.~~ The appropriateness of the medical care, including a statement from the ~~multidisciplinary team as well as the individual's primary care physician~~, to be signed by the legally responsible adult, attesting that the medical care the individual is to receive in the home is agreed to by the legally responsible adult ~~and is appropriate in the opinion of all involved parties and all others involved in the assessment process referred to in this section.~~

4. D. Cost effectiveness computations.

~~a. These 1.~~ Cost effectiveness computations shall be completed by the health care coordinator upon completion of the plan of care *for any individual entering the waiver.*

~~b. 2.~~ For individuals over 21, the health care coordinator shall be required to document the anticipated cost to DMAS for the individual's waiver services for a ~~42~~ one-month period. The health care coordinator shall then compare ~~DMAS~~ DMAS' costs for the waiver to ~~anticipated the average costs to DMAS for continued hospitalization of specialized nursing facility care for the individual.~~

3. For individuals under 21, the health care coordinator shall be required to document the anticipated cost to DMAS for the individual's waiver services for a one-month period. The health care coordinator shall then compare DMAS' costs for the waiver to the average costs to DMAS for continued hospitalization of the individual.

5. E. Patient selection of waiver services.

~~a. 1.~~ When the determination that the individual's needs can appropriately and cost-effectively be met in the community with these waiver services, the health care coordinator shall give the ~~legally responsible party and the primary care giver, if separate persons, adult individual or the parent or guardian of a child~~ the choice of waiver services or ~~hospitalization institutionalization.~~

~~b. 2.~~ If waiver services are chosen, the ~~applicant or his legally responsible party and the primary care giver, if separate persons, adult~~ will also be given the opportunity to choose the providers of service, if more than one provider is available to render the services. *If more than one waiver recipient will reside in the home, one waiver provider shall be chosen to provide all private duty nursing services for all waiver recipients in the home. Only one nurse will be authorized to care for each two waiver recipients in a home, except in the instance when adult waiver participants share a home, where nursing ratios will be determined by the health care coordinator based on the needs of all the recipients living together.*

6. F. DMAS shall review and approve the assessment, plan of care, cost effectiveness, and choice of providers prior to the individual's admission to community waiver services, and prior to Medicaid payment for any services related to the waiver services plan of care.

7. 12 VAC 30-120-115. Reevaluation requirements and utilization review.

~~a. A.~~ The need for reevaluations shall be determined by the health care coordinator. Reevaluations shall be conducted by the health care coordinator at ~~least every 30 days during the first three months after admission to waiver services as required by the individual's needs and situation and at any time when a change in the individual's condition indicates the need for reevaluation. After the first three months, the health care coordinator shall conduct a home visit once every three months and more often if necessary.~~

~~b. B.~~ DMAS is responsible for performing utilization review at least ~~semi-annually every six months~~ and for the maintenance of supporting documentation. DMAS shall also maintain a copy of the plan of care, the initial evaluation, and each reevaluation for a ~~the~~ minimum period of five years required by federal and state law.

~~c. C.~~ The health care coordinator shall review the plan of care for appropriateness of the level, amount, type, and quality of services provided as well as for monitoring the cost effectiveness of the individual's care in the community.

~~d. D.~~ Medical necessity of waiver services shall be reviewed by the health care coordinator.

~~e. The Health Care Coordinator shall submit this information to DMAS.~~

~~f. During the semi-annual review period, a DMAS utilization review analyst shall review the record and conduct a home visit. The purposes of this record review and home visit are to determine the correctness of the level of care; to ensure that the amount, duration, and scope of the services are appropriate; to ensure that the individual's health and welfare are protected; and to ensure that cost effectiveness is maintained.~~

12 VAC 30-120-120. Appeal of denied coverage.

A. DMAS shall provide the opportunity for a fair hearing under 42 CFR Part 431, Subpart E, to individuals who are not given the choice of home and community-based services as an alternative to ~~remaining in the receiving hospital or entering nursing facility services or who are denied the amount or type of service of their choice or the provider of their choice.~~

B. The individual shall be advised *in writing* of the denial and of his right to appeal *consistent with DMAS client appeals (12 VAC 30-110-10 through 12 VAC 30-110-600).*

12 VAC 30-120-130. Documentation requirements. (Repealed.)

~~The Health Care Coordinator shall submit the following documentation to DMAS before the individual's admission to waiver services:~~

- ~~1. All of the required assessment and documentation.~~
- ~~2. Certification of level of care.~~
- ~~3. Plan of care.~~

- ~~4. Cost-effectiveness computation.~~
- ~~5. Agreement of legally responsible party and the primary care giv~~er~~, if separate persons, with the plan of care.~~
- ~~6. Choice of home and community-based care or hospital care.~~
- ~~7. Choice of waiver service providers, if waiver services are chosen.~~

LIST OF COVERED DURABLE MEDICAL EQUIPMENT

Medical Equipment and Supplies Covered Under State Plan.

- ~~1. Ventilator and necessary attachment.~~
- ~~2. Back-up portable ventilator and attachments.~~
- ~~3. Suction machine, stationary.~~
- ~~4. Suction machine, portable.~~
- ~~5. Ambu bag.~~
- ~~6. Patient lift.~~
- ~~7. Overbed table.~~
- ~~8. Commode, shower chair, or stretcher.~~
- ~~9. Environmental control unit.~~
- ~~10. Alternative communication devices.~~
- ~~11. Tracheostomy tubes.~~
- ~~12. Tracheostomy care kits or individual supplies normally found in the kit.~~
- ~~13. Gastrostomy, or other feeding, tubes.~~
- ~~14. Feeding pumps.~~
- ~~15. Suction catheters.~~
- ~~16. Sterile water.~~
- ~~17. Sterile saline.~~
- ~~18. Special medical mattresses.~~
- ~~19. Oxygen and oxygen equipment.~~
- ~~20. Foley catheters.~~
- ~~21. Bed pans.~~
- ~~22. Antiseptic solution for cleaning of ventilator and respiratory supplies.~~
- ~~23. Wheelchair, manual or power, including adaptive seating devices to prevent contractures and skin breakdown.~~
- ~~24. Hospital bed.~~
- ~~25. Adaptive mobility transportation device (Mulholland chair).~~
- ~~26. Phrenic pacer (implant, transmitter box, antenna and battery).~~

~~27. Pharmacological preparation necessary for life sustaining nutritional management (end drug only).~~

~~28. Pulse oximeter.~~

Medical Equipment and Supplies Not Covered Under State Plan.

~~1. Apnea monitor.~~

FORMS

~~Medical Status Continued DMAS-130, WPPSHBC #560.~~

~~Functional Status DMAS-130, WPPSHBC #560.~~

~~Nursing/Professional Services DMAS-130, WPPSHBC #560.~~

~~Pre-Discharge Family Assessment DMAS-131, WPPSHBC #578.~~

~~Pre-Discharge Home Evaluation DMAS-132, WPPSHBC #578.~~

~~Technology Dependent Services Plan of Care DMAS-133, WPPSHBC #578.~~

~~Health Care Coordination Reassessment DMAS-136, WPPSHBC #581.~~

Objective Scoring Criteria, 1996

OBJECTIVE SCORING CRITERIA

Individual's Name _____ Principal Diagnosis _____

HCC _____ Admit Date _____ DATE _____

TECHNOLOGY	POINTS								
Vent Dependent total	50								
intermittent	45								
Trach	43								
C-PAP, BPAP	25								
Oxygen, continuous	15								
O2, continuous, unstable	35								
G-tube continuous	15								
G-tube, cont. with reflux	35								
NG tube continuous	40								
bolus	25								
IV therapy continuous	40								
SUBTOTAL TECHNOLOGY									
NURSING NEEDS									
Suctioning > q1hr	5								
q1-4hrs	3								
q4hrs+	2								
NG/GT Feeds continuous	5								
q 2hrs	4								
q3hrs	3								
q4hrs	2								
Medication simple	2								
moderate	4								
complex	8								
Intermittent cath. q4hrs	6								
q8hrs	6								
q12hrs	4								
qd or PRN	2								
Dressings q 8hrs or less	3								
> 8hrs	2								
Trach change and care	5								
IV/Hyperal continuous	8								
8-16hrs	6								
4-7 hrs	4								
< 4hrs	2								
Special TX O/D	8								
T/O	6								
B/O	4								
D/O	2								
Specialized monitor I/O	5								
> 3 hosp. in last yr or 3 mo. cont	5								
Other									
SUBTOTAL NURSING									
TOTAL POINTS									
DAILY NURSING HOURS									

Signature of person completing form _____ Date _____

DEFINITIONS

Oxygen, continuous- Individual must require oxygen a minimum of 12 hours out of 24.

Oxygen, unstable, - Dependent on oxygen 24 hours per day plus any 2 of the following:
 Diuretics
 Albuterol treatments at least q4hrs around the clock
 Weight is below 15th percentile for age and gain does not follow normal curve for height
 >3 hospitalizations in last 6 months for respiratory problems
 Daily desaturation below doctor ordered parameters and desaturation requires nursing intervention
 Physician ordered restricted fluid intake

G-tube with reflux - Individual has continuous G-tube feeds plus one of the following
 swallow study within the last 6 months that demonstrated reflux
 aspiration pneumonia within the last 12 months
 need for suctioning due to reflux (not oral secretions) on a daily basis

Simple medication - One or two medications not requiring dosage adjustment

Moderate medication - More than two meds that required close monitoring of dosage, side effects etc.

Complex medication - Six or more meds on different frequency schedules OR
 Four or more meds requiring close monitoring of dosage and side effects

Dressings - Sterile dressings only. Trach dressings are not included in this category

Special Treatments - Other treatments that are considered skilled e.g. nebulizer. ROM is not a special treatment.

Specialized I/O monitoring - Monitoring that includes judgment of fluid replacement needs

VA.R. Doc. No. R96-488; Filed July 2, 1996; 1:16 p.m.

Virginia Register of Regulations

BOARD OF MEDICINE

Title of Regulation: 18 VAC 85-100-10 et seq. Certification of Radiological Technology Practitioners (REPEALING).

Statutory Authority: §§ 54.1-2400, 54.1-2956.8:1 and 54.1-2956.8:2 of the Code of Virginia.

Public Hearing Date: August 9, 1996 - 8 a.m.
Public comments may be submitted until October 4, 1996.
(See Calendar of Events section for additional information)

Summary:

Pursuant to Chapter 803 of the 1994 Acts of the Assembly, the Board of Medicine proposes to repeal its regulations governing the certification of radiologic technologists practitioners and promulgate new regulations for licensure of radiologic technologists and radiologic technologists-limited. Amendments to §§ 54.1-2956.8:1 and 54.1-2956.8:2 mandated licensure for certain radiological practitioners by January 1, 1997, therefore, board regulations for certification would no longer be necessary.

VA.R. Doc. No. R96-498; Filed July 17, 1996, 12:03 p.m.

Title of Regulation: 18 VAC 85-101-10 et seq. Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited.

Statutory Authority: §§ 54.1-2400, 54.1-2956.8:1 and 54.1-2956.8:2 of the Code of Virginia.

Public Hearing Date: August 9, 1996 - 8 a.m.
Public comments may be submitted until October 4, 1996.
(See Calendar of Events section for additional information)

Basis: Chapter 24 (§ 54.1-2400 et seq.) and Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia provide the basis for these regulations. Chapter 24 establishes the general powers and duties of health regulatory boards including the power to establish qualifications for licensure and responsibility to promulgate regulations. Chapter 29 establishes the Board of Medicine and authorizes the board to regulate the practice of radiologic technologists consistent with public health and safety. Sections 54.1-2956.8:1 and 54.1-2956.8:2 (effective January 1, 1997) require the board to license radiologic technologist and radiologic technologist-limited and to prescribe education, experience, and examination requirements.

Purpose: The purpose of the proposed regulations is to repeal current regulations on the certification of radiological technology practitioners and promulgate new regulations governing licensure as mandated by Chapter 803 of the 1994 General Assembly. The board proposes minimal education, experience, and examination requirements consistent with its statutory responsibility to protect public health and safety.

Substance: Part I. General Provisions: 18 VAC 85-101-10
Definitions: Several new definitions are proposed to clarify terminology, to explain acronyms, or to provide the regulatory framework for terms used in regulation.

18 VAC 85-101-20 Public Participation Guidelines: The proposed regulation establishes the applicable regulation for public participation in the development of these regulations.

Part II. Licensure Requirements - Radiologic Technologist. 18 VAC 85-101-30 establishes the educational requirements for radiologic technologists. Graduates of an approved program, which is one that qualifies the graduate to sit for the American Registry of Radiologic Technologists (ARRT) certification examination, are required to submit documented evidence of graduation.

18 VAC 85-101-40 establishes the examination required for licensure as a radiologic technologist as the ARRT certification examination and requires that applicants follow policies and procedures of the ARRT for administration and passage.

18 VAC 85-101-50 establishes a traineeship for an unlicensed graduate awaiting the results of the licensure examination and licensure by the board.

Part III. Licensure Requirements - Radiologic Technologist-Limited. 18 VAC 85-101-60 establishes the requirements for submission of an application and fee and completion of a specified course of training for licensure as a radiologic technologist-limited.

18 VAC 85-101-70 establishes the educational requirements for radiologic technologist-limited with a minimum number of hours in certain procedures or completion of a ACRRT approved program.

Part IV. Licensure by Endorsement. 18 VAC 85-101-80 establishes the criteria for endorsement as a radiologic technologist. A person applying for endorsement must meet credentialing qualifications of these regulations and have been licensed in another jurisdiction. Until January 1, 1999, a person may be licensed by endorsement by submitting evidence of satisfactory practice in Virginia for five or more years.

18 VAC 85-101-90 establishes the criteria for endorsement as a radiologic technologist-limited. Until January 1, 1999, a person may apply for licensure by endorsement by submitting evidence of satisfactory practice for the past two years.

Part V. Practice of Radiologic Technologists. 18 VAC 85-101-100 establishes the general requirement for services rendered to be performed upon the direction of a licensed doctor.

18 VAC 85-101-110 establishes the responsibilities of a radiologic technologist to the patient and the delegating practitioner.

18 VAC 85-101-120 establishes the supervisory responsibilities of a radiologic technologist for the actions of persons performing radiologic functions under his direction and establishes that he may supervise no more than four radiologic technologists-limited or three trainees at any one time.

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Part VI. Practice of Radiologic Technologist-Limited. 18 VAC 85-101-130 establishes the general requirements for a radiologic technologist-limited to perform functions within his capabilities and anatomical limits of training.

18 VAC 85-101-140 establishes the individual responsibilities of a radiologic technologist-limited to patients and to his supervising radiologic technologist or doctor.

Part VII. Renewal of Licensure. 18 VAC 85-101-150 establishes a biennial renewal of licenses, the requirement that a radiologist technologist maintain current ARRT certification or complete 24 hours of continuing education, and provisions for failure to renew or fees for late renewal.

Part VIII. Fees. 18 VAC 85-101-160 establishes the fees required for an application for licensure, registration of a traineeship, renewal or reinstatement of licensure, or verification of licensure to another state.

Issues: The 1993 General Assembly addressed the issue of licensure for radiologic technologists in the passage of HJR 665 which created a joint subcommittee to study the potential risk of harm to the public of unregulated performance of radiological services, the level of training and expertise needed, and the effect that licensure of such practitioners would have on costs and delivery of services. The study was subsequently continued by General Assembly resolutions in 1994 and 1995 and resulted in the passage of legislation to amend Chapter 29 of Title 54.1 to require licensure and the development of regulations for implementation by January 1, 1997. A report of the work and conclusions of the Joint Subcommittee to Study the Public Health Implications of Licensing Radiologic Technology Practitioners may be found in House Document No. 3 of the 1996 General Assembly.

Since the amended statute mandates the licensure of radiologic technologists and radiologic technologists-limited, the level of regulation was not an issue in the board's decision to repeal current regulations which establish certification and to propose a new set of regulations which establish criteria for licensure. The statute also granted the board authority to promulgate regulations which establish "requirements for approved education programs, experience, examinations, and periodic review for continuing competency."

Therefore, the board did have discretion in the development of minimal standards for licensure and had to address issues that were raised during public hearings, meetings of the legislative committee, meetings of the Ad Hoc Advisory Committee and in written comment from the public.

ISSUE 1: Exceptions or exemptions from licensure requirement.

A comment from the Virginia Hospital Association (VHA) opposed regulation of radiologic technologists arguing that within hospitals, the risk of harm to the public was not evident, safeguards for the provision of quality care currently exist, and evidence of inadequate training does not involve hospitals.

Comments received during a public hearing from specialty practitioners (such as family practice) and from the chiropractic association requested board consideration of

exemptions in regulations for radiological services in those settings.

Alternatives considered. The board responded to the issue raised by the VHA by noting that § 54.1-2956.8:1 specifically excludes employees of a hospital licensed under Title 32.1 from the provisions of the act. Therefore, no other alternatives to regulations were considered in response to the comment.

The board responded to requests for other exemptions by noting that § 54.1-2958.8:1 specifically requires licensure for the practice of radiologic technology. Therefore, the board may not exempt certain practitioners from the requirements of the statute. The board has discretion in the adoption of qualifications for licensure and has attempted to provide minimal, entry-level standards for licensure for the radiologic technologists-limited who work under the direct supervision of a licensed radiologic technologist, a physician, chiropractor, or podiatrist.

In addition, the statute specifically excludes from the requirements of licensure doctors of medicine, osteopathy, podiatry, or chiropractic or dentists in the performance of radiological functions.

Advantages and Disadvantages. Since the statute is specific in its requirements for licensure, there were no alternatives. The board sought to deal with the issue of economic impact and accessibility by adopting rules which set minimal standards and permit endorsement of the qualifications of currently practicing radiologic technologists and radiological technologists-limited.

ISSUE 2: Standards for approval of education and examination for Radiologic Technologists

Since the board is authorized by statute to establish "requirements for approved education programs, experience, [and] examinations", the issue considered during public meetings and in the development of regulations was the level of competency required for approval.

Alternatives considered. Alternatives considered by the board included:

- 1) Adoption of standards for board approval of all educational programs in radiologic technology. Regulations (similar to those of the Board of Nursing) for faculty, institutional resources, curriculum, clinical experience, and site reviews would be necessary. The board did not recommend Alternative #1 as too burdensome, intrusive, and costly. While board approval of radiologic education programs in Virginia would be feasible, it would be difficult to evaluate programs in other states.

- 2) Adoption of a nationally recognized accrediting body for approval of educational programs. Alternative #2 was recommended as more reasonable and less costly for the board and its licensees. In the process of drafting proposed regulations, the board-appointed Ad Hoc Advisory Committee with approval of the legislative Joint Committee considered accreditation standards from the 30 other states that regulate radiologic technology. The American Registry of Radiologic Technologists (ARRT)

and the American Chiropractic Registry of Radiologic Technologists (ACRRT) were the only nationally recognized accrediting bodies identified and were therefore recommended by the board.

3) Adoption of regulations which would accept satisfactory work experience in lieu of minimal standards for educational training and passage of an examination. The board determined that Alternative #3 was reasonable to permit radiologic technologists currently practicing in Virginia who are qualified by their experience but not by education and examination to be licensed under by endorsement for a period of two years following the effective date of the regulations.

4) Adoption of a nationally recognized and accepted examination instead of development of a Board of Medicine licensure examination. The board proposes Alternative #4 to provide accessibility to the examination to applicants for licensure as radiologic technologists in all parts of the country and mobility of practitioners across jurisdictions. The board is in the process of eliminating all board-developed, administered examinations for other professions and contracting for accreditation examination with private agencies. The examination offered by the ARRT was identified as the national standard for the profession and recommended by the board. In the 1994 draft regulations, the board considered establishing rules for a passing score and retesting and for additional training after failure. Proposed regulations are less cumbersome and require the applicant to follow the procedures of the testing service.

Advantages and Disadvantages. Advantages of the acceptance of national accreditation bodies such as the ARRT and the ACRRT for approval of educational programs and for administration of the licensure examination are: 1) Standards for entry as a licensed radiologic technologist in Virginia are identical to those in other states and will, therefore, facilitate professional mobility and applications from outside the state; 2) The responsibility for program approval will fall to the professional accrediting body with the resources and expertise to evaluate and monitor educational quality; and 3) The utilization of a national accreditation examination provides a more credible and less costly standard for applicants and the board.

The advantage of a provision for "grandfathering" qualified radiologic technologists currently practicing in Virginia is that it alleviates concerns about availability of radiologic technologists in private practices and about restrictive regulations which current practitioners would be unable to meet. In addition, legislation requiring licensure was passed and draft regulations developed in 1994 with an effective date of January 1, 1997, in order to give persons providing radiological services time to meet the educational and examination qualification.

Possible disadvantages of these alternatives are: 1) acceptance of national standards for approval of education and for the examination precludes the board from setting different criteria or measuring professional knowledge by a different standard; and 2) acceptance of work experience in place of an ARRT education and examination for current

radiologic technologists provides no assurance of their minimal qualification to practice. In both cases, the board has determined that the advantages of these alternatives outweigh the disadvantages in providing regulations which are the least restrictive and most reasonable.

ISSUE 3: Standards for education and examination for Radiologic Technologists-Limited

Concerns were expressed that licensure requirements in the 1994 draft regulations may be too restrictive for the majority of persons currently performing radiological services for specific diagnostics in a doctor's office or other practice setting. The necessity of hiring only licensed radiologic technologists-limited who had completed a ARRT approved course and had passed a ARRT licensure examination would limit accessibility and increase costs.

Alternatives considered. The board considered the comments and proposed two alternatives to address the issues of restrictive regulations which would limit access to radiological services. Draft regulations were changed to:

1) Permit currently practicing radiological personnel to be "grandfathered" depending on their level of qualification, practice responsibilities, and two consecutive years in practice. Such endorsement for licensure would only be in effect for two years, until January 1, 1999.

2) Permit a licensed radiologic technologist-limited to complete the required training for specific diagnostic functions within the practice setting (on-the-job), from courses sponsored by the Virginia Society of Radiologic Technologists, or from an ACRRT approved program. Proposed educational requirements delineate the areas of knowledge and number of hours needed for minimal proficiency in equipment operation, radiation protection, and procedures in the specific anatomical areas of practice.

Advantages and disadvantages. The advantages of the alternatives considered and adopted are: 1) radiologic personnel who have been engaged in practice for two or more years will be able to become licensed until 1999 without meeting educational and examination requirements of proposed regulations. With grandfather clauses inserted in regulation, there should be no interruption in services or limit to access to radiography in doctors' offices; and 2) applicants for licensure as Radiologic Technologist-Limited will not have to complete an ARRT approved program or pass a licensure examination to be qualified.

The possible disadvantage of proposed regulations would be the lack of a measurable standard, such as an examination to determine minimal competency. By permitting training for specific radiological functions and safety by the supervising practitioner, requiring practice only under direct supervision, and restricting the instillation of contrast media by those with the limited license, the board believes that entry requirements for radiologic technologists-limited are sufficient to protect the public from inappropriate or unsafe use of radiography.

ISSUE 4: Certification of Radiologic Technologists-Limited for certain anatomical areas

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Pursuant to comments from persons in the profession and from a study of licensure policies in other states, the board considered the possibility of an anatomical-specific license.

Alternatives considered. A two-tiered licensure system was recommended by the report of the Joint Subcommittee and mandated by the statute. However, the board also considered but did not propose additional sub-groups with different requirements for credentialing. In some states, the basic radiologic technologist-limited license is supplemented by additional hours of study in order to receive an endorsement for a specific areas of the body (skull or abdominal). The board did not choose to license specialty areas but did propose practice standards that specify medical direction and delegation and performance of functions within the limits of capabilities and training.

Advantages and disadvantages. The advantages of the board's proposal are: 1) the licensee may acquire additional areas of expertise without the necessity of additional licenses or endorsements; 2) the public is protected by requirements for direction and supervision; and 3) the board has the ability to discipline a licensee who acts outside of his training and capability.

The only possible disadvantages is that the board is unable to ensure that a practitioner has the specific training necessary to perform specific tasks. However, other safeguards established in regulation provide reasonable assurance of competency and safety.

ISSUE 5: Need for evidence of continuing competency for renewal of licensure

The joint subcommittee recommended (House Document No. 3, 1996) that "continuing education be required to maintain assurance of competency." Section 54.1-2956.8:1 provides that the board may prescribe in regulation for periodic review for continued competency.

The board determined that such requirements were essential for radiologic technologists who practice under the direction of a licensed doctor but who are not required to have direct supervision and may supervise the practice of limited licensees. Evidence presented in the course of the study indicated that the field of radiography has changed dramatically in the past decade and is expected to continue advancement. Therefore, the board determined that it was necessary for continued public assurance for practitioners who exercise more independent judgment should continue their education in order to maintain current knowledge and expertise.

Alternatives considered. The board considered the following alternatives: 1) a minimum number of hours of active practice in each biennium; 2) a report of professional activities during each biennium; 3) a 160-hour traineeship for a person whose license has been inactive for a period of more than two years; 4) maintenance of ARRT certification; or 5) completion of 24 hours of continuing education in each biennium.

The board determined that the least complicated and most reasonable alternatives were #4 and #5, the maintenance of ARRT certification or completion of hours of CE. For those licensed radiologic technologists who have been

"grandfathered" and therefore do not hold ARRT certification, renewal requirements may be met by completion of 24 hours of continuing education requirement is 24 hours for each biennium, 12 hours of which must be ASRT approved.

Advantages and disadvantages. The advantages of alternatives proposed are: 1) the public has more assurance that radiological services will be provided by licensees who have current knowledge and technique; 2) radiologic technologists-limited are not required to have continuing education; and 3) licensees who may become inactive or only work part-time may retain active licensure by maintenance of their ARRT certification. The disadvantage is that licensed radiologic technologist will have to attest to continuing education for renewal, and a small percentage will be disciplined by the board for failure to do so.

Advantages and Disadvantages to the Public. Citizen input in development of regulation: In the development of regulations, the board made every effort to include citizen input from those engaged in the practice of radiologic technology in the community, from those who work in educational settings, from associations affiliated with the practice, and from doctors who employ radiological personnel in their practice. Groups represented at a public hearing held during consideration of regulations included the Virginia Academy of Family Physicians, the Virginia Orthopedic Association, the Medical Society of Virginia, the Virginia Society of Internal Medicine, the American College of Radiology, Virginia Chapter, the Virginia Urological Society, and the Virginia Society of Radiologic Technologists.

In addition, the issues surrounding licensure and draft regulations were discussed at public meetings of the Joint Subcommittee to Study the Public Health Implications of Licensing Radiologic Technology Practitioners from 1994 to 1996. Consequently, the board drafted regulations with a consideration for any fiscal impact on licensees, especially small businesses, and does not anticipate a negative impact on the entities affected by regulation or on the public.

The advantage of licensure for the public is a higher standard for performance of radiology which may result in a reduction in the significant risks from overexposure or unnecessary procedures. The disadvantage may be that licensed professionals may command higher salaries and thereby increase the cost of health care. While there is no direct evidence of that occurrence, concern has been expressed.

Fiscal Impact Prepared by the Agency:

Number of entities affected by this regulation: There are currently 18 certified radiologic technologists in Virginia. It is estimated that 1000 persons may seek licensure as radiologic technologists and 500 as radiologic technologists-limited.

Projected costs to the affected entities: The 1994 draft regulations suggested the fee for licensure should be \$150; the regulations proposed by the board set the fee at \$100 for radiologic technologists and \$50 for radiologic technologists-limited. If an applicant wishes to work in a traineeship prior to licensure, a fee of \$25 is proposed.

Biennial renewal of licensure was originally proposed to be \$100 but has been reduced to \$75 for radiologic

technologists and \$25 for radiologic technologists-limited. Additional charges will only apply to a licensee who is late with renewals, needs verification of licensure to another state, or must get his license reinstated.

Costs for taking the licensure examination are established by the ARRT and are currently set at \$50. Costs for renewal of ARRT certification are \$12 plus approximately \$60 to \$100 to complete the required hours of continuing education.

Projected cost to the agency: The agency will incur an approximate costs of \$1,000 for mailing notices and final regulations to the Public Participation Guidelines mailing list and for conducting a public hearing during the promulgation of these regulations. However, every effort will be made to incorporate those into anticipated mailings and board meetings already scheduled.

Since the agency already certifies radiologic technologists, it is not anticipated that the licensure program will have any impact on employment levels or direct costs to the board.

Localities affected: There are no localities particularly affected by these regulations in the Commonwealth. Since licensure of radiologic personnel in community hospitals is not required, they are not affected.

Affect on small businesses: There are no direct costs to medical practices operating as small businesses. Radiological personnel will individually bear the costs of applying and maintaining licensure.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply; the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic affects.

Summary of the Proposed Regulation. The proposed regulation is promulgated in response to Chapter 803 of the 1994 Acts of the Assembly which added § 54.1-2956.8:1 to the Code of Virginia. Section 54.1-2956.8:1 makes it unlawful to practice radiological technology without a license after January 1, 1997, and further requires the Board of Medicine to develop regulations specifying the appropriate qualifications for such licensure.

Pursuant to § 54.1-2956.8:1, the proposed regulation:

- Adopts the educational and examination standards set forth by the American Registry of Radiologic Technologists (ARRT) for the licensure of radiological technologists;
- Adopts the educational and examination standards set forth by the American Chiropractic Registry of Radiologic

Technologists (ACRRT) for the licensure of radiological technologists-limited;

- Provides for licensure by endorsement of radiologic technologists who hold licenses from other jurisdictions that have similar licensing requirements to those contained in the proposed regulation;
- Provides for licensure by endorsement through January 1, 1999 of radiologic technologists and radiologic technologists-limited based on prior work experience in Virginia;
- Sets forth general requirements for the practice of radiologic technologists and radiologic technologists-limited;
- Establishes continuing education requirements for radiologic technologists; and
- Fixes various application and licensing fees.

Estimated Economic Impact. The proposed regulation is anticipated to have two economic effects: 1) it will likely ensure the quality of radiologic technologist services in Virginia by guaranteeing that the individuals performing those services have met minimum professional standards for education and competency; and 2) it will increase the entry costs associated with becoming a radiologic technologist in Virginia.

Quality of Radiologic Technologist Services. As outlined in *House Document No. 3* of the 1996 General Assembly, there are two well known public health risks associated with the improper use of x-ray equipment --- over exposure to harmful radiation, and mistaken diagnosis caused by poor quality x-ray films. Although under Virginia law, dental and veterinary technicians are required to meet minimum training and competency standards, prior to the enactment of § 54.1-2956.8:1, radiologic technicians employed outside of licensed hospitals were not. The primary benefit of the proposed regulation is the protection it offers to Virginia residents from radiologic services provided by unqualified individuals. It would be cost prohibitive for DPB to quantify the exact magnitude of this benefit however.

Increased Entry Costs. The other economic effect of the proposed regulation is that it will increase the minimum costs associated with becoming a radiologic technologist in Virginia. In the wake of the proposed requirements, the costs of entry into this profession must at least include the expenses necessary to meet the educational and examination standards of the ARRT or the ACRRT, continuing education requirements, and the licensing and other fees established by DHP. Currently in Virginia, the cost of becoming a radiologic technician could presumably be zero, although it is likely that employer preferences toward hiring the most qualified applicants induce most radiologic technicians to invest in professional education anyway, even in the absence of the proposed regulation.

One auxiliary economic effect of these increased entry costs could presumably be an increase in the wages commanded by licensed radiologic technologists. In the short-run, such a wage increase could be driven by a reduction in the number of available radiologic technicians if a significant number of

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individuals currently working in that professional capacity failed to qualify for licensure. Provisions in the proposed regulation that allow currently practicing radiologic technologists to be temporarily licensed by endorsement should effectively preclude such a situation however.

In the long-run though, some upward pressure on wages is likely to occur as radiologic technologists rationally attempt to offset the increased costs of entry occasioned by the proposed licensing requirements. Whether these increased wages actually translate into increased medical costs, however, will depend on the relative magnitude of the wage increase compared to the likely efficiency gains engendered by additional professional education.

Businesses and Entities Particularly Affected. The proposed regulation particularly affects the estimated 1,000 persons who would apply for licensure as radiologic technologists, the approximately 500 persons who would apply for licensure as radiologic technologists-limited, and their employers.

Localities Particularly Affected. No localities are particularly affected by the proposed regulation

Projected Impact on Employment. The proposed regulation is not anticipated to have a significant effect on employment.

Affects on the Use and Value of Private Property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of Analysis. The proposed regulation establishes licensing requirements for radiologic technologists and radiologic technologists-limited. These licensing requirements are expected to: 1) enhance the quality of radiologic technologist services in Virginia by guaranteeing that the individuals performing those services have met minimum professional standards for education and competency; and 2) increase the entry costs associated with becoming a radiologic technologist in Virginia.

Agency Response to Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis from the Department of Planning and Budget.

Summary:

Pursuant to Chapter 803 of the 1994 Acts of the Assembly, the Board of Medicine proposes regulations governing the licensure of radiologic technologists. Amendments to §§ 54.1-2956.8:1 and 54.1-2956.8:2 mandated licensure for certain practitioners by January 1, 1997, and required the board to develop standards for education, examination, and experience as requisite qualifications.

The board sought to develop minimal regulations which would assure the delivery of safe, cost-effective radiological services in the Commonwealth by establishing standards for training and competent practice. To ensure that regulations would not have a negative impact on the availability of services, the board has provided for licensure of radiologic technologists-limited who are trained in certain procedures and who work under supervision. Regulations also provide for licensure by endorsement for persons who have

practiced satisfactorily in Virginia for five or more years but who would not qualify for licensure by education and credentialing.

CHAPTER 101. REGULATIONS GOVERNING THE LICENSURE OF RADIOLOGIC TECHNOLOGISTS AND RADIOLOGIC TECHNOLOGISTS-LIMITED.

PART I. GENERAL PROVISIONS.

18 VAC 85-101-10. Definitions.

In addition to definitions in § 54.1-2900 of the Code of Virginia, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"ARRT" means the American Registry of Radiologic Technologists.

"ACRRT" means the American Chiropractic Registry of Radiologic Technologists.

"ASRT" means the American Society of Radiologic Technologists.

"Direct supervision" means that a licensed radiologic technologist, doctor of medicine, osteopathy, chiropractic or podiatry is present and is fully responsible for the activities performed by radiologic personnel.

"Direction" means the delegation of radiologic functions to be performed upon a patient from a licensed doctor of medicine, osteopathy, chiropractic, or podiatry, to a licensed radiologic technologist or a radiologic technologist-limited for a specific purpose and confined to a specific anatomical area, that will be performed under the direction of and in continuing communication with the delegating practitioner.

"Traineeship" means a period of activity during which an unlicensed radiologic technologist, who is seeking licensure, works under the direct supervision of a practitioner approved by the board.

18 VAC 85-101-20. Public Participation Guidelines.

18 VAC 85-10-10 et seq., Regulations Governing Public Participation Guidelines, provide for involvement of the public in the development of all regulations of the Virginia Board of Medicine.

PART II. LICENSURE REQUIREMENTS - RADIOLOGIC TECHNOLOGIST.

18 VAC 85-101-30. Educational requirements for radiologic technologists.

An applicant for licensure as a radiologic technologist shall be a graduate of an educational program acceptable to the ARRT for the purpose of sitting for the ARRT certification examination and shall submit, with the required application and fee, documented evidence of his graduation from such a program.

18 VAC 85-101-40. Examination requirements.

A. An applicant for board licensure by examination shall:

1. Meet the educational requirements specified in 18 VAC 85-101-30.
2. Submit the required application, fee, and credentials to the board no less than 30 days prior to the date of examination or traineeship.

B. The licensure examination for the radiologic technologist shall be the ARRT certification examination with minimum passing score determined by the ARRT.

C. An applicant who fails the examination shall follow the policies and procedures of the ARRT for successive attempts.

18 VAC 85-101-50. Traineeship for unlicensed graduate.

A. An unlicensed graduate of an approved program may be employed as a trainee under the direct supervision of a licensed radiologic technologist, doctor of medicine, osteopathy, chiropractic, or podiatry.

B. The graduate shall submit an application for a traineeship to the board for review and approval by the Chairman of the Radiologic Technology Advisory Committee or his designee.

C. The traineeship shall terminate upon receipt by the candidate of the licensure examination results. The unlicensed graduate may reapply for a new traineeship while awaiting to take the next examination.

D. An unlicensed graduate may serve in a traineeship for a period not to exceed two years or through three unsuccessful attempts of the licensure examination, whichever comes first. After such time, the graduate shall apply to the Radiologic Technology Advisory Committee for approval to continue in practice as a trainee.

PART III.

LICENSURE REQUIREMENTS - RADIOLOGIC TECHNOLOGIST-LIMITED.

18 VAC 85-101-60. Application for licensure.

An applicant for licensure as a radiologic technologist-limited shall submit the required application and fee as prescribed by the board and evidence of completion of training as required in 18 VAC 85-101-70.

18 VAC 85-101-70. Educational requirements for radiologic technologists-limited.

An applicant for licensure as a radiologic technologist-limited shall be trained by one of the following:

1. Successful completion of a program with a minimum of the following coursework:
 - a. Image Production/Equipment Operation - 25 clock hours
 - b. Radiation Protection - 15 clock hours

c. Radiographic procedures in the anatomical area of the radiologic technologist-limited's practice - 10 clock hours

2. An ACRRT approved program.

PART IV.

LICENSURE BY ENDORSEMENT.

18 VAC 85-101-80. Endorsement requirements for radiologic technologist.

A. A radiologic technologist who has an unrestricted license in the United States, its territories, the District of Columbia, or Canada by an examination equivalent to that required in Virginia at the time of licensure and who has met all other requirements of the board may, upon recommendation of the Radiologic Technology Advisory Committee, be licensed by endorsement. Such a person shall submit to the board along with a completed application and required fee:

1. Verification of a current, unrestricted license in another jurisdiction.
2. Verification of current certification from the ARRT.

B. A radiologic technologist who has practiced satisfactorily in Virginia for five or more years may, upon recommendation of the Radiologic Technology Advisory Committee, be licensed by endorsement. Such a person shall submit to the board, along with a completed application and required fee, evidence of his scope of practice as documented by a supervising radiologist and a supervising radiologic technologist. A radiologic technologist may be initially licensed by endorsement under this subsection until January 1, 1999.

18 VAC 85-101-90. Endorsement of previous practice for radiologic technologists-limited.

A radiologic technologist-limited applicant who has practiced satisfactorily in Virginia for the past two consecutive years as a radiologic technologist-limited and who submits evidence from a licensed doctor of medicine, osteopathy, chiropractic, or podiatry attesting to such practice shall be licensed by endorsement. A radiologic technologist-limited may be initially licensed by endorsement under this section until January 1, 1999.

PART V.

PRACTICE OF RADIOLOGIC TECHNOLOGISTS.

18 VAC 85-101-100. General requirements.

All services rendered by a radiologic technologist shall be performed only upon direction of a licensed doctor of medicine, osteopathy, chiropractic, or podiatry.

18 VAC 85-101-110. Individual responsibilities to patients and to licensed doctor of medicine, osteopathy, chiropractic, or podiatry.

A. The radiologic technologist's responsibilities are to administer and document procedures within the limit of his professional knowledge, judgment and skills.

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B. A radiologic technologist shall maintain continuing communication with the delegating practitioner.

18 VAC 85-101-120. Supervisory responsibilities.

A. A radiologic technologist shall supervise no more than four radiologic technologists-limited or three trainees at any one time.

B. A radiologic technologist shall be responsible for any action of persons performing radiologic functions under the radiologic technologist's supervision or direction.

C. A radiologic technologist may not delegate radiologic procedures to any unlicensed personnel except those activities that are available without prescription in the public domain to include but not limited to preparing the patient for radiologic procedures and post radiologic procedures. Such nonlicensed personnel shall not perform those patient care functions that require professional judgment or discretion.

PART VI.

PRACTICE OF RADIOLOGIC TECHNOLOGIST-LIMITED.

18 VAC 85-101-130. General requirements.

A radiologic technologist-limited is permitted to perform radiologic functions within his capabilities and the anatomical limits of his training. A radiologic technologist-limited shall not instill contrast media during radiologic examinations. The radiologic technologist-limited is responsible to a licensed radiologic technologist, doctor of medicine, osteopathy, chiropractic, or podiatry.

18 VAC 85-101-140. Individual responsibilities to patients and licensed radiologic technologist, doctor of medicine, osteopathy, chiropractic, or podiatry.

A. The initial patient visit shall be made by a licensed radiologic technologist, doctor of medicine, osteopathy, chiropractic, or podiatry.

B. The radiologic technologist-limited's first procedure with the patient shall only be made after verbal or written communication, or both, with the licensed radiologic technologist, doctor of medicine, osteopathy, chiropractic, or podiatry.

C. The radiologic technologist-limited's procedures shall be made under direct supervision.

D. A radiologic technologist-limited, acting within the scope of his practice, may delegate nonradiologic procedures to an unlicensed person, including but not limited to preparing the patient for radiologic procedures and post radiologic procedures. Such nonlicensed personnel shall not perform those patient care functions that require professional judgment or discretion.

PART VII.

RENEWAL OF LICENSURE.

18 VAC 85-101-150. Biennial renewal of license.

A. A radiologic technologist or radiologic technologist-limited who intends to continue practice shall renew his license biennially during his birth month in each odd

numbered year and pay to the board the prescribed renewal fee.

B. On the renewal application, a radiologic technologist shall verify that his ARRT certification is current or that during the biennium, he has completed 24 hours of continuing education, 12 of which shall be ASRT approved.

C. A license which has not been renewed by the first day of the month following the month in which renewal is required shall be expired.

D. An additional fee to cover administrative costs for processing a late application shall be imposed by the board.

PART VIII. FEES.

18 VAC 85-101-160. Fees required by the board.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Application or examination.

1. The application fee for radiologic technologist licensure shall be \$100.

2. The application fee for the radiologic technologist-limited licensure shall be \$50.

3. The fees for taking all required examinations shall be paid directly to the examination services.

4. Upon written request from an applicant to withdraw his application for licensure by examination, a fee of \$25 shall be retained by the Board of Medicine as a processing fee.

C. Licensure renewal and reinstatement.

1. The fee for license renewal for a radiologic technologist shall be \$75 and for a radiologic technologist-limited shall be \$25.

2. An additional fee of \$25 to cover administrative costs for processing a late renewal application shall be imposed by the board.

3. The fee for reinstatement of a lapsed license which has expired for a period of two years or more shall be \$50 and the respective licensure fee and shall be submitted with an application for licensure reinstatement.

4. The fee for reinstatement of a revoked license shall be \$500.

D. Other fees.

1. The application fee for a traineeship shall be \$25.

2. The fee for a letter of good standing or verification to another state for licensure shall be \$10.

18. AFFIDAVIT OF APPLICANT

(THIS SECTION MUST BE NOTARIZED)

I, _____, being first duly sworn, depose and say that I am the person referred to in the foregoing application and supporting documents. I hereby authorize all hospitals, institutions, or organizations, my references, personal physicians, employers (past and present), business and professional associates (past and present), and all governmental agencies and instrumentalities (local, state, federal, or foreign) to release to the Virginia Board of Medicine any information, files, or records requested by the Board in connection with the processing of individuals and groups listed above, any information which is material to me and my application.

I have carefully read the questions in the foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension or revocation of my certificate to practice as a Radiologic Technologist in the Commonwealth of Virginia.

RIGHT THUMB PRINT

Signature of Applicant

If right thumb is missing, use left and so indicate.

City/County of _____ State of _____ day of _____ 19____

Subscribed and sworn to before me this _____

My commission expires _____

NOTARY SEAL

Signature of Notary Public

CERTIFICATE OF PROFESSIONAL EDUCATION

It is hereby certified that _____ (Name of Applicant)

manufactured in _____ (Course of Study) on _____ (Date)

and received a diploma or certificate from _____ (Institution)

confirming the degree or certificate of _____ (Degree or Certificate) on _____ (Date)

SCHOOL SEAL

Clean, Program Director or Chairman

ALL QUESTIONS MUST BE ANSWERED. If any of the following questions is answered Yes, explain and substantiate with documentation.

3. List all jurisdictions in which you have been issued a license or certificate to practice radiologic technology: active, inactive or expired: _____

Yes	No
_____	_____

4. Have you ever been denied the privilege of taking an examination for licensure or certification in another state as a Radiologic Technologist? Explain _____

5. Have you successfully completed the ARRT Certification examination? If so, provide date and certification number _____

6. Have you ever been denied, for any reason, a license or certificate to practice as a Radiologic Technologist in another state? Explain _____

7. Have you ever been convicted of a violation of or pled Nolo Contendere to any federal, state, or local statute, regulation or ordinance, or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except convictions for driving under the influence.) _____

8. Have you ever been censured, warned, or requested to withdraw from or otherwise disciplined by any hospital, nursing home, or other health care facility? _____

9. Have you ever had any of the following disciplinary actions taken against your license to practice as a radiologic technologist, or are any such actions pending? (a) suspension or revocation (b) probation (c) reprimand or cease and desist (d) had your practice monitored, _____

10. Have you ever had any membership in a state or local professional society revoked, suspended, or involuntarily withdrawn? _____

11. Have you had any malpractice suits brought against you in the last two years? If so, how many? _____

Provide details, _____

12. Have you been treated by, consulted with, or been under care of a professional for substance abuse within the last two years? If so, provide a letter from the treating professional which includes diagnosis, treatment, and prognosis. _____

13. Have you received treatment for or been hospitalized for a nervous, emotional or mental disorder within the last two years? If so, provide a letter from your treating professional summarizing diagnosis, treatment, and prognosis. _____

14. Do you have a physical disease or diagnosis that may affect your performance of professional duties? If so, provide a letter from your treating professional which includes diagnosis, treatment, and prognosis. _____

15. Have you been adjudged mentally incompetent or been involuntarily committed to a mental institution within the last five years? Provide details. _____

NOTE: RESPONSES TO QUESTIONS #16 AND #17 ARE OPTIONAL FOR STATISTICAL PURPOSES.

16. Do you intend to engage in the active practice as a Radiologic Technologist in the Commonwealth of Virginia? If Yes, give location _____

17. Specify type of practice Hospital Home Education Office Other, specify _____

Proposed Regulations

ALL QUESTIONS MUST BE ANSWERED. If any of the following questions is answered Yes, explain and substantiate with documentation.

3. List all jurisdictions in which you have been issued a license or certificate to practice radiologic technology: active, inactive or expired:

	Yes	No
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. Have you ever been denied the privilege of taking an examination for licensure or certification in another state as a Radiologic Technologist—Limited? CS plus 1

5. Have you ever been denied, for any reason, a license or certificate to practice as a Radiologic Technologist in another state? Explain _____

6. Have you ever been convicted of a violation of or pled Not Guilty to any federal, state, or local statute, regulation or ordinance, or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except convictions for driving under the influence.) _____

7. Have you ever been censured, warned, or requested to withdraw from or otherwise disciplined by any hospital, nursing home, or other health care facility? _____

8. Have you ever had any of the following disciplinary actions taken against your license to practice as a radiologic technologist, or are any such actions pending? (a) suspension or revocation (b) probation (c) reprimand or cease and desist (d) had your practice monitored. _____

9. Have you ever had any membership in a state or local professional society revoked, suspended, or involuntarily withdrawn? _____

10. Have you had any malpractice suits brought against you in the last two years? If so, how many? _____
Provide details. _____

11. Have you been treated by, consulted with, or been under care of a professional for substance abuse within the last two years? If so, provide a letter from the treating professional which includes diagnosis, treatment, and prognosis. _____

12. Have you received treatment for or been hospitalized for a nervous, emotional or mental disorder within the last two years? If so, provide a letter from your treating professional summarizing diagnosis, treatment, and prognosis. _____

13. Do you have a physical disease or diagnosis that may affect your performance of professional duties? If so, provide a letter from your treating professional which includes diagnosis, treatment, and prognosis. _____

14. Have you been diagnosed mentally incompetent or been involuntarily committed to a mental institution within the last five years? Provide details. _____

NOTE: RESPONSES TO QUESTIONS #16 AND #17 ARE OPTIONAL FOR STATISTICAL PURPOSES.

15. Do you intend to engage in the active practice as a Radiologic Technologist—Limited in the Commonwealth of Virginia? If Yes, give location _____

16. Specify type of practice Hospital Home Education Office Other, specify _____

(THIS SECTION MUST BE NOTARIZED)

I, _____, being first duly sworn, depose and say that I am the person referred to in the foregoing application and supporting documents. I hereby authorize all hospitals, institutions, or organizations, my references, personal physicians, employers (past and present), business and professional associates (past and present), and all governmental agencies and instrumentalities (local, state, federal, or foreign) to release to the Virginia Board of Medicine any information, files, or records requested by the Board in connection with the processing of individuals and groups listed above, any information which is material to me and my application.

I have carefully read the questions in the foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension or revocation of my certificate to practice as a Radiologic Technologist in the Commonwealth of Virginia.

RIGHT THUMB PRINT

If right thumb is missing, use left and so indicate.

City/County of _____ State of _____

Subscribed and sworn to before me this _____ day of _____, 19____

My commission expires _____

Signature of Applicant _____

Signature of Notary Public _____

BOARD OF OPTOMETRY

REGISTRAR'S NOTICE: Chapters 152 and 158 of the 1996 Acts of Assembly transferred the authority for the certification of optometrists to administer therapeutic pharmaceutical agents for the treatment of certain diseases and abnormal conditions of the eye and its adnexa from the Board of Medicine to the Board of Optometry. The Board of Optometry, by the following proposed action, is amending the Board of Medicine regulations for TPA-certified optometrists. These regulations were continued in effect by Chapters 152 and 158 of the 1996 Acts until the Board of Optometry adopts regulations pursuant to § 54.1-3223 of the Code of Virginia.

The Board of Optometry is exempt from the provisions of the Administrative Process Act in accordance with § 9-6.14:4.1 A 18 of the Code of Virginia, which exempts the Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines, and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1 of the Code of Virginia.

Title of Regulation: 18 VAC 105-30-10 et seq. Regulations on Certification of Optometrists to Use Therapeutic Pharmaceutical Agents.

Statutory Authority: § 54.1-3223 of the Code of Virginia.

Public Hearing Date: September 6, 1996 - 9 a.m.

Public comments may be submitted until September 4, 1996.

(See Calendar of Events section for additional information)

Summary:

Section 54.1-3223 of the Code of Virginia requires the Board of Optometry to promulgate regulations governing the treatment of certain diseases and abnormal conditions of the human eye and its adnexa with certain therapeutic pharmaceutical agents (TPA) by TPA-certified optometrists as are reasonable and necessary to ensure an appropriate standard of medical care for patients, including, but not limited to, determinations of the diseases and abnormal conditions of the human eye and its adnexa which may be treated by TPA-certified optometrists, treatment guidelines, and the drugs specified on the TPA-Formulary. As such, the Board of Optometry proposes the following amendments to Part IV, Scope of Practice for an Optometrist to Use Therapeutic Drugs.

Under the former 18 VAC 85-90-60, Diseases and Conditions which may be Treated by an Optometrist, the specific diseases Hordeolum, conjunctivitis, blepharitis, chalazion, and dry eye have been deleted. Further, the noninvasive treatment for superficial foreign bodies of the eye and its adnexa and treatment of superficial epithelial damage secondary to contact lens wear with no corneal opacity present has been deleted. The new language reflects the appropriate use of board approved therapeutic pharmaceutical agents for diseases and abnormal conditions of the following structures of the eye and its adnexa: lids and adnexa, lacrimal system,

cornea, conjunctiva, and episclera. Also, the board deemed the following specific conditions within the purview of TPA-certified optometrists: glaucoma, under appropriate consultation; ocular-related post-operative care, in cooperation with the patient's surgeon; ocular trauma to these tissues and those structures just listed, anterior uveitis, and anaphylactic shock.

Under the former 18 VAC 85-90-70, Therapeutic Pharmaceutical Agents, all the specific drugs listed have been deleted and replaced with drug categories. Schedule VI topical anti-allergy, anti-glaucoma, anti-infective, anti-inflammatory, cycloplegic and mydriatic, decongestant drugs and their medically appropriate combinations are approved including over-the-counter medications appropriate to eye treatment. Also, oral pharmaceutical agents have been added to the formulary and include narcotic and nonnarcotic analgesics which are limited to Schedule III and VI and over-the-counter oral medications appropriate to eye treatment. Lastly, contact lenses may be prescribed and dispensed for therapeutic purposes.

CHAPTER 90 30.
~~CERTIFICATION FOR OPTOMETRISTS TO PRESCRIBE FOR AND TREAT CERTAIN DISEASES, INCLUDING ABNORMAL CONDITIONS, OF THE HUMAN EYE AND ITS ADNEXA WITH CERTAIN THERAPEUTIC PHARMACEUTICAL AGENTS. REGULATIONS ON CERTIFICATION OF OPTOMETRISTS TO USE THERAPEUTIC PHARMACEUTICAL AGENTS.~~

PART I.
 GENERAL PROVISIONS.

~~18 VAC 85-90-10.~~ 18 VAC 105-30-10. Definitions.

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

"Approved school" means those optometric and medical schools, colleges, departments of universities or colleges or schools of optometry or medicine currently accredited by the Council on Postsecondary Accreditation or by the United States Department of Education.

"Board" means the Virginia Board of Medicine Optometry.

"Certification" means the Virginia Board of Medicine Optometry certifying an optometrist to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa and administer certain therapeutic pharmaceutical agents.

"Certified optometrist" means an optometrist who holds a current license to practice optometry in the Commonwealth of Virginia, is certified to use diagnostic pharmaceutical agents by the Virginia Board of Optometry, and has met all of the requirements established by the Virginia Board of Medicine Optometry to treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents.

"Examination" means an examination approved by the Board of Medicine Optometry for certification of an

Proposed Regulations

optometrist to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents.

"*Invasive modality*" means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive modalities include surgery, lasers, ionizing radiation, therapeutic ultrasound, medication administered by injection, and the removal of foreign bodies from within the tissues of the eye. For purposes of this chapter, the administration of a topical agent specified in ~~18 VAC 85-90-70~~ of this chapter *18 VAC 105-30-70* is not considered an invasive modality.

"*Postgraduate clinical training*" means a postgraduate program approved by the board to be eligible for certification.

"*Protocol*" means a prescribed course of action developed by the certified optometrist which defines the procedures for responding to any patient's adverse reaction or emergency.

~~18 VAC 85-90-20.~~ *18 VAC 105-30-20.* Public Participation Guidelines.

A separate board regulation, ~~18 VAC 85-10-10 et seq.~~ *18 VAC 105-10-10 et seq.*, which provides for involvement of the public in the development of all regulations of the Virginia Board of ~~Medicine~~ *Optometry*, is incorporated by reference in this chapter.

PART II.

APPLICATION FOR CERTIFICATION EXAMINATION.

~~18 VAC 85-90-30.~~ *18 VAC 105-30-30.* Application for certification by examination.

An applicant for certification by examination shall be made on forms provided by the board. Such application shall include the following information and documents:

1. A complete application form;
2. The fee specified in ~~18 VAC 85-90-120~~ of this chapter *18 VAC 105-30-110* to be paid at the time of filing the application;
3. Additional documents required to be filed with the application are:
 - a. A letter from the Virginia Board of Optometry certifying that:
 - (1) The applicant holds a current license to practice optometry in Virginia, and
 - (2) The applicant is certified to use diagnostic pharmaceutical agents;
 - b. Documented evidence of satisfactory completion of the postgraduate optometric training approved and prescribed by the board or documentation of graduate optometric training equivalent to the postgraduate optometric training required by the board;
 - c. Verification of licensure status in other states from the Board of Examiners in Optometry or appropriate regulatory board or agency.

PART III. EXAMINATION.

~~18 VAC 85-90-40.~~ *18 VAC 105-30-40.* Examination for certification.

The following general provisions shall apply to optometrists who apply to take the board's examination for certification to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents.

A. The certification examination for an optometrist to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall be in one part.

B. A candidate for certification by the board who fails the examination following three attempts shall take additional postgraduate training approved by the board to be eligible to take further examinations, as required in ~~18 VAC 85-90-110~~ *18 VAC 105-30-110*.

PART IV.

SCOPE OF PRACTICE FOR AN OPTOMETRIST CERTIFIED TO USE THERAPEUTIC DRUGS.

~~18 VAC 85-90-50.~~ *18 VAC 105-30-50.* Certification.

An optometrist, currently licensed by the Board of Optometry, who has completed didactic and clinical training to ensure an appropriate standard of medical care for the patient and has met all other requirements and has passed an examination administered by the board, shall be certified to administer and prescribe certain therapeutic pharmaceutical agents in the treatment of certain diseases, including abnormal conditions, of the human eye and its adnexa.

~~18 VAC 85-90-60.~~ Diseases and conditions which may be treated by an optometrist. *18 VAC 105-30-60.* Treatment guidelines.

Diseases and conditions which may be treated by an optometrist certified by the board are:

1. ~~Hordeolum, conjunctivitis, blepharitis, chalazion, and dry eye.~~
2. ~~Superficial foreign bodies of the eye and its adnexa which can be treated by noninvasive modalities.~~
3. ~~Superficial epithelial damage secondary to contact lens wear provided that no corneal opacity is present.~~

A. *TPA certified optometrists may treat diseases and abnormal conditions of the following structures of the human eye and its adnexa which may be appropriately treated with pharmaceutical agents as defined in 18 VAC 105-30-70:*

1. *Lids and adnexa;*
2. *Lacrimal system;*
3. *Cornea;*
4. *Conjunctiva; and*
5. *Episclera.*

B. In addition, the following may be treated:

1. Glaucoma (with prior consultation with the patient's physician or other appropriate physician and excluding the treatment of congenital and infantile glaucoma). Treatment of angle closure shall be limited to the initiation of immediate emergency care with pharmaceutical agents as defined in 18 VAC 105-30-70.
2. Ocular-related post-operative care in cooperation with patient's surgeon.
3. Ocular trauma to the above tissues as in subsection A of this section.
4. Uveitis, anterior.
5. Anaphylactic shock (limited to the administration of intramuscular epinephrine).

~~18 VAC 85-90-70.~~ 18 VAC 105-30-70. Therapeutic pharmaceutical agents.

~~Therapeutic pharmaceutical agents which a certified optometrist may administer and prescribe are all topical and are as follows:~~

- ~~1. Tetracycline~~
- ~~2. Erythromycin~~
- ~~3. Bacitracin~~
- ~~4. Polymyxin B/Bacitracin~~
- ~~5. Chlorotetracycline~~
- ~~6. Sodium Sulfacetamide 10%~~
- ~~7. Sodium Sulfacetamide 30%~~
- ~~8. Sulfisoxazole 4.0%~~
- ~~9. Sulfacetamide 15%/Phenylephrine 0.125%~~
- ~~10. Cromolyn Sodium 4.0%~~
- ~~11. Naphazoline HC1 0.1%~~
- ~~12. Phenylephrine HC1 0.125%/Pheniramine Maleate 0.5%~~
- ~~13. Phenylephrine HC1 0.12%/Pyrilamine Maleate 0.1%/Antipyrine 0.1%~~
- ~~14. Naphazoline HC1 0.025%/Pheniramine Maleate 0.3%~~
- ~~15. Naphazoline HC1 0.05%/Antazoline Phosphate 0.5%~~
- ~~16. Hydroxypropyl Cellulose Ophthalmic Insert~~
- ~~17. Polytrim Ophthalmic Solution~~
- ~~18. Neomycin~~
- ~~19. Levocabastine~~

A. A certified optometrist may administer and prescribe the following topically applied pharmaceutical agents (Schedule VI) or any therapeutically appropriate combination thereof:

1. Anti-allergy;

2. Anti-glaucoma;
3. Anti-infective;
4. Anti-inflammatory;
5. Cycloplegic and Mydriatic;
6. Decongestant; and
7. Over-the-counter medications appropriate to the treatment of the eye.

B. A certified optometrist may prescribe the following oral pharmaceutical agents:

1. Narcotic and nonnarcotic analgesics limited to Schedule III and VI; and
2. Over-the-counter medications appropriate to the treatment of the eye.

C. A certified optometrist may prescribe and dispense contact lenses for therapeutic purposes.

~~18 VAC 85-90-80. Standards of practice. 18 VAC 105-30-80. (Reserved.)~~

~~A. A certified optometrist after diagnosing and treating a patient who has a disease or condition as defined in 18 VAC 85-90-60, which disease or condition failed to improve appropriately, usually within 72 hours, shall refer the patient to an ophthalmologist. A patient with a superficial corneal abrasion which does not improve significantly within 24 hours shall be referred to an ophthalmologist.~~

~~B. The certified optometrist shall establish a written protocol for the management of patient emergencies and referrals to physicians.~~

~~C. The list in 18 VAC 85-90-70 does not preclude optometrists treating emergency cases of anaphylactic shock with intra-muscular epinephrine, such as obtained from a beesting kit.~~

~~D. The treatment of certain diseases, including abnormal conditions, of the human eye and its adnexa with the administration of certain therapeutic pharmaceutical agents by certified optometrists is prohibited in children five years of age or younger.~~

PART V.
RENEWAL OF CERTIFICATION.

~~18 VAC 85-90-90. 18 VAC 105-30-90. Renewal of certification.~~

Every optometrist certified by the board shall renew his certification biennially on or before July 1 and pay the prescribed fee in ~~18 VAC 85-90-120~~ 18 VAC 105-30-120 in each odd number year.

~~18 VAC 85-90-100. 18 VAC 105-30-100. Expiration of certification.~~

An optometrist who allows his certification to expire shall be considered not certified by the board. An optometrist who proposes to resume the treatment of certain diseases, including abnormal conditions, of the human eye and its adnexa and administer certain therapeutic pharmaceutical

Proposed Regulations

agents shall make a new application for certification and pay a fee prescribed in ~~18 VAC 85-90-120~~ 18 VAC 105-30-120.

PART VI. POSTGRADUATE TRAINING.

~~18 VAC 85-90-110.~~ 18 VAC 105-30-110. Postgraduate training required.

Every applicant applying for certification to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall be required to complete a full-time approved postgraduate optometric training program prescribed by the board or to document that his graduate optometric program contained equivalent elements to the postgraduate optometric program approved by the board.

A. The approved postgraduate program shall be the Ocular Therapy for the Optometric Practitioner #750B conducted by the Pennsylvania College of Optometry or any other postgraduate optometric program approved by the board.

B. Upon completing the required postgraduate optometric training program, the applicant may apply to sit for the certification examination administered by the board.

C. The certification examination shall be a one-part comprehensive examination in accordance with ~~18 VAC 85-90-40 of this chapter~~ 18 VAC 105-30-40.

PART VII. FEES.

~~18 VAC 85-90-120.~~ 18 VAC 105-30-120. Fees required by the board.

A. Application fee for the examination to be certified to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall be \$300. The examination fee is nonrefundable. An applicant may, upon written request 21 days prior to the scheduled examination and payment of a \$100 fee, be rescheduled for the next administration of the examination.

B. The fee for biennial renewal of certification shall be \$125.

C. The fee for reinstating an expired certification shall be \$150.

D. The fee for a letter of good standing/verification to another state for a license shall be \$10.

E. The fee for reinstatement of a revoked certificate shall be \$750.

Proposed Regulations

ALL QUESTIONS MUST BE ANSWERED. If any of the following questions is answered Yes, explain and substantiate with available documentation.

3. I hereby certify that I studied optometry and received the degree of _____
 on _____ from _____ (School)
 (Type of Degree)
 (Date)

4. Do you hold a current license to practice optometry in Virginia? If Yes, give license number _____
 5. List all jurisdictions in which you have been certified/licensed to practice optometry _____

6. List all didactic and clinical postgraduate training in the treatment of diseases or abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents: _____

	Yes	No
7. Have you ever had any of the following disciplinary actions taken against your license/certificate to practice optometry, or are any such actions pending? (a) suspension or revocation (b) probation (c) reprimand or cease and desist (d) had your practice monitored.	_____	_____

8. Have you ever been convicted of a violation of or pled Not Guilty/Contends to any federal, state, or local statute, regulation or ordinance, or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except convictions for driving under the influence.) _____

9. Have you ever had hospital privileges or any membership in a state or local professional society revoked, suspended, or sanctioned in any manner? _____

10. Have you voluntarily withdrawn from a hospital staff or from any professional society while under investigation? _____

11. Have you had any malpractice suits brought against you in the last ten years? If so, how many? _____
 Provide a letter from your attorney explaining each case.

12. Have you been physically or emotionally dependent upon the use of alcohol/drugs, or treated by, consulted with, or been under the care of a professional for any substance abuse within the last two years? If so, provide a letter from the treating professional. _____

13. Have you received treatment for or been hospitalized for a nervous, emotional or mental disorder within the last two years? If so, provide a letter from your treating professional summarizing diagnosis, treatment, and prognosis. _____

14. Do you have a physical disease or diagnosis which could affect your performance of professional duties? If so, provide a letter from the treating professional. _____

15. Have you been adjudged mentally incompetent or been involuntarily committed to a mental institution within the last _____

16. AFFIDAVIT OF APPLICANT

(THIS SECTION MUST BE NOTARIZED)

I, _____, being first duly sworn, depose and say that I am the person referred to in the foregoing application and supporting documents. I hereby authorize all hospitals, institutions, or organizations, my references, personal physicians, employers (past and present), business and professional associates (past and present), and all governmental agencies and instrumentalities (local, state, federal, or foreign) to release to the Virginia Board of Optometry any information, files, or records requested by the Board in connection with the processing of individuals and groups listed above, any information which is material to me and my application.

I have carefully read the questions in this foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension or revocation of my certificate to practice as a certified optometrist in the Commonwealth of Virginia.

RIGHT THUMB PRINT

If right thumb is missing, use left and so indicate.

Signature of Applicant

City/County of _____ State of _____
 Subscribed and sworn to before me this _____ day of _____ 19____
 My commission expires _____

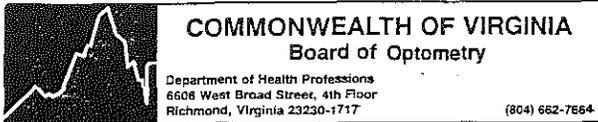
NOTARY SEAL

Signature of Notary Public

V.A.R. Doc. No. R96-498, Filed July 17, 1996, 12:03 p.m.

Optometry

DHP-061
REV. 7/93
Form B



Please complete top portion and forward one form to each State Board where you hold or have held an optometry license. Extra copies may be xeroxed if needed.

NOTE: Some states require a fee, paid in advance, for providing clearance information. To expedite, you may wish to contact the applicable state(s).

CLEARANCE FROM OTHER STATE BOARDS

I was granted license/certificate # _____ on _____
by the state of _____. The Virginia Board of Optometry requests
that I submit evidence that my license/certification in the state of _____
is in good standing. You are hereby authorized to release any information in your files, favorable, or otherwise,
directly to the Virginia Board of Optometry, 6606 West Broad Street, 4th Floor, Richmond, Virginia 23230-1717.
Your earliest attention is appreciated.

Signature _____

Print or Type Name _____

EXECUTIVE OFFICE OF STATE BOARD:

Please complete and return this form to the Virginia Board of Optometry at the above address.

State of _____ Name of Licensee _____

License/Certificate # _____ Date issued _____

Licensed/Certified through (check one)

National Examination _____ State Board Examination _____

Reciprocity/Endorsement from _____

License/Certificate is Current _____ Lapsed _____

_____ Diagnostic Pharmaceutical Agents _____ Therapeutic Pharmaceutical Drugs

Has applicant's license/certificate ever been suspended or revoked? Yes No

If yes, for what reason? _____

Derogatory information, if any _____

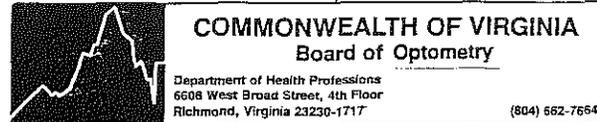
Signature _____ Title _____

Date _____ State Board _____

BOARD SEAL

Optometry

DHP-601
REV. 7/93
Form A



CERTIFICATE OF TRAINING

Every applicant applying for certification to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall provide evidence of having completed a full-time approved postgraduate optometric training program, or a full-time approved graduate optometric training program to the Board.

I hereby authorize the director of the postgraduate or graduate training program to release to the Virginia Board of Optometry the information listed below in connection with the processing of my application.

Signature of Applicant _____

It is hereby certified that _____ completed

the program for _____
Title of Postgraduate or Graduate Optometric Program

from _____ to _____
(Mo/Day/Yr) (Mo/Day/Yr)

School of Optometry _____

Address _____

City, State, ZIP Code _____

Program Director _____

Date _____

Please return to: Department of Health Professions
Board of Optometry
6606 West Broad Street, 4th Floor
Richmond, VA 23230-1717

SCHOOL SEAL

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 regulation.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: 13 VAC 10-10-10 et seq. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority (amending 13 VAC 10-10-80).

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Effective Date: July 17, 1996.

Summary:

The amendments, in accordance with legislation enacted in the 1996 Session of the General Assembly, delete or modify certain requirements in the case of the purchase by the authority of mortgage loans held, insured or assisted by the federal government or any agency or instrumentality thereof.

Agency Contact: Copies of the regulation may be obtained from J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

13 VAC 10-10-80. Purchase of mortgage loans.

A. The authority may from time to time, pursuant and subject to its rules and regulations, purchase mortgage loans from mortgage lenders. In furtherance thereof, the executive director may request mortgage lenders to submit offers to sell mortgage loans to the authority in such manner, within such time period and subject to such terms and conditions as he shall specify in such request. The executive director may take such action as he shall deem necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to mortgage lenders, advertising in newspapers or other publications and any other methods of public announcement which he may select as appropriate under the circumstances. The executive director may also consider and accept offers for sale of individual mortgage loans submitted from time to time to the authority without any solicitation therefor by the authority.

B. The authority shall require as a condition of the purchase of any mortgage loans from a mortgage lender pursuant to this section that such mortgage lender within 180 days from the receipt of proceeds of such purchase shall enter into written commitments to make, and shall thereafter proceed as promptly as practical to make and disburse from such proceeds, residential mortgage loans in the Commonwealth of Virginia having a stated maturity of not less than 20 years from the date thereof in an aggregate

principal amount equal to the amount of such proceeds. *The foregoing requirement in this subsection B shall not apply to the purchase by the authority of a mortgage loan held, insured or assisted by the federal government or any agency or instrumentality thereof.*

C. At or before the purchase of any mortgage loan pursuant to this section, the mortgage lender shall certify to the authority that the mortgage loan would in all respects be a prudent investment and that the proceeds of the purchase of the mortgage loan shall be invested as provided in subsection B of this section or invested in short-term obligations pending such investment; *provided, however, that such certification shall not be required in the case of the purchase by the authority of a mortgage loan held, insured or assisted by the federal government or any agency or instrumentality thereof.*

D. The purchase price for any mortgage loan to be purchased by the authority pursuant to this section shall be established or determined in accordance with ~~subdivision (2)~~ subsection B of § 36-55.35 of the Code of Virginia.

VA.R. Doc. No. R96-489; Filed July 17, 1996, 9:01 a.m.

Title of Regulation: 13 VAC 10-160-10 et seq. Rules and Regulations for Administration of Elderly and Disabled Low-Income Housing Tax Credits (amending 13 VAC 10-160-10, 13 VAC 10-160-20, 13 VAC 10-160-30, 13 VAC 10-160-60 through 13 VAC 10-160-90; adding 13 VAC 10-160-120; and repealing 13 VAC 10-160-40 and 13 VAC 10-160-50).

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Effective Date: July 17, 1996.

Summary:

In accordance with legislation enacted in the 1996 Session of the General Assembly, the amendments for the administration of elderly and disabled low-income housing tax credits delete or modify certain provisions to allow for the phasing out of this program subsequent to June 30, 1996. The amendments also authorize the executive director to increase allocations of tax credits as necessary to enable the owner to comply with the statutory requirement that the rent be at least 15% less than the market rent.

Agency Contact: Copies of the regulation may be obtained from J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

CHAPTER 160.
 RULES AND REGULATIONS FOR ALLOCATION
 ADMINISTRATION OF ELDERLY AND DISABLED LOW-
 INCOME HOUSING TAX CREDITS.

13 VAC 10-160-10. Definitions.

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

"*Authority*" means the Virginia Housing Development Authority.

"*Board*" means the Board of Commissioners of the authority.

"*Disability*" means (i) a physical or mental impairment which substantially limits one or more of the major life activities of such individual and includes any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities (the term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus (HIV) infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance, and alcoholism) or (ii) a record of such an impairment; or being regarded as having such an impairment which includes a history of or being misclassified as having a mental or physical impairment that substantially limits one or more major life activities; or a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation; or a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or none of the impairments defined above but the individual is treated by another person as having such an impairment; provided, however, that any physical or mental impairment described in (i) or (ii) shall be expected to result in death or shall have lasted continuously during the immediately preceding 12-month period or shall be expected to last continuously during the next succeeding 12-month period.

"*Elderly person*" means a person who exceeds, by any period of time, 62 years of age.

"*Elderly tenant*" means (i) an elderly person or (ii) a household in which any member is an elderly person.

"*Eligible owner*" means any person meeting the criteria for an eligible owner as set forth in the state code and these rules and regulations.

"*Eligible tenant*" means an elderly tenant or tenant with a disability whose income does not exceed the limit described in these rules and regulations.

"*Executive director*" means the executive director of the authority or any other officer or employee of the authority who is authorized to act on his behalf or on behalf of the authority pursuant to a resolution of the board.

"*HUD fair market rent*" means the rent published by the U.S. Department of Housing and Urban Development for the Section 8 Rental Certificate Program.

"*Income*" means gross income (including but not limited to all salary, wages, bonuses, commissions, income from self-employment, interest, dividends, alimony, rental income, pensions, business income, annuities, social security payments, cash public assistance, support payments, retirement income and any other sources of cash income) which is being received by the elderly tenant or tenant with a disability or is regularly paid to or on behalf of such tenant by a third party as of the application date. The income of any person who is living with an elderly person or person with a disability for the primary purpose of providing care to such person shall be excluded. All such income, provided it is not temporary, shall be computed on an annual basis to determine income for the purpose of program eligibility.

"*Market rent*" means the amount of rent, as determined by the authority pursuant to these rules and regulations, charged to other tenants for comparable units (other than tax credit units) in the same property or, if there are no such comparable units in the same property, for comparable units in the same market area.

"*Owner*" means ~~an applicant for tax credits under these rules and regulations and, upon and subsequent to an allocation of such credits,~~ means the owner of the tax credit unit to whom the tax credits are allocated.

"*Person with a disability*" means a person having a disability as defined in these rules and regulations.

"*Program*" means the elderly and disabled low-income housing tax credit program described in these rules and regulations.

"*State code*" means Article 3 (§ 58.1-331 et seq.) of Chapter 3 of Title 58.1 of the Code of Virginia.

"*Tax credit rent*" means the reduced amount of rent charged for the tax credit unit to the eligible tenant. As provided in 13 VAC 10-160-30, the tax credit rent shall be at least 15% less than the market rent.

"*Tax credits*" means the tax credits as described in § 58.1-339 of the Code of Virginia;

"*Tax credit unit*" means a unit occupied ~~or to be occupied~~ by eligible tenants at reduced rents in order for the owner to be entitled to receive tax credits hereunder.

"*Tenant*" means a person or household who is ~~applying for occupancy of, or is occupying,~~ a tax credit unit.

"*Tenant with a disability*" means (i) a person with a disability or (ii) a household in which any member is a person with a disability.

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13 VAC 10-160-20. Purpose and applicability.

The following rules and regulations will govern the ~~allocation by the authority~~ *administration* of tax credits by the authority pursuant to the state code.

Notwithstanding anything to the contrary herein, acting at the request or with the consent of the owner, the executive director is authorized to waive or modify any provision herein where deemed appropriate by him for good cause, to the extent not inconsistent with the state code.

The rules and regulations set forth herein are intended to provide a general description of the authority's ~~processing~~ *administration* requirements and are not intended to include all actions involved or required in the ~~processing and~~ *administration* of the tax credits. These rules and regulations are subject to change at any time by the authority and may be supplemented by policies, rules and regulations adopted by the authority from time to time.

Notwithstanding anything to the contrary herein, all procedures and requirements in the state code must be complied with and satisfied.

13 VAC 10-160-30. General description.

The state code ~~has been~~ *was* amended by adding a section numbered 58.1-339 relating to a tax credit for owners providing rent reduction for eligible tenants.

Beginning For taxable years beginning on or after January 1, 1991, through December 31, 1993 1999, any individual or corporation receiving an allocation of tax credits pursuant to ~~13 VAC 10-160-70 § 58.1-339 of the Code of Virginia~~ shall, subject to the provisions of the state code and these rules and regulations, be entitled to a credit against the tax levied pursuant to § 58.1-320 or § 58.1-400 of the Code of Virginia, provided that the following requirements are satisfied:

1. The individual or corporation is engaged in the business of the rental of dwelling units (as hereinafter specified) and is subject to the Virginia Residential Landlord and Tenant Act, § 55-248.2 et seq. of the Code of Virginia, either by virtue of the provisions thereof or by virtue of the owner's providing for the applicability thereof pursuant to § 55-248.5 B of the Code of Virginia;
2. The owner provides a reduced rent to eligible tenants; and
3. The rent charged to the eligible tenants is at least 15% less than the market rent; and
4. *To claim a credit for reduction of rents charged to a tenant on or after July 1, 1996, a credit for rental reductions must have been validly claimed on the tax credit unit for all or part of the month of June 1996 and such tenant must have been an occupant of such tax credit unit on June 30, 1996.*

The allowable tax credit amount shall be 50% of the total rent reductions allowed during the taxable year to the eligible tenants occupying the tax credit units. The amount of the rent reduction shall be equal to the market rent minus the tax credit rent. For this purpose, the tax credit rent shall include

any rental subsidy payable on behalf of the eligible tenant under any governmental or private program.

If there are comparable units (other than tax credit units) in the same property, the market rent shall be determined by the authority to be the rent charged to other tenants for such comparable units. For the purpose of determining the amount of rent charged to other tenants for comparable units in the same property, the authority shall assume that the other tenants commenced and, if applicable, renewed their leases as of the same date or dates, and for the same term or terms as the eligible tenants and at the rents in effect on such date or dates.

If there are no other such comparable units in the same property, then the market rent shall be determined by the authority to be the rent charged for comparable units in the same market area. Such rent shall be (i) the rent most recently charged for the tax credit unit to a person (who may be the eligible tenant to be assisted) unrelated to the owner within the one-year period prior to the date of filing of the application, plus a rental increase in an amount determined by the authority to reflect increases in rents in the market area of such tax credit unit since the date such rent was last charged, or (ii) if no rental history as described in (i) exists, the HUD fair market rent allowed for a comparable unit in the same market area (as reduced, to the extent determined by the authority, for any utilities which are not to be included in the tax credit rent under the terms of the lease); provided, however, that the owner may demonstrate to the authority that the rent for a comparable unit in the same market area is higher than (i) or (ii) above, as applicable, and to the extent so demonstrated to the satisfaction of the authority, such higher rent shall be used.

Notwithstanding anything to the contrary herein, the market rent shall in no event exceed 150% of the HUD fair market rent allowed for comparable units in the same market area (as reduced, to the extent determined by the authority, for any utilities which are not to be included in the tax credit rent under the terms of the lease).

If the tax credit unit is subsidized or assisted under any governmental or private program, the comparable units in the same property or market area, as applicable, shall include only those units similarly subsidized or assisted.

Because the intent of the state code is to provide tax credits for the rental of dwelling units only, tax credits ~~may not be allocated by the authority~~ *shall not be claimed* for the leasing of land only, including without limitation mobile home lots. Tax credits may be ~~allocated~~ *claimed* for the leasing of both a mobile home lot and the mobile home located thereon.

To be eligible for the program, a dwelling unit must contain separate and complete facilities for living, sleeping, eating, cooking and sanitation. Such accommodations may be served by centrally located equipment such as air conditioning or heating. Thus, for example, an apartment containing a living area, a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink, all of which are separate and distinct from other apartments, would constitute a unit.

In order to satisfy the requirement in § 58.1-339 of the state code that the owner be an individual or corporation

engaged in the business of the rental of dwelling units, the owner must intend *have intended* at the time of application and *must intend* at all times thereafter to report, for federal income tax purposes, all rental and other income and any related expenses of the tax credit unit with respect to each tax year for which the tax credits are to be claimed for such tax credit unit.

The amount of credit for each individual or corporation for each taxable year shall not exceed \$10,000 or the total amount of tax imposed by Chapter 3 (*§ 58.1-300 et seq.*) of Title 58.1 of the Code of Virginia, whichever is less. If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount which exceeds the tax liability may be carried over for credit against income taxes of such individual or corporation in the next five taxable years until the total amount of the tax credit has been taken.

Credits granted to a partnership or an electing small business corporation (S corporation) shall be passed through to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

The total amount of tax credits which may be approved by the authority in any fiscal year *prior to fiscal year 1996-1997* shall not exceed \$1,000,000. *Commencing in fiscal year 1996-1997, the total amount of tax credits which may be approved by the authority in any fiscal year shall not exceed \$250,000. In the case of tax credits to be claimed for any period after June 30, 1996, no tax credits will be approved for a unit unless a tax credit was validly claimed for such unit for all or part of the month of June 1996. No tax credits may be claimed for taxable years after December 31, 1999.*

The authority may charge to each owner fees in such amount as the executive director shall determine to be necessary to cover the administrative costs to the authority. Such fees shall be payable at such time or times as the executive director shall require.

13 VAC 10-160-40. Solicitations of applications. (Repealed.)

~~The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for tax credits. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications and the selection thereof as he shall consider necessary or appropriate.~~

13 VAC 10-160-50. Application. (Repealed.)

~~Application for an allocation of tax credits shall be commenced by filing with the authority an application on such form or forms as the executive director may from time to time prescribe or approve, together with such documents and additional information as may be requested by the authority in order to comply with the state code and to make the allocation of the tax credits in accordance with these rules and regulations.~~

~~The executive director may establish criteria and assumptions to be used by the owner in the calculation of amounts in the application, and any such criteria and assumptions shall be indicated on the application form or instructions.~~

~~The executive director may prescribe such deadlines for submission of applications for allocation of tax credits for any calendar year as he shall deem necessary or desirable to allow sufficient processing time for the authority to make such allocations.~~

~~The tax credit unit for which an application is submitted may be, but shall not be required to be, financed by the authority. If any such tax credit unit is to be financed by the authority, the application for such financing shall be submitted to and reviewed by the authority in accordance with its applicable rules and regulations.~~

~~The authority may consider and approve, in accordance herewith, the allocation of tax credits for tax credit units which the authority may own or may intend to acquire, construct or rehabilitate.~~

13 VAC 10-160-60. Eligibility of tenants and verification.

The occupancy of units entitled to tax credits is limited to elderly tenants or tenants with disabilities whose incomes, as of initial occupancy of the tax credit unit by such tenants (or, if any such tax credit unit is *was* occupied by such a tenant on January 1 of the first calendar year for which the tax credits are to be *were* claimed for such tax credit unit, as of such January 1), ~~do~~ *did* not exceed 80% of the median income for the area. Preference in occupancy of tax credit units ~~will be~~ *must have been* given to eligible tenants whose incomes ~~are~~ *were* less than or equal to 50% of the median income for the area. The United States Department of Housing and Urban Development income limits for subsidized programs, as adjusted by family size, ~~will be~~ *must have been* used in determining such 80% and 50% of median income for the area.

In the case of tax credits to be claimed for any period after June 30, 1996, in order to be eligible the tenant must have been an occupant of the tax credit unit on June 30, 1996.

~~Owners shall be required to obtain *must have obtained* written income verification for eligible tenants who occupy or are expected to occupy a tax credit unit. The verification of income must be *have been* sent by the owner to each employer or the agency providing benefits along with a stamped, self-addressed return envelope. Such verification should *must have* then be retained by the owner and a copy submitted to the authority (together with an executed confirmation of resident eligibility form and the verification of age or disability) at the time that the eligible tenant is *was* determined by the owner to be income eligible. Verification of income must be *have been* current as of a date no earlier than 90 days prior to the date set forth in the preceding paragraph (*see first paragraph in this section*) as of which the income of the eligible tenant is *was* determined for eligibility purposes.~~

With respect to tax credits claimed for rental of tax credit units to tenants with disabilities, owners shall be required to obtain *must have obtained* a written verification of disability.

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Verification of said disability ~~may be~~ *must have been* obtained from a physician, diagnostic or vocational rehabilitation service center or the Social Security Administration.

With respect to tax credits claimed for rental of tax credit units to elderly tenants, owners must ~~verify~~ *have verified* the age of all persons claiming to exceed 62 years of age. Verification of Social Security benefits paid on the person's behalf ~~will be~~ *is acceptable* if a birth certificate ~~cannot be~~ *could not have been* obtained; provided, however, that any person receiving survivor Social Security benefits who ~~does~~ *did* not exceed 62 years of age or ~~does~~ *did* not have a disability is not eligible for occupancy of a tax credit unit.

The initial lease term for all eligible tenants occupying a tax credit unit ~~may not be~~ *must not have been* less than a 12-month period.

13 VAC 10-160-70. Review and selection of application; Administration of allocation of tax credits.

Pursuant to the state code, the state is divided into the following low-income housing tax credit allocation areas, each of which shall be allocated the percent share of tax credits set forth below and in the state code:

Allocation Area 1

Percent Share of Tax Credits: 10.70

Planning District: LENOWISCO

Jurisdictions: Norton City, Lee County, Scott County, Wise County

Planning District: Cumberland Plateau

Jurisdictions: Buchanan County, Dickenson County, Russell County, Tazewell County

Planning District: Mount Rogers

Jurisdictions: Bristol City, Galax City, Bland County, Carroll County, Grayson County, Smyth County, Washington County, Wythe County

Planning District: New River Valley

Jurisdictions: Radford City, Floyd County, Giles County, Montgomery County, Pulaski County

Allocation Area 2

Percent Share of Tax Credits: 12.09

Planning District: Fifth

Jurisdictions: Clifton Forge City, Covington City, Roanoke City, Salem City, Alleghany County, Botetourt County, Craig County, Roanoke County

Planning District: Central Virginia

Jurisdictions: Bedford City, Lynchburg City, Amherst County, Appomattox County, Bedford County, Campbell County

Planning District: West Piedmont

Jurisdictions: Danville City, Martinsville City, Franklin County, Henry County, Patrick County, Pittsylvania County

Allocation Area 3

Percent Share of Tax Credits: 6.70

Planning District: Central Shenandoah

Jurisdictions: Buena Vista City, Harrisonburg City, Lexington City, Staunton City, Waynesboro City, Augusta County, Bath County, Highland County, Rockbridge County, Rockingham County

Planning District: Lord Fairfax

Jurisdictions: Winchester City, Clarke County, Frederick County, Page County, Shenandoah County, Warren County

Allocation Area 4

Percent Share of Tax Credits: 20.98

Planning District: Northern Virginia

Jurisdictions: Alexandria City, Fairfax City, Falls Church City, Manassas City, Manassas Park City, Arlington County, Fairfax County, Loudoun County, Prince William County

Allocation Area 5

Percent Share of Tax Credits: 4.70

Planning District: Rappahannock-Rapidan

Jurisdictions: Culpeper County, Fauquier County, Madison County, Orange County, Rappahannock County

Planning District: Thomas Jefferson

Jurisdictions: Charlottesville City, Albemarle County, Fluvanna County, Greene County, Louisa County, Nelson County

Allocation Area 6

Percent Share of Tax Credits: 5.22

Planning District: Southside

Jurisdictions: South Boston City, Brunswick County, Halifax County, Mecklenburg County

Planning District: Piedmont

Jurisdictions: Amelia County, Buckingham County, Charlotte County, Cumberland County, Lunenburg County, Nottoway County, Prince Edward County

Planning District: Crater

Jurisdictions: Colonial Heights City, Emporia City, Hopewell City, Petersburg City, Dinwiddie County, Greenville County, Prince George County, Surry County, Sussex County

Allocation Area 7

Percent Share of Tax Credits: 12.68

Planning District: Richmond Regional

Jurisdictions: Richmond City, Charles City County, Chesterfield County, Goochland County, Hanover County, Henrico County, New Kent County, Powhatan County

Allocation Area 8

Percent Share of Tax Credits: 5.15

Planning District: RADCO

Jurisdictions: ~~Fredericksburg City, Caroline County, King George County, Spotsylvania County, Stafford County~~

Planning District: Northern Neck

Jurisdictions: ~~Lancaster County, Northumberland County, Richmond County, Westmoreland County~~

Planning District: Middle Peninsula (not including Gloucester)

Jurisdictions: ~~Essex County, King and Queen County, King William County, Mathews County, Middlesex County~~

Planning District: Accomack-Northampton

Jurisdictions: ~~Accomack County, Northampton County~~

Allocation Area 9

Percent Share of Tax Credits: 21.69

Planning District: Southeastern Virginia

Jurisdictions: ~~Chesapeake City, Franklin City, Norfolk City, Portsmouth City, Suffolk City, Virginia Beach City, Isle of Wight County, Southampton County~~

Planning District: Peninsula

Jurisdictions: ~~Hampton City, Newport News City, Poquoson City, Williamsburg City, James City County, York County~~

Planning District: Middle Peninsula

Jurisdictions: ~~Gloucester County~~

The executive director may further suballocate these allocation areas into allocation subpools based upon one or more of the following factors: geographical areas; types or characteristics of housing, construction, financing, owners, or occupants; or any other factors deemed appropriate by him to best meet the housing needs of the Commonwealth.

Tax credits shall be allocated to eligible owners on a "first-come, first-served" basis. In the event that the amount of tax credits available within an allocation area or subpool is sufficient for some but not all of eligible applications received by the authority on the same day, then the authority shall select one or more of such applications by lot.

The executive director may exclude and disregard any application which he determines is not submitted in good faith.

The amount of tax credits which may be allocated for tax credit units in any single development shall not exceed \$10,000; provided, however, that the executive director may from time to time terminate or suspend such \$10,000 limit for such allocation area or areas and for such period of time as he shall deem appropriate to assure full utilization and proper distribution of the tax credits. For the purpose of compliance with such \$10,000 limit, the executive director may determine that developments in one or more applications constitute a single development based upon such factors as he may deem relevant, including without limitation the ownership,

~~proximity, age, management, financing and physical characteristics of the developments.~~

The executive director shall allocate tax credits, in the manner described above, to eligible owners within each allocation area or subpool, if applicable, until either all tax credits therein are allocated or all eligible owners therein have received allocations. The amount allocated to each such eligible owner shall be equal to the lesser of (i) the amount requested in the application or (ii) the amount, determined by the executive director, to which the eligible owner is entitled under the state code and these rules and regulations as of the date of application; provided, however, that in no event shall the amount of tax credits so allocated exceed the amount of tax credits available in the allocation area or subpool from which such tax credits are to be allocated.

Amounts in any allocation area not allocated to any eligible owners may not be reallocated to any other allocation areas. Any amounts in any allocation subpools not allocated to eligible owners shall be reallocated among the other subpools (within the same allocation area) in which eligible owners shall not have received allocations in the full amount permissible under these rules and regulations. Such reallocation shall be made pro rata based on the amount originally allocated to all such subpools with excess applications divided by the total amount originally allocated to all such subpools with excess applications. Such reallocations shall continue to be made until either all of the tax credits within the allocation area are allocated to eligible owners in the manner described above or all applications in the allocation area have received allocations.

The executive director determines whether the owner and the tax credit units are entitled to tax credits under the state code and these rules and regulations. If the executive director determines that the owner or the tax credit units are not so entitled to tax credits, the owner shall be so informed and his application shall be terminated. If the authority determines that the owner and the tax credit units are so entitled to tax credits, then the executive director shall issue to the owner, on behalf of the authority, a commitment for allocation of tax credits with respect to the applicable tax credit units. The allocation shall be subject to the approval or ratification thereof by the authority's board as described below.

The board shall review and consider the analysis and recommendation of the executive director for the allocation of tax credits, and, if it concurs with such recommendation, it shall by resolution approve or ratify the allocation by the executive director of the tax credits to the eligible owner, subject to such terms and conditions as the board or the executive director shall deem necessary or appropriate to assure compliance with the state code and these rules and regulations. If the board determines not to approve or ratify an allocation of tax credits, the executive director shall so notify the owner.

Upon compliance with the state code and these rules and regulations, the owner to whom an allocation is made hereunder shall be entitled to tax credits annually, in such amount as is determined by the authority pursuant to these rules and regulations, for each year beginning in the year for

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~~which such allocation is made and ending December 31, 1993, unless terminated or reduced pursuant to these rules and regulations.~~

Except as provided in 13 VAC 10-160-120, tax credits shall not be allocated by the authority after June 30, 1996. Allocations of tax credits made by the authority prior to June 30, 1996, shall remain in effect, subject to the provisions of these rules and regulations.

The amount of tax credits claimed by an owner in any taxable year for tax credit units shall not exceed the amount of tax credits allocated to such owner for such tax credit units. The executive director may require that owners to whom tax credits have been allocated shall submit from time to time or at such specified times as he shall require, written confirmation and documentation as to the status of the each tax credit unit and its compliance with the application and these rules and regulations. If on the basis of such written confirmation and documentation and other available information the executive director determines that the any tax credit unit does not or will not qualify or will not continue to qualify for such tax credits, then the executive director may terminate or reduce the allocation of such tax credits. Without limiting the foregoing, the owner shall lease the tax credit units to eligible tenants at reduced rents such that the aggregate of such rent reductions shall be no less than the aggregate of the rent reductions set forth in the application. In the event that the owner shall fail to so lease the tax credit units, the authority may, upon its determination that the owner is unable or unwilling to utilize fully its allocation of the tax credits, terminate or reduce such allocation, as it shall deem appropriate.

The authority shall have the right to inspect the tax credit units and related property and improvements from time to time, and the tax credit units and related property and improvements shall be in a state of repair and condition satisfactory to the authority. The authority may require the owner to make necessary repairs or improvements, in a manner acceptable to the authority, as a condition for receiving or qualifying for an allocation of tax credits or for certification to the Department of Taxation as described hereinbelow.

~~The executive director may establish such deadlines for the owner to qualify for the tax credits and to comply with the application and these rules and regulations as he shall deem necessary or desirable to allow the authority sufficient time, in the event of a reduction or termination of the owner's allocation, to allocate such tax credits to other eligible owners.~~

Any material changes to the condition, use or occupancy of the tax credit unit or in any other representations, facts or information, as contained or proposed in the application, occurring subsequent to the submission of the application for the tax credits therefor shall be subject to the prior written approval of the executive director. As a condition to any such approval, the executive director may, as necessary to comply with these rules and regulations and the state code, reduce the amount of tax credits allocated or impose additional terms and conditions with respect thereto. If such changes are made without the prior written approval of the executive director, he may terminate or reduce the allocation of such

tax credits or impose additional terms and conditions with respect thereto.

~~In the event that any allocation of tax credits is terminated or reduced by the executive director under this section, he may allocate such tax credits (in the amount of such termination or reduction) to eligible owners (other than the owners whose tax credit allocation was so terminated or reduced) in the first come first served manner described above or in such other manner as he shall determine consistent with the requirements of the state code.~~

If subsequent to receipt of an allocation of tax credits an owner shall transfer any of the tax credit units to a transferee which is eligible for such tax credits under the state code and these rules and regulations, such transferee shall thereupon be entitled to the allocation of tax credits for such tax credit units and shall, for the purposes of these rules and regulations, be thereafter deemed the owner for such tax credits.

13 VAC 10-160-80. Tax credit period.

Each period for which an owner may claim tax credits for any tax credit unit shall commence upon the date that the tax credit unit is occupied by an eligible tenant pursuant to a lease providing for a 12-month term and for the payment of rent in the amount of the tax credit rent. Such period shall not commence prior to the allocation of the tax credits by the authority to the owner, except that if the tax credit unit is so occupied from the first day of the month in which the allocation of tax credits is made, such period shall commence on such first day of the month. Such period shall continue until termination of occupancy as described in 13 VAC 10-160-90 or until December 31, 1999, whichever occurs first. However, in no event shall any such period commence and continue unless the tax credit unit is and remains in a state of repair and condition satisfactory to the authority, all documentation required by 13 VAC 10-160-60 has been and is submitted to the authority in accordance herewith, and all other applicable requirements of the state code and these rules and regulations have been and are satisfied. If the owner shall be entitled to claim tax credits on any tax credit unit for a portion of a month during such period, the rent reduction shall be calculated pro rata based upon the number of days in such month that the owner is so entitled to claim tax credits or, with respect to the termination of occupancy, shall be calculated as provided in 13 VAC 10-160-90.

13 VAC 10-160-90. Maintenance of records; submission requirements; termination of occupancy.

Owners shall be responsible for obtaining and maintaining all documentation required by the authority to evidence that the tax credit units qualify for tax credits under the program. Owners will be responsible for providing this documentation to the authority for review within 30 days following the end of each calendar year; provided, however, that the documents listed in subdivisions 2 a, b, c and g of this section ~~shall be~~ *must have been* submitted at the time required by 13 VAC 10-160-60. The tax credit unit will not qualify for tax credits if all required documents, in the form required by the authority, are not so provided. Required documentation to be submitted to the authority includes, but is not limited to, the following:

1. A listing (including dates of occupancy) of all tenants ~~currently occupying, or who previously occupied,~~ *who occupied* a tax credit unit entitled to a tax credit for that year.

2. A complete certification package for each eligible tenant receiving the reduced rent. The certification must include:

a. A completed and executed confirmation of resident eligibility form.

b. Verification of income.

c. Verification of age or disability.

d. A certification from the tenant verifying:

(1) What unit type/size was occupied,

(2) Number of months said unit was occupied,

(3) The amount of rent paid, and

(4) How many months that amount of rent was paid, and

(5) *In the case of the tax credits claimed for any period after June 30, 1996, occupancy of the tax credit unit by the tenant on June 30, 1996.*

e. A certification of the owner that *prior to July 1, 1996*, preference in occupancy of the tax credit units was given to eligible tenants whose incomes were less than or equal to 50% of the median income for the area (the waiting list for tax credit units during the calendar year identifying the persons applying for such units and their incomes shall be maintained by the owner and shall be available for inspection by the authority).

f. Rent rolls for the comparable units in the same property as the tax credit units setting forth the rents charged to other tenants, if rents for such comparable units are to be used to determine the amount of the rent reduction pursuant to 13 VAC 10-160-30.

g. Copies of leases for each tax credit unit.

h. In the case of the tax credits claimed for any period after June 30, 1996, a certification of the owner that a tax credit for rental reductions was validly claimed on the tax credit unit for all or part of the month of June 1996, and that the tenant receiving such rental reductions was an occupant of such tax credit unit on June 30, 1996.

In the event of termination of occupancy, the rent reduction shall be calculated pro rata based upon the number of days determined in the following manner. In the event of death of the only elderly person or person with a disability occupying a tax credit unit, the owner must obtain a copy of the death certificate or must provide other acceptable documentation of death; and the number of days for which an owner is entitled to tax credits on such deceased person's tax credit unit shall be determined by the date of death. If the eligible tenant abandons the tax credit unit, the earliest of the date the owner discovers the tax credit unit is vacant, the date any utility company terminates service on the tax credit unit, or

the date 30 days after abandonment will be used to determine the number of days for which the tax credit unit is entitled to the tax credit. If the tax credit unit shall not be so abandoned but the eligible tenant shall not occupy the tax credit unit for a period of 30 days (or such longer period of time as the executive director may approve), the end of such period shall be used to determine the number of days for which the tax credit unit is entitled to the tax credit. If the lease is terminated for any reason other than those set forth above in this paragraph, the effective date of termination shall be used to determine the number of days for which the tax credit unit is entitled to the tax credit.

13 VAC 10-160-120. Authority to increase allocation of credits.

Notwithstanding anything to the contrary herein, the executive director may, in his discretion and without ratification or approval by the board, increase the amount of credits allocated to a tax credit unit for the purpose of allowing the owner to continue to comply with the requirement in the state code and these rules and regulations that the rent charged to the eligible tenant be at least 15% less than the market rent. Any request for such increase shall include such information, opinions, certifications and documentation as the executive director may require.

VA.R. Doc. No. R96-490; Filed May 22, 1996, July 17, 1996, 9:02 a.m.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Title of Regulation: [~~VR 615-00-04.~~ **22 VAC 40-10-10 et seq.**] **Public Participation Guidelines (REPEALED).**

Statutory Authority: §§ 9-6.14:7.1 and 63.1-25 of the Code of Virginia.

Effective Date: September 4, 1996.

Summary:

This regulation describes the way the State Board of Social Services obtains public input when developing, revising or repealing a regulation. This regulation has been repealed and superseded by 22 VAC 40-11-10 et seq.

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

Agency Contact: L. Richard Martin, Jr., Regulatory Coordinator, Department of Social Services, 730 East Broad Street, Richmond, VA 23219-1849, telephone (804) 692-1825.

VA.R. Doc. No. R96-477; Filed July 10, 1996, 1:12 p.m.

Title of Regulation: [~~VR 615-00-01:1.~~ **22 VAC 40-11-10 et seq.**] **Public Participation Guidelines.**

Statutory Authority: §§ 9-6.14:7.1 and 63.1-25 of the Code of Virginia.

Final Regulations

Effective Date: September 4, 1996.

Summary:

This regulation describes the way the State Board of Social Services obtains public input when developing, revising or repealing a regulation. The regulation covers the following topics: petitions from interested parties, solicitation of input, public hearings, and withdrawal of regulations.

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

Agency Contact: Copies of the regulation may be obtained from L. Richard Martin, Jr., Regulatory Coordinator, Department of Social Services, 730 East Broad Street, Richmond, VA 23219-1849, telephone (804) 692-1825.

[CHAPTER 11.
PUBLIC PARTICIPATION GUIDELINES.]

PART I.
GENERAL PROVISIONS.

[~~§ 1.1.~~ 22 VAC 40-11-10.] Definitions.

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

"Administrative Process Act (APA)" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Approving authority" means State Board of Social Services.

"Board" means State Board of Social Services.

"Commissioner" means the Commissioner of the Department of Social Services or his designee.

"Department" means Department of Social Services.

"Division" means organizational entity within the department, designated by the commissioner, which develops regulations subject to the Administrative Process Act.

"Governor's Executive Order" means any policy or procedure issued by the Governor under § 2.1-41.1 or § 9-6.14:9.1 A of the Code of Virginia establishing the administrative policy and procedures for gubernatorial review and regulatory actions governed by the Administrative Process Act.

"Person" means an individual, a corporation, a partnership, an association, a governmental body, a municipal corporation, or other legal entity.

[~~§ 1.2.~~ 22 VAC 40-11-20.] Application.

These guidelines apply to all regulations [~~adopted~~ promulgated] by the board.

PART II.
PUBLIC PARTICIPATION.

[~~§ 2.1.~~ 22 VAC 40-11-30.] General.

A. The procedures in [~~§ 2.2 of this regulation~~ 22 VAC 40-11-70] shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This [~~regulation~~ chapter] does not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1 [of the Code of Virginia]).

B. The department shall follow the policies and procedures established by the Administrative Process Act and the Governor's Executive Order in developing emergency, proposed and final adoption, amendment or repeal of regulations.

C. At the discretion of the approving authority or the department, the public participation procedures in [~~§ 2.3~~ 22 VAC 40-11-70] may be supplemented to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

D. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulations otherwise adopted in accordance with this [~~regulation~~ chapter].

[~~§ 2.2.~~ 22 VAC 40-11-40.] Petitions from interested parties.

Any person may petition the agency to develop a new regulation or to adopt, amend or repeal a regulation. The petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended new regulation or addition, deletion, or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

The department shall provide a written response to such petition.

[~~§ 2.3.~~ 22 VAC 40-11-50.] Solicitation of input.

A. Each division of the department shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations under its administration, management or supervision. Persons may request the addition of their name and address to the list at any time. The lists will be updated as additional interested parties are identified. Deletions will be made when lack of interest is determined by the division as a result of periodic contact initiated by the division.

B. The department may form an ad hoc advisory group or utilize a standing advisory committee to assist in the drafting, formation or review of a proposal when expertise is necessary to address a specific regulatory interest or issue, or when persons register an interest in the subject of the regulation and in working with the department.

C. Whenever a division identifies a need for the adoption, amendment or repeal of regulations under its administration, management or supervision, it may commence the regulation adoption process according to these procedures.

D. The department shall issue a Notice of Intended Regulatory Action (NOIRA) which describes the subject matter and intent of the planned regulation for all regulatory proposals in accordance with the Administrative Process Act. The NOIRA shall state whether the agency intends to hold a public hearing.

E. The commissioner shall disseminate the NOIRA to the public by:

1. Distribution to the Registrar of Regulations for publication in *The Virginia Register*, and
2. Distribution by mail to parties on the list established under subsection A of this section.

F. The agency shall consider public comment in drafting proposed regulations.

G. Upon approval by the board of the proposed regulations prepared by the department, the department shall solicit public comment through:

1. Distribution to the Registrar of Regulations for publication in *The Virginia Register*,
2. Publication of a Notice of Comment Period in a newspaper of general circulation published at the state capital and such other newspapers as the department may deem appropriate, and
3. Distribution of a notice of comment by mail to persons on the lists established under subsection A of this section.

[§-2.4. 22 VAC 40-11-60.] Public hearings.

A. The board shall permit public comment concerning the adoption, amendment, or repeal of a regulation submitted for its promulgation during the board's regularly scheduled public comment period of its authorized meetings in conformity with the established rules of the board. The board may allow public comment about a proposed regulation at a committee meeting when the proposed regulation is under consideration by the committee.

B. When the NOIRA states that the department does not plan to hold a hearing on the proposed regulation, the department shall schedule a hearing when it determines that there is sufficient public interest in a proposed regulation through receipt of requests for a hearing from 25 people or more. The hearing may be held at any time during the public comment period and at such times and locations as the department decides will best facilitate input from interested persons.

[§-2.5. 22 VAC 40-11-70.] Withdrawal of regulations.

If the department determines that the process to adopt, amend or repeal any regulation should be terminated after promulgation of the proposed regulation by the approving authority, the department shall present a recommendation and rationale for the withdrawal of the proposed regulation to the approving authority.

VA.R. Doc. No. R96-478 Filed July 10, 1996, 1:11 p.m.

EMERGENCY REGULATIONS

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: State Plan for Medical Assistance
Relating to Diagnosis Related Groupings.

12 VAC 30-70-200 et seq. Methods and Standards for
Establishing Payment Rates--Inpatient Hospital Care.

12 VAC 30-80-10 et seq. Methods and Standards for
Establishing Payment Rates--Other Types of Care
(repealing 12 VAC 30-80-140).

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

Effective Dates: July 9, 1996 through July 8, 1997.

Summary:

1. **REQUEST:** The Governor is hereby requested to approve this agency's adoption of the emergency regulation entitled "Inpatient Hospital Payment System."

2. **RECOMMENDATION:** Recommend approval of the Department's request to take an emergency adoption action regarding "Inpatient Hospital Payment System." The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Joseph M. Teehey
Deputy Director
Date: June 13, 1996

3. **CONCURRENCES:**

/s/ Robert W. Lauterberg
Director, Department of Planning and Budget
Date: June 26, 1996

/s/ Robert C. Metcalf
Secretary of Health and Human Resources
Date: June 27, 1996

APPROVE:

/s/ George Allen
Governor
Date: July 3, 1996

FILED WITH:

Jane D. Chaffin
Deputy Registrar of Regulations
Date: July 9, 1996

DISCUSSION

6. **BACKGROUND:** The section of the State Plan affected by this action is the Methods and Standards for Establishing Payment Rates--Inpatient Hospital Care, Attachment 4.19-A (VR 460-02-4.1910 or 12 VAC 30, chapter 70).

In December 1990, the Department of Medical Assistance Services (DMAS) and the Virginia Hospital and Healthcare Association (VHHA) (formerly the Virginia Hospital Association) signed a settlement agreement, putting an end to a multi-year litigation brought under the provisions of the federal Boren Amendment (for a discussion of the Boren Amendment, refer to the Supplement at the end of this Decision Brief). This agreement prescribed a reimbursement

methodology for hospitals, to be in effect during state fiscal years 1992 through 1996. It also required that starting January 1995, DMAS and the VHHA would form a Joint Task Force and develop a reimbursement methodology for the time period following June 30, 1996, on which date the agreement would lapse.

DMAS and the VHHA did form the Joint Task Force. The deliberations of the Task Force produced a reimbursement system design that is the basis of these regulations. In support of the need to implement the system timely, the 1996 General Assembly authorized implementation of a new reimbursement system based on DRGs and required that it be effective July 1, 1996.

The current reimbursement system pays for inpatient hospital services by means of prospectively determined per diem rates. Hospitals are paid their per diem rate times the number of days of care provided. The new system will base payment on the "case" rather than the day. Each case will be paid according to the diagnosis and procedure or procedures that are specific to the case. The greater the complexity of the case, the higher the payment. This methodology, referred to as Diagnosis Related Groupings (DRGs), allows fully prospective pricing of inpatient services while recognizing that not all patients cost the same to treat. On the other hand, payment is not greater simply because the patient remains in the hospital longer. It is expected that the transition to DRGs will increase fairness in the distribution of payments to hospitals and will increase the incentive to control costs. It is not anticipated that the new system will increase the required appropriation for inpatient hospital services to the agency.

Additional payments to hospitals with a "disproportionate share" of Medicaid patients will continue under these regulations but will be targeted to a smaller group of hospitals that have a very high proportion of Medicaid and low income patients.

Medical education and capital costs will, during the two-year transition period, at least, continue to be paid as they have been in the past -- that is, based on reasonable cost incurred.

Psychiatric and rehabilitation cases will continue to be paid on a per diem basis into the foreseeable future.

State teaching hospitals will continue to be treated as a separate peer group in this methodology.

The change to DRGs will not occur all at once. There will be two years when final reimbursement will be based partly on DRGs and partly on the current methodology of per diem rates. This will allow time for hospitals to adjust to the new system.

7. **AUTHORITY TO ACT:** The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:4.1(C)(5), for an agency's adoption of emergency regulations subject to the Governor's

Emergency Regulations

prior approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, this agency intends to initiate the public notice and comment process contained in Article 2 of the APA.

This regulation will carry out the directive of the 1996 General Assembly (Chapter 912, Item 322. J.) to "...implement a fully prospective reimbursement system for hospital inpatient services...", using a "...Diagnosis Related Groups (DRGs) methodology." This regulation also fulfills the final terms of the "VHA (Virginia Hospital Association)/Wilder" settlement agreement. This agreement, signed in 1990, settled litigation under the federal Boren Amendment, but lapses on June 30, 1996. Among other things, the agreement required that DMAS and the VHA (now the VHHA) jointly develop a reimbursement methodology to replace the one that operated under the terms of the settlement agreement. This regulation implements the methodology that has been developed jointly by DMAS and the VHHA, and, therefore, fulfills this one remaining term of the settlement agreement.

Without an emergency regulation, this amendment to the State Plan cannot become effective until the publication and concurrent comment and review period requirements of the APA's Article 2 are met. Therefore, an emergency regulation is needed to meet the July 1, 1996, effective date established by the General Assembly.

8. NEED FOR EMERGENCY ACTION: The Code § 9-6.14:4.1(C)(5) provides for regulations which an agency finds are necessitated by an emergency situation. To enable the Director, in lieu of the Board of Medical Assistance Services, to comply with this Assembly mandate, he must take this emergency adoption action. This issue qualifies as an emergency regulation as provided for in § 9-6.14:4.1(C)(5)(ii), because Chapter 912 of the 1996 Virginia Acts of Assembly, Item 322.J. requires this regulation be effective on July 1, 1996. This Chapter became effective on April 17, 1996. The July 1st effective date is less than 280 days from enactment of this law. As such, this regulation may be adopted without public comment with the prior approval of the Governor. Since this emergency regulation will be effective for no more than 12 months and the Director wishes to continue regulating the subject entities, the Department is initiating the Administrative Process Act Article 2.

9. FISCAL/BUDGETARY IMPACT: All hospitals that provide services to Medicaid recipients, except for some long-term and government operated hospitals, are affected by this regulation. For FY '97, DMAS has allocated \$484,971,000 for inpatient hospital services. No budget impact is forecast. Hospitals have been consulted, and the VHHA is in support of the methodology that these regulations will implement. There are no localities which are uniquely affected by these regulations as they apply statewide.

10. RECOMMENDATION: Recommend approval of this request to adopt this emergency regulation to become effective July 1, 1996. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations. Without an effective emergency regulation, the Department would lack the authority to implement the new reimbursement system. This would mean failure to comply with the above cited provision of the 1996

Appropriations Act and with the final terms of the settlement agreement.

11. APPROVAL SOUGHT FOR VR 460-02-4.1910:1 (12 VAC 30-70-200 et seq.), VR 460-03-4.1930 (12 VAC 30-70-10 through 12 VAC 30-70-150); VR 460-02-4.1920 (12 VAC 30-80-140).

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulations:

BOREN SUPPLEMENT

Section 1902(a)(13)(A) of the Social Security Act is implemented by Title 42 of the Code of Federal Regulations Part 447 Subpart C. This section of the Act "requires that the State Plan provide for payment for hospital and long-term care facility services through the use of rates that the state finds, and makes assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities to provide services in conformity with state and federal laws, regulations and quality and safety standards and assure that individuals eligible for medical assistance have reasonable access (taking into account geographic location and reasonable travel time) to ...[care]... of adequate quality."

The referenced lawsuit was brought under the authority of this language by the Virginia Hospital Association (VHA) in March 1986 in response to a prospective payment system methodology that DMAS had implemented in 1982. The VHA alleged in its suit that Medicaid's inpatient hospital payments were inadequate and its member hospitals would suffer losses in excess of \$50 million. This suit was finally settled out-of-court in December 1990. The settlement agreement left the Medicaid inpatient hospital payment methodology substantially intact while adding Payment Adjustment Fund feature. This feature provided for the payment to hospitals of an additional \$5 Million in General Funds, plus the accompanying Federal Financial Participation. In addition, the VHA with DMAS were required, in this agreement, to cooperatively develop a new payment system to be effective July 1, 1996.

Attachment 4.19-A

12 VAC 30-70-200.

The state agency will pay for inpatient hospital services under the methodologies and during the time periods specified below. During State fiscal years (SFY) 1997 and 1998, the state agency's methodology for inpatient hospital services in general acute care hospitals will transition from a per diem methodology to a DRG-based methodology. Section I describes the special rules that apply during the transition period. Section II describes the DRG methodology that will apply (at a specified transition percentage) during the transition period and that will remain after the transition is over. Section III describes the revised per diem methodology that will apply in part during the transition, but that will cease to apply after the transition is over.

For inpatient hospital services in general acute care hospitals and rehabilitation hospitals, occurring before July 1, 1996,

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reimbursement shall be based on the methodology described in Supplement 3, which language, until the effective date of this regulation, was Attachment 4.19-A of the State Plan for Medical Assistance Services. The provisions contained in Supplement 3 shall not be effective after June 30, 1996, except as otherwise provided in this Attachment.

For inpatient hospital services that are psychiatric or rehabilitation services, and that are provided in general acute care hospitals, distinct part units of general acute care hospitals, freestanding psychiatric facilities licensed as hospitals, or rehabilitation hospitals, on and after July 1, 1996, reimbursement shall be based on a methodology, described in I, II, and III below. This methodology implements a transition from revised per diem rates taken from the previous methodology (Supplement 3) to different per diem rates that will be used in the context of the DRG methodology. These services shall not be reimbursed by means of DRG per case rates. For freestanding psychiatric facilities licensed as hospitals there shall be no transition period, but the new per diem rates are to be implemented effective July 1, 1996. Also effective for those services rendered on or after July 1, 1996, the professional component for the care rendered in such freestanding psychiatric facilities licensed as hospitals may be billed separately by the attending professional who is enrolled in Medicaid. Inpatient hospital services that are provided in long stay hospitals and state-owned rehabilitation hospitals shall be subject to the provisions of Supplement 3, which until the effective date of this regulation was Attachment 4.19-A of the State Plan for Medical Assistance Services.

Transplant services shall not be subject to the provisions of this Attachment. They shall continue to be subject to §1.1. of Supplement 1 to Attachment 3.1-A&B.

I. Transition Period Reimbursement Rules. Effective July 1, 1996, the state agency's reimbursement methodology for inpatient hospital services shall begin a transition from a prospective per diem to a prospective DRG methodology. During the transition period, reimbursement of operating costs shall be a blend of a prospective DRG methodology (described in II below) and a revised prospective per diem methodology (described in III below). The transition period shall be SFY1997 and 1998, after which a DRG methodology alone shall be used.

A. Tentative Payment During the Transition Period. During the transition period claims will be tentatively paid on the basis of the revised per diem methodology only. Payment of claims based on DRG rates shall begin July 1, 1998.

B. Final Operating Reimbursement During the Transition Period. During the transition period settlement of each hospital fiscal year will be carried out as provided in IX below. Each hospital's final reimbursement, for services that accrue to each state fiscal year of the transition, shall be based on a blend of the prospective DRG methodology and the revised per diem methodology. For services to patients admitted and discharged in SFY1997 the blend shall be 1/3 DRG and 2/3 revised per diem. For services to patients admitted after June 30, 1996, and discharged during SFY1998 the blend shall be 2/3 DRG and 1/3 revised per diem. Settlements

shall be completed according to hospital fiscal years, but after June 30, 1996, changes in rates and in the percent of reimbursement that is based on DRGs vs. per diem rates, shall be according to state fiscal year. Services in freestanding psychiatric facilities licensed as hospitals shall not be subject to the transition period phase-in of new rates, or to settlement at year end; the new system rates for these providers shall be fully effective on July 1, 1996. In hospital fiscal years that straddle the implementation date (years starting before and ending after July 1, 1996) operating costs must be settled partly under the old and partly under the new methodology:

1. Days related to discharges occurring before July 1, 1996, shall be settled under the previous reimbursement methodology (see Supplement 3).
2. Stays with admission date before July 1, 1996, and discharge date after June 30, 1996, shall be settled in two parts, with days before July 1, 1996, settled on the basis of the previous reimbursement methodology (see Supplement 3), and days after June 30, 1996, settled at 100% of the hospital's revised per diem rate, as described in III, below. The DRG reimbursement methodology shall not be used in the settlement of any days related to a stay with an admission date before July 1, 1996.
3. Stays with admission dates on and after July 1, 1996, shall be settled under the transition methodology. All cases admitted from July 1, 1996, onward shall be settled based on the rates and transition rules in effect in the state fiscal year in which the discharge falls. The only exception shall be claims for rehabilitation cases with length of stay sufficient that one or more interim claims are submitted. Such claims for rehabilitation cases shall be settled based on rates and rules in effect at the time of the end date ("through" date) of the claim, whether or not it is the final or discharge claim.

C. Capital Cost Reimbursement. During the transition period capital cost shall be reimbursed as a pass-through as described in Supplement 3, except that paid days and charges used to determine Medicaid allowable cost in a fiscal period for purposes of capital cost reimbursement shall be the same as those accrued to the fiscal period for operating cost reimbursement. Effective July 1, 1998, capital cost shall be reimbursed as described in II below. Until capital costs are fully included in prospective rates the provisions of Supplement 3 § VII, regarding recapture of depreciation shall remain in effect. Reimbursement of capital cost for freestanding psychiatric facilities licensed as hospitals shall be included in their per diem rates, as provided in II below, and shall not be treated as a pass-through during the transition period or afterward.

D. Disproportionate Share Hospital (DSH) Payments During the Transition. Effective July 1, 1996, DSH payments shall be fully prospective amounts determined in advance of the state fiscal year to which they apply, and shall not be subject to settlement or revision based on changes in utilization during the year to which they apply. Payments prospectively determined for each state fiscal year shall be considered payment for that year, and not for the year from

which data used in the calculation was taken. Payment of DSH amounts determined under this methodology shall be made on a quarterly basis.

For patient days occurring before July 1, 1996, DSH reimbursement shall be determined under the previous methodology and settled accordingly (Supplement 3). Effective for days occurring July 1, 1996, and after, DSH reimbursement made through prospective lump sum amounts, as described in this section, shall be final and not subject to settlement except when necessary due to the limit in 2.e. below. After July 1, 1998, DSH reimbursement shall be as provided in II below.

1. Definition. A disproportionate share hospital shall be a hospital that meets the following criteria:

a. A Medicaid utilization rate in excess of 15%, or a low-income patient utilization rate exceeding 25% (as defined in the Omnibus Budget Reconciliation Act of 1987 and as amended by the Medicare Catastrophic Coverage Act of 1988); and

b. At least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to such services under a State Medicaid plan. In the case of a hospital located in a rural area (that is, an area outside of a Metropolitan Statistical Area, as defined by the Executive Office of Management and Budget), the term "obstetrician" includes any physician with staff privileges at the hospital to perform non-emergency obstetric procedures.

c. Subsection 1.b. does not apply to a hospital:

1) At which the inpatients are predominantly individuals under 18 years of age; or

2) Which does not offer non-emergency obstetric services as of December 21, 1987.

2. Payment Adjustment.

a. A disproportionate share hospital's additional payment shall be based on the type of hospital and on the hospital's Medicaid utilization percentage. There shall be two types of hospitals: (1) Type One, consisting of hospitals that were state-owned teaching hospitals on January 1, 1996, and (2) Type Two, consisting of all other hospitals. The Medicaid utilization percentage is equal to the hospital's total Medicaid inpatient days divided by the hospital's total inpatient days. Each eligible hospital with a Medicaid utilization percentage above 15% shall receive a disproportionate share payment.

b. For Type One hospitals, the disproportionate share payment shall be equal to the sum of: (1) the hospital's Medicaid utilization percentage in excess of 15%, times 11, times the hospital's Medicaid operating reimbursement, times 1.3186 in SFY1997, and 1.3782 in SFY1998, and (2) the hospital's Medicaid utilization percentage in excess of 30%, times 11, times the hospital's Medicaid operating reimbursement, times 1.3186 in SFY1997, and 1.3782 in SFY1998.

c. For Type Two hospitals, the disproportionate share payment shall be equal to the sum of: (1) the hospital's Medicaid utilization percentage in excess of 15%, times the hospital's Medicaid operating reimbursement, times 1.0964 in SFY1997, and 1.1476 in SFY1998, and (2) the hospital's Medicaid utilization percentage in excess of 30%, times the hospital's Medicaid operating reimbursement, times 1.0964 in SFY1997, and 1.1476 in SFY1998.

d. For hospitals which do not qualify under the 15% inpatient Medicaid utilization rate, but do qualify under the low-income patient utilization rate, exceeding 25% in 1.a. above, the disproportionate share payment amount for Type One hospitals shall be equal to the product of the hospital's low-income utilization in excess of 25%, times eleven, times the hospital's Medicaid operating reimbursement. For Type Two hospitals, the disproportionate share payment adjustment shall be equal to the product of the hospital's low-income utilization in excess of 25%, times the hospital's Medicaid operating reimbursement.

e. OBRA 1993 §13621 Disproportionate Share Adjustment Limit:

(1) Limit on amount of payment. No payments made under I.D.2. above shall exceed any applicable limitations upon such payments established by federal law or regulations and OBRA 1993 § 13621. A payment adjustment during a fiscal year shall not exceed the sum of:

(a) Medicaid allowable costs incurred during the year less Medicaid payments, net of disproportionate share payment adjustments, for services provided during the year, and

(b) Costs incurred in serving persons who have no insurance less payments received from those patients or from a third party on behalf of those patients. Payments made by any unit of the Commonwealth or local government to a hospital for services provided to indigent patients shall not be considered to be a source of third party payment.

(2) During state fiscal year 1995, the limit in this section shall apply only to hospitals which are owned or operated by a state or an instrumentality or unit of government within the state. During this year such a hospital, if it is one whose Medicaid inpatient utilization rate is at least one standard deviation above the mean inpatient utilization rate in the state or if it has the largest number of Medicaid days of any such hospital in the Commonwealth for the previous State fiscal year, shall be allowed a limit that is 200% of the limit described above which the Governor certifies to the Secretary of the U. S. Department of Health and Human Services that such amount (the amount by which the hospital's payment exceeds the limit described above) shall be used for health services during the year.

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3. *Source Data for Calculation of Eligibility and Payment Adjustment.* Each hospital's eligibility for DSH payment, and the amount of the DSH payment in state fiscal year 1997, shall be based upon Medicaid utilization in hospital fiscal years ending in calendar year 1994, and on projected operating reimbursement in state fiscal year 1997, estimated on the basis of 1994 utilization. After state fiscal year 1997, each new year's DSH payments shall be calculated using the most recent reliable utilization and projection data available. For the purpose of calculating DSH payments, each hospital with a Medicaid-recognized Neonatal Intensive Care Unit (NICU) (a unit having had a unique NICU operating cost limit under Supplement 3, V.(6)), shall have its DSH payment calculated separately for the NICU and for the remainder of the hospital, as if the two were separate and distinct providers.

For freestanding psychiatric facilities licensed as hospitals, DSH payment shall be based on the most recent filed Medicare cost report available before the beginning of the state fiscal year for which a payment is being calculated.

E. *Direct Medical Education (DMedEd).* During the transition period (July 1996 through June 1998), DMedEd costs shall be reimbursed in the same way as under the previous methodology (see Supplement 3). This methodology does not and shall not include the DME reimbursement limitation enacted for the Medicare program effective July 1, 1985. Reimbursement of DMedEd shall include an amount to reflect DMedEd associated with services to Medicaid patients provided in hospitals but reimbursed by capitated managed care providers. This amount shall be estimated based on the number of days of care provided by the hospital that are reimbursed by capitated managed care providers. Direct Medical Education shall not be a reimbursable cost in freestanding psychiatric facilities licensed as hospitals. DMedEd will be paid in estimated quarterly lump sum amounts and settled at the hospital's fiscal year end settlement.

F. *Final "Payment Adjustment Fund" (PAF) Payment for Certain Hospitals.* Hospitals receiving payments for Medicaid patients from managed care providers enrolled in "Medallion II" shall be paid a separate lump sum amount, based on the continuation of capitation rates during July 1, 1996, through December 31, 1996, that do not reflect adjustments made to hospital per diem and DRG payments on July 1, 1996. Each of these hospitals shall be paid a final PAF amount. It shall be equal to a hospital specific PAF per diem times the number of Medallion II days that occur in the hospital in July 1, 1996, through December 31, 1996. The PAF per diem shall be based on a revision of the PAF calculation that was carried out for the SFY1996 PAF payment that was made in August 1995. The revision shall be the hospital ceiling, DSH per diem, and cost report data used in the calculation shall be from the cost reports that would be used under the PAF methodology if a SFY1997 PAF calculation were to be done. The "paid days" data used in this calculation shall be the same as that used in the SFY1996 calculation. Pending the calculation of the final PAF payment in the settlement of the relevant time period for the affected hospitals, an interim

payment shall be made. The interim payment shall be equal to 1/2 the PAF payment made to the same hospitals for SFY1996.

G. *Adjusting DRG Rates for Length of Stay (LOS) Reductions from 1995 Appropriations Act.* If it is demonstrated that there are savings directly attributable to LOS reductions resulting from utilization initiatives directed by the 1995 Appropriations Act, as agreed to and evaluated by the Medicaid Hospital Payment Policy Advisory Council, these savings, up to a maximum of \$16.9 million in SFY1997, shall be applied as a reduction to SFY1997 and 1998 DRG rates used for settlement purposes.

H. *Service Limits During the Transition Period.* The limit of coverage for adults of 21 days in a 60-day period for the same or similar diagnosis shall continue to apply in the processing of claims and in the per diem portion of settlement during the transition period. This limit shall not apply in the DRG portion of reimbursement, except for covered psychiatric cases. Psychiatric cases are cases with a principal diagnosis that is a mental disorder as specified in the ICD-9-CM. Not all mental disorders are covered. For coverage information, see the Amount, Duration, and Scope of Services, Supplement 1 to Attachment 3.1A&B.

12 VAC 30-70-210.

II. *Diagnosis Related Groups (DRG) Reimbursement Methodology.* Reimbursement of operating costs for cases which are subject to DRG rates shall be equal to the relative weight of the DRG in which the patient falls, times the hospital specific operating rate per case. Reimbursement of outliers, transfer cases, cases still subject to per diem reimbursement, capital costs, and medical education costs shall be as provided below.

A. *DRG Grouper to be Used.* The All Patient Diagnosis Related Groups (AP-DRG) Grouper shall be used in the DRG reimbursement methodology. Effective July 1, 1996, and until notification of a change is given, Version 12 of this Grouper shall be used. DMAS shall notify hospitals by means of a Medicaid Memo when updating the system to later grouper versions.

B. *Calculation of DRG Weights and Hospital Case Mix Indices.* The relative weight measures the cost, and therefore, the reimbursement level of each DRG relative to all other DRGs. The hospital case mix index measures the hospital's average case mix complexity (costliness) relative to all other hospitals.

The relative weight for each DRG was determined by calculating the average standardized cost for cases assigned to that DRG, divided by the average standardized cost for cases assigned to all DRGs. For the purpose of calculating relative weights, groupable cases (cases having coding data of sufficient quality to support DRG assignment) and transfer cases (groupable cases where the patient was transferred to another hospital) were used. Ungroupable cases and rehabilitation, psychiatric, and transplant cases were not used. DMAS' hospital computerized claims history file, for discharges in hospital fiscal years ending in calendar year 1993, was used. All available data from all enrolled, cost-reporting general acute care hospitals were used, including

data from state-owned teaching hospitals. Cost Report data from hospital fiscal years ending in calendar year 1993, was also used.

Before relative weights were calculated for each DRG, each hospital's total charges were disaggregated into operating charges and capital charges, based on the ratio of operating and capital cost to total cost. Operating charges and capital charges were standardized for regional variation, and then both operating charges and capital charges were reduced to costs using ratios of costs-to-charges (RCCs) obtained from the Medicaid cost report database. Direct medical education costs were eliminated from the relative weight calculations since such costs will be addressed outside the DRG rates. These steps, detailed below, were completed on a case-by-case basis using the data elements identified in the following table.

Data Elements For Relative Weight And Case Mix Index Calculations

Data Elements	Source
Total charges for each groupable case	Claims Database
Total charges for each transfer case	Claims Database
Ratio of operating costs to total costs for each hospital	Medicaid Cost Report Database
Ratio of capital costs to total costs for each hospital	Medicaid Cost Report Database
Ratio of DME costs to total costs for each hospital	Medicaid Cost Report Database
Statewide average labor portion of operating costs	Virginia Health Service Cost Review Council (VHSCRC)
Medicare wage index for each hospital	Federal Register
Medicare Geographic Adj. Factor (GAF) for each hospital	Federal Register
RCC for each hospital	Medicaid Cost Report Database

Steps in Calculation of Relative Weights.

1. The total charges for each case were split into operating charges, capital charges, and DME charges using hospital-specific ratios obtained from the cost report database.
2. The operating charges obtained in Step 1 were standardized for regional variations in wages. This involved three substeps.
 - a. The operating charges were multiplied by 59.77 percent yielding the labor portion of operating charges.
 - b. The labor portion of operating charges was divided by the hospital-specific Medicare wage index yielding the standardized labor portion of operating charges.
 - c. The standardized labor portion of operating charges was added to the non-labor portion of operating charges (40.23 percent) yielding standardized operating charges.

3. The standardized operating charges were multiplied by the hospital-specific RCC yielding standardized operating costs.

4. The capital charges obtained in Step 1 were divided by the hospital-specific Medicare geographic adjustment factor (GAF) yielding standardized capital charges.

5. The standardized capital charges were multiplied by the hospital-specific cost-to-charge ratio yielding standardized capital costs.

These five steps were repeated for all groupable cases and transfer cases. Once this was done, the cases were sorted by DRG category resulting in the total cases and the total standardized cost of each DRG. Total cost divided by total cases yielded the average standardized cost of each DRG. The average standardized cost of each DRG was divided by the average standardized cost across all DRGs yielding the relative weight for each DRG. To address the unavailability of charge data related to adult hospital days beyond 21 days, an adjustment was estimated for certain DRGs and added to the weights as calculated above. This adjustment for adult days over 21 is necessary only until the first recalibration of weights becomes effective in July 1998 (see IIQ., below).

The relative weights were then used to calculate a case-mix index for each hospital. The case-mix index for a hospital was determined by summing for all DRGs the product of the number of groupable cases and transfer cases in each DRG and the relative weight for each DRG. This sum was then divided by the total number of cases yielding the case-mix index. This process was repeated on a hospital-by-hospital basis.

C. Calculation of Standardized Costs Per Case. Standardized costs per case were calculated using all DRG cases (groupable, ungroupable, and transfer cases). Cases entirely subject to per diem rather than DRG reimbursement and cases from state-owned teaching hospitals were not used. Using the data elements identified in the following table, the seven steps outlined below were completed on a case-by-case basis.

Data Elements For Standardized Costs Per Case Calculations

Data Elements	Source
Total charges for each groupable case	Claims Database
Total charges for each ungroupable case	Claims Database
Total charges for each transfer case	Claims Database
Ratio of operating costs to total costs for each hospital	Medicaid Cost Report Database
Ratio of capital costs to total costs for each hospital	Medicaid Cost Report Database
Ratio of DME costs to total costs for each hospital	Medicaid Cost Report Database
Statewide average labor portion of operating costs	VHSCRC

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Medicare wage index for each hospital	Federal Register
Medicare GAF for each hospital	Federal Register
RCC for each hospital	Medicaid Cost Report Database
Case-mix index for each hospital	Calculated
Total number of groupable cases	Claims Database
Total number of ungroupable cases	Claims Database
Total number of transfer cases	Claims Database

Steps in Calculation of Standardized Cost Per Case.

1. The total charges for each case were split into operating charges, capital charges, and DME charges using hospital-specific ratios obtained from the cost report database.

2. The operating charges obtained in Step 1 were standardized for regional variations in wages. This involved three substeps.

a. The operating charges were multiplied by 59.77 percent yielding the labor portion of operating charges.

b. The labor portion of operating charges was divided by the hospital-specific Medicare wage index yielding the standardized labor portion of operating charges.

c. The standardized labor portion of operating charges was added to the non-labor portion of operating charges (40.23 percent) yielding standardized operating charges.

3. The standardized operating charges were multiplied by the hospital-specific RCC yielding standardized operating costs.

4. The capital charges obtained in Step 1 were divided by the hospital-specific Medicare geographic adjustment factor (GAF) yielding standardized capital charges.

5. The standardized capital charges were multiplied by the hospital-specific cost-to-charge ratio yielding standardized capital costs.

6. The standardized operating costs obtained in Step 3 were divided by the hospital-specific case-mix index yielding case-mix neutral standardized operating costs.

7. The standardized capital costs obtained in Step 5 were divided by the hospital-specific case-mix index yielding case-mix neutral standardized capital costs.

These seven steps were repeated for all DRG cases. Once this was done, the case-mix neutral standardized operating costs for all DRG cases were summed and an average was calculated. This yielded what is referred to as standardized operating costs per case. A similar average was computed for capital yielding standardized capital costs per case.

D. Calculation of Statewide Operating Rate Per Case for SFY1997. The statewide operating rate per case that shall

be used to calculate the DRG portion of operating reimbursement for cases admitted and discharged in state fiscal year 1997, is equal to the standardized operating cost per case, updated to the midpoint of SFY1997 and multiplied by an additional factor. The update shall be done by multiplying the standardized operating cost per case by the DRI-Virginia moving average value as compiled and published by DRI/McGraw-Hill under contract with DMAS. The additional factor is equal to 0.6247. This factor is the ratio of two numbers:

1. The numerator of the factor is the aggregate amount of operating reimbursement, for hospitals included in the data base used for the calculations described above, that DMAS and the Virginia Hospital and Healthcare Association (VHHA) jointly determined would be made by Medicaid in state fiscal year 1997 if the rate methodology in effect on June 30, 1996, were to continue. This amount was further adjusted by agreement between DMAS and the VHHA to carry out specific policy agreements with respect to various elements of reimbursement.

2. The denominator of the factor is the estimated aggregate operating amount for the same hospitals as in 1. above, calculated using the standardized operating cost per case and standardized operating cost per day as calculated in IIC and IJK, and adjusted for inflation as in 1. above.

E. Calculation of Statewide Capital Rate Per Case. (RESERVED)

F. Hospital Specific Operating Rate Per Case. Each hospital specific operating rate per case shall be the labor portion of the statewide operating rate per case multiplied by the Medicare wage index applicable to the hospital's geographic location plus the nonlabor portion of the statewide operating rate per case. The Medicare wage index shall be the one in effect for Medicare in the base period used in the calculation of the standardized costs per case (1993 for the calculation of 1997 rates).

G. Hospital Specific Capital Rate Per Case (Geographic Adjustment). (RESERVED)

H. Outliers.

1. Definition. An outlier case shall be one whose estimated cost exceeds the applicable DRG payment plus the applicable fixed loss threshold.

2. Methodology. Total payment for an outlier case shall be calculated according to the following methodology (an example of the application of this methodology is found in Supplement 4):

a. The operating cost for the case shall be estimated. Operating cost for the case shall be the charges for the case times the hospital's operating cost-to-charge ratio based on the hospital's cost report data in the base period used to establish the rates in effect in the period for which outlier payment is being calculated.

b. The hospital specific operating cost amount for the DRG shall be calculated. This shall be equal to the

sum of the labor portion of the standardized operating cost per case times the Medicare wage index, and the nonlabor portion of the standardized operating cost per case, multiplied by the relative weight applicable to the case.

c. The hospital specific operating cost outlier threshold is calculated as follows:

(1) An outlier fixed loss threshold times the statewide average labor portion of operating cost times the Medicare wage index for the hospital, plus

(2) The nonlabor portion of the fixed loss threshold plus

(3) The DRG operating cost amount for the case (b above).

d. The case specific excess over the hospital specific operating outlier threshold is calculated. This shall be equal to the difference between the estimated operating cost for the case (a. above) and the hospital-specific operating cost outlier threshold (c. above), multiplied by the cost adjustment factor for outliers.

e. The total payment for the case is calculated. This shall be equal to the sum of the DRG operating cost amount for the case (b above) and the case specific excess over the hospital specific operating threshold (d. above), multiplied by the factor that is used to adjust the standardized operating cost per case in D above.

3. Data element definitions. Factors and variables used in the above calculation and not already defined are defined as follows:

a. Outlier fixed loss threshold: This is a fixed dollar amount in SFY1997, applicable to all hospitals, that shall be adjusted each year. It shall be calculated each year, based on the most recent available estimates so as to result in a total operating expenditure for outliers equal to 5.1% of total operating expenditures, including outliers. In SFY1997, this amount shall be \$15,483.00. If in any year revised estimates are unavailable the previous year's value shall be used updated for inflation using the same factor applied to hospital rates.

b. Statewide average labor proportion of operating cost. This is a fixed percentage, equal to .5977. This figure may be updated with revised data when rates are rebased/recalibrated.

c. Adjustment factor for outliers. This is a fixed factor, published by Medicare in the Federal Register, and equal to 0.80. This figure shall be updated based on changes to the Medicare factor, upon the next rebasing of the system described in this Attachment.

d. Medicare wage index applicable to the hospital. This is as published by the Health Care Financing Administration in the year used as the base period.

I. Transfers and readmissions.

1. Transfer cases shall be defined as:

a. Patients transferred from one general acute care hospital to another, and

b. Patients discharged from one general acute care hospital and admitted to another for the same or similar diagnosis (similar diagnoses shall be defined as ones with the first three digits the same) within five days of that discharge.

2. Readmissions shall be defined as cases readmitted to the same hospital for the same or similar diagnosis within five days of discharge. Such cases shall be considered a continuation of the same stay, and shall not be treated as a new admission or case (a separate DRG payment shall not be made).

3. Exceptions.

a. Cases falling into DRGs 456, 639, or 640 shall not be treated as transfer cases, but the full DRG rate shall be paid to the transferring hospital. These DRGs are designed to be populated entirely with transfer patients.

b. Cases transferred to or from a distinct part psychiatric or rehabilitation units of a general acute care hospital shall not be treated as transfer cases.

4. Transfer Methodology. When two general acute care hospitals provide inpatient services to a patient defined as a transfer case:

a. The transferring hospital shall receive the lesser of (1) a per diem payment equal to the DRG payment for the transferring hospital, divided by the arithmetic mean length of stay for the DRG in all hospitals for which data are available, times the patient's length of stay at the transferring hospital, and (2) the full DRG payment for the transferring hospital. The transferring hospital shall be eligible for outlier payments if the applicable criteria are met.

b. The receiving hospital, if it is the final discharging hospital, shall receive DRG payment. A receiving hospital that later transfers the patient to another hospital, including the first transferring hospital, shall be reimbursed as a transferring hospital. Only the final discharging hospital shall receive DRG payment. The receiving hospital shall be eligible for outlier payments if the applicable criteria are met.

J. Per Diem Reimbursement in the DRG Methodology. Cases that will continue to be reimbursed on a per diem basis are: (1) covered psychiatric cases in general acute care hospitals and psychiatric units of general acute care hospitals, (2) covered psychiatric cases in freestanding psychiatric facilities licensed as hospitals, and (3) rehabilitation cases in both acute and rehabilitation hospitals. Psychiatric cases are cases with a principal diagnosis that is a mental disorder as specified in the ICD-9-CM. Not all mental disorders are covered. For coverage information, see the Amount, Duration, and Scope of Services, Supplement 1 to Attachment 3.1A&B.

Emergency Regulations

K. Calculation of Standardized Costs Per Day. Standardized operating costs per day and standardized capital costs per day were calculated separately, but using the same calculation methodology, for psychiatric cases in general acute care hospitals, psychiatric acute care in freestanding psychiatric facilities licensed as hospitals, and rehabilitation cases ("per diem cases"). Using the data elements identified in the following table, the first five steps outlined below were completed on a case-by-case basis.

Data Elements For Calculating Total Costs for Per Diem Cases

Data Elements	Source
Total charges for each acute care psychiatric case	Claims Database
Total charges for each freestanding acute care psychiatric case	Claims Database
Total charges for each rehabilitation cases	Claims Database
Ratio of operating costs to total costs for each hospital	Medicaid Cost Report Database
Ratio of capital costs to total costs for each hospital	Medicaid Cost Report Database
Ratio of DME costs to total costs for each hospital	Medicaid Cost Report Database
Statewide average labor portion of operating costs	VHSCRC
Medicare wage index for each hospital	Federal Register
Medicare GAF for each hospital	Federal Register
RCC for psychiatric distinct-part unit for each hospital	Medicare Cost Report
RCC for each hospital	Medicaid Cost Report Database
Number of acute care psychiatric days at each hospital	Claims Database
Number of freestanding acute care psychiatric days at each freestanding psychiatric facilities licensed as a hospital	Claims Database
Number of rehabilitation days at each acute care hospital and freestanding rehabilitation hospital	Claims Database

Steps in Calculation of Standardized Cost Per Day.

1. The total charges for the case were split into operating charges, capital charges, and DME charges using hospital-specific ratios obtained from the cost report database.
2. The operating charges obtained in Step 1 were standardized for regional variations in wages. This involved three substeps.
 - a. The operating charges were multiplied by 59.77 percent yielding the labor portion of operating charges.

b. The labor portion of operating charges was divided by the hospital specific Medicare wage index yielding the standardized labor portion of operating charges.

c. The standardized labor portion of operating charges was added to the non-labor portion of operating charges (40.23 percent) yielding standardized operating charges.

3. The standardized operating charges were multiplied by the hospital-specific RCCs yielding standardized operating costs.

4. The capital charges obtained in Step 1 were divided by the hospital-specific Medicare geographic adjustment factor (GAF) yielding standardized capital charges.

5. The standardized capital charges were multiplied by the hospital-specific RCCs yielding standardized capital costs.

These five steps were repeated for all per diem cases. The standardized operating costs for per diem cases were then summed and divided by the total number of per diem days yielding the standardized operating costs per day for per diem cases. Similarly, the standardized capital costs for per diem cases were summed and divided by the total number of per diem days yielding the standardized capital costs per day for per diem cases. These two calculations were done separately for psychiatric cases in freestanding psychiatric facilities licensed as hospitals, for psychiatric cases in general acute care hospitals (including distinct part units) and for rehabilitation cases.

Where general acute care hospitals had psychiatric distinct-part units (DPUs) reported on their cost reports, separate RCCs were calculated for the DPUs and used in lieu of the hospital-specific RCCs. Since DPU-specific RCCs are generally higher than hospital-specific RCCs, this had the effect of increasing the estimated costs of acute care psychiatric cases. Overall hospital RCCs were used for freestanding acute care psychiatric cases and rehabilitation cases, as well as for psychiatric cases at general acute care hospitals without a psychiatric DPU.

L. Calculation of Statewide Operating Rate Per Day. The statewide hospital operating rate per day that shall be used to calculate the DRG system portion of operating reimbursement for psychiatric and rehabilitation cases admitted and discharged in SFY1997, is equal to the standardized operating cost per day updated to the midpoint of SFY1997 and multiplied by an additional factor. The update shall be done by multiplying the standardized operating cost per day by the DRI-Virginia moving average value as compiled and published by DRI/McGraw-Hill under contract with DMAS. The additional factor for per diem cases in general acute care hospitals and rehabilitation hospitals is equal to 0.6290, and 0.6690 for freestanding psychiatric facilities licensed as a hospitals. These factors were calculated so that per diem cases will be reimbursed the same percentage of cost as DRG cases based on the data used for rate calculation.

Per diem rates used for acute care hospitals during the transition shall be operating rates only and capital shall be reimbursed on a pass-through basis. Per diem rates used for freestanding psychiatric facilities licensed as hospitals shall be inclusive of capital. The capital-inclusive statewide per diem rate for freestanding psychiatric facilities licensed as hospitals shall be the standardized cost per day calculated for such hospitals adjusted for the wage index and the geographic adjustment factor (GAF) and multiplied by the factor above.

M. Calculation of Hospital-Specific Operating Rate Per Day. Each hospital-specific operating rate per day shall be the labor portion of the statewide operating rate per day multiplied by the Medicare wage index applicable to the hospital's geographic location plus the nonlabor portion of the statewide operating rate per day. The Medicare wage index shall be the one in effect for Medicare in the base period used in the calculation of the standardized costs per case (1993 for the calculation of 1997 rates).

The hospital-specific rate per day for freestanding psychiatric facilities licensed as hospitals shall be inclusive of capital cost, and shall have a capital portion which shall be adjusted by the GAF and added to the labor and nonlabor operating elements calculated as described above. The Geographic Adjustment Factor shall be taken from the same time period as the Medicare wage index.

N. Prospective Per Case Reimbursement of Capital after Transition Period (1998). (RESERVED)

O. Indirect Medical Education (IME). Hospitals with programs in graduate medical education shall receive a rate adjustment for associated indirect costs. This reimbursement for IME costs recognizes the increased use of ancillary services associated with the educational process and the higher case-mix intensity of teaching hospitals. The IME adjustment shall employ the equation shown below.

$$\text{IME Percentage} = 1.89 \times ((1 + r)^{0.405} - 1)$$

In this equation, *r* is the ratio of interns and residents to staffed beds. The IME adjustment shall be the IME percentage, times 0.4043, times operating reimbursement for DRG cases and per diem cases.

P. Updating Rates for Inflation. DRG system rates in SFY1997 shall be as provided in IIF, and IIM, above. Rates for state fiscal years after SFY1997 shall be updated for inflation as follows:

1. The statewide operating rate per case as calculated in IID above, and the statewide rates per day as calculated in IIL shall be converted to a price level at the midpoint of state fiscal year 1993, using the same inflation values as were used to establish the amounts used in IID1. The resulting rates are the base period operating rates per case and the base period rates per day.

2. Rates shall be updated each July first by increasing the 1993 base period rates to the midpoint of the upcoming state fiscal year using the DRI-Virginia moving average value as compiled and published by DRI/McGraw-Hill under contract with DMAS. The most

current table available prior to the effective date of the new rates shall be used. By means of this method, each year, corrections made by DRI/McGraw-Hill in the moving averages that were used to update rates for previous years shall automatically be incorporated as adjustments to the update calculation used for the upcoming year. For each new year's rate calculation that uses a base year prior to 1997, the inflation values shall be the DRI/McGraw-Hill values plus two percentage points for each year through SFY1997.

Q. Recalibration/Rebasing Policy. DMAS recognizes that claims experience during the transition period and/or modifications in federal policies may require adjustment to the DRG system policies provided in these rules. The state agency shall recalibrate (evaluate and adjust the weights assigned to cases), and rebase (review and update as appropriate the cost basis on which the rate is developed) the DRG system at least every other year. The first such recalibration and rebasing shall be done prior to full implementation of the DRG methodology in SFY1999. Recalibration and rebasing shall be done in consultation with the Medicaid Hospital Payment Policy Advisory Council noted below.

R. Disproportionate Share Hospital (DSH) Payments after Transition Period (1998). (RESERVED)

12 VAC 30-70-220.

III. Revised Per Diem Methodology. Determination of Per Diem Rates. Each hospital's revised per diem rate(s) to be used during the transition period shall be based on the hospital's previous peer group ceiling or ceilings that were established under the provisions of Supplement 3, with the following adjustments:

A. All operating ceilings will be increased by the same proportion to effect an aggregate increase in reimbursement of \$40 million in SFY1997. This adjustment incorporates in per diem rates the system-wide aggregate value of payment that otherwise would be made through the "Payment Adjustment Fund." This adjustment will be calculated using estimated 1997 rates and 1994 days.

B. Starting July 1, 1996, operating ceilings will be increased for inflation to the midpoint of the state fiscal year, not the hospital fiscal year. Inflation shall be based on the DRI-Virginia moving average value as compiled and published by DRI/McGraw-Hill under contract with DMAS, increased by two percentage points per year. The most current table available prior to the effective date of the new rates shall be used.

For services to be paid at SFY1998 rates, per diem rates shall be adjusted consistent with the methodology for updating rates under the DRG methodology (IIP above).

C. There will be no Disproportionate Share Hospital (DSH) per diem.

D. To pay capital cost through claims, a hospital specific adjustment to the per diem rate will be made. At settlement of each hospital fiscal year, this per diem adjustment will be eliminated and capital shall be paid as a pass-through.

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IV. *State University Teaching Hospitals.* For hospitals that were state owned teaching hospitals on January 1, 1996, all the calculations which support the determination of hospital-specific rate per case and rate per day amounts under the DRG reimbursement methodology shall be carried out separately from other hospitals, using cost data taken only from state university teaching hospitals. Rates to be used effective July 1, 1996, shall be determined on the basis of cost report and other applicable data pertaining to the facility fiscal year ending June 30, 1993. For these hospitals the factors used to establish rates shall be as listed below according to the section above where corresponding factors for other hospitals are set forth: (see 12 VAC 30-70-210)

II.D. 0.8432

II.L. 0.8470

V. *Reimbursement of non-enrolled general acute care hospital providers.* During the transition period, non-enrolled general acute care hospitals (general acute care hospitals that are not required to file cost reports) shall be reimbursed according to the previous methodology for such hospitals (Supplement 3, XIA). Effective with discharges after June 30, 1998, these hospitals shall be paid based on DRG rates unadjusted for geographic variation. General acute care hospitals shall not file cost reports if they have less than 1000 days per year (in the most recent provider fiscal year) of inpatient utilization by Virginia Medicaid recipients, inclusive of patients in managed care capitation programs.

Prior approval must be received from DMAS when a referral has been made for treatment to be received from a non-enrolled acute care facility (in-state or out-of-state), except in the case of an emergency or because medical resources or supplementary resources are more readily available in another state.

VI. *Medicare Upper Limit.* For participating and nonparticipating facilities, the State agency will pay no more in the aggregate for inpatient hospital services than the amount it is estimated would be paid for the services under the Medicare principles of reimbursement, as set forth in 42 CFR 447.253(b)(2) and/or the lesser of reasonable cost or customary charges in 42 CFR 447.250.

VII. *Determination of Reasonable and Adequate Rates.* In accordance with Title 42 of the Code of Federal Regulations §§447.250 through 447.272 which implements §1902(a)(13)(A) of the Social Security Act, the state agency establishes payment rates for services that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities to provide services in conformity with state and federal laws, regulations, and quality and safety standards. To establish these rates Virginia uses the Medicare principles of cost reimbursement in determining the allowable costs for Virginia's reimbursement system. Allowable costs will be determined from the filing of a uniform cost report by participating providers.

VIII. *Cost Reporting Requirements.* Except for non-enrolled general acute care hospitals and freestanding psychiatric facilities licensed as hospitals, all hospitals shall submit cost reports. All cost reports shall be submitted on uniform

reporting forms provided by the state agency and by Medicare. Such cost reports shall cover a 12-month period. Any exceptions must be approved by the state agency. The cost reports are due not later than 150 days after the provider's fiscal year end. All fiscal year end changes must be approved 90 days prior to the beginning of a new fiscal year. If a complete cost report is not received within 150 days after the end of the provider's fiscal year, the Program shall take action in accordance with its policies to assure that an overpayment is not being made. When cost reports are delinquent, the provider's interim rate shall be reduced to zero. The reductions shall start on the first day of the following month when the cost report is due. After the delinquent cost report is received, desk reviewed, and a new prospective rate established, the amounts withheld shall be computed and paid. If the provider fails to submit a complete cost report within 180 days after the fiscal year end, a penalty in the amount of 10 percent of the balance withheld shall be forfeited to the state agency. The cost report will be judged complete when the state agency has all of the following:

A. Completed cost reporting form or forms provided by DMAS, with signed certification or certifications;

B. The provider's trial balance showing adjusting journal entries;

C. The provider's financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), a statement of charges in financial position, and footnotes to the financial statements. Multi-level facilities shall be governed by VIII;

D. Schedules which reconcile financial statements and trial balance to expenses claimed in the cost report;

E. Hospitals which are part of a chain organization must also file:

1. Home office cost report;

2. Audited consolidated financial statements of the chain organization including: the auditor's report in which he expresses his opinion or, if circumstances require, disclaims an opinion based on generally accepted auditing standards, the management report, and footnotes to the financial statements;

3. The hospital's financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), and a statement of cash flows;

4. Schedule of restricted cash funds that identify the purpose of each fund and the amount;

5. Schedule of investments by type (stock, bond, etc.), amount, and current market value.

F. Such other analytical information or supporting documents requested by the state agency when the cost reporting forms are sent to the provider.

IX. *Hospital Settlement.* During the transition period claims will be processed and tentative payment made using per diem rates. Settlements will be carried out to assure that the

correct blend of DRG- and per diem-based payment is received by each hospital and to settle reimbursement of pass-through costs. There shall be no settlement of freestanding psychiatric facilities licensed as hospitals except with respect to Disproportionate Share Hospital (DSH) payment, if necessary (see ID3).

A. The transition blend percentages which determine the share of DRG system and of revised per diem system reimbursement that is applicable in a given period shall change with the change of the state fiscal year, not the hospital fiscal year.

B. If a hospital's fiscal year does not end June 30th, its first year ending after June 30, 1996, contains one or more months under the previous methodology, a "split" settlement shall be done of that hospital's fiscal year. Services rendered through June 30, 1996, shall be reimbursed under the previous reimbursement methodology and services rendered after June 30, 1996, will be reimbursed as described in VIII F.

C. For cases subject to settlement under the blend of DRG and per diem methodologies (cases with an admission date after June 30, 1996), the date of discharge determines the year in which any inpatient service or claim related to the case shall be settled. This shall be true for both the DRG and the per diem portions of settlement. Interim claims tentatively paid in one hospital fiscal year that relate to a discharge in a later hospital fiscal year, shall be voided and reprocessed in the latter year so that the interim claim shall not be included in the settlement of the first year, but in the settlement of the year of discharge. An exception to this shall be rehabilitation cases, the claims for which shall be settled in the year of the "through" date of the claim.

D. A single group of cases, with discharges in the appropriate time period shall be the basis of both the DRG and the per diem portion of settlement. These cases shall be based on claims submitted and/or corrected by 120 days after the providers FYE. Cases which are based on claims that lack sufficient information to support grouping to a DRG category, and which the hospital cannot correct, shall be settled for purposes of the DRG portion of settlement based on the lowest of the DRG weights.

E. Reimbursement for services in freestanding psychiatric facilities licensed as hospitals shall not be subject to settlement.

F. During the transition period settlements shall be carried out according to the following formulas.

1. Settlement of a hospital's first fiscal year ending after July 1, 1996:

a. Operating reimbursement shall be equal to the sum of the following:

(1) Paid days occurring in the hospital's FY before July 1, 1996, times the per diem in effect before July 1, 1996.

(2) Paid days occurring after June 30, 1996, but in the hospital fiscal year, that are related to admissions that occurred before July 1, 1996, times

the revised system per diem that is effective on July 1, 1996.

(3) DRG system payment for DRG and psychiatric cases admitted after June 30, 1996, and discharged within the hospital FY times 1/3.

(4) DRG system payment for rehabilitation claims having a "from" date of July 1, 1996, or later and a "through" date within the hospital FY times 1/3.

(5) Paid days from the cases and claims in 1a(3) and 1a(4), times the revised system per diem that is effective on July 1, 1996, times 2/3.

b. DSH reimbursement shall be equal to paid days from the start of the hospital FY through June 30, 1996, times the DSH per diem effective before July 1, 1996. There shall be no settlement of DSH after July 1, 1996, as the lump sum amount shall be final.

c. Pass-throughs shall be settled as previously based on allowable cost related to days paid in 1a(1), 1a(2), and 1a(5).

2. Settlement of a hospital's second fiscal year ending after July 1, 1996:

a. Operating reimbursement shall be equal to the sum of the following:

(1) Days occurring in the hospital FY related to admissions that occurred before July 1, 1996, times the revised system per diem that is effective at the time.

(2) DRG system payment for DRG and psychiatric cases discharged in the hospital FY, but before 7/1/97, times 1/3.

(3) DRG system payment for rehabilitation claims having a "through" date within the hospital FY but before 7/1/97, times 1/3.

(4) Covered days from the cases and claims and in b and c, times the revised system per diem that is effective on July 1, 1996, times 2/3.

(5) DRG system payment for DRG and psychiatric cases discharged from 7/1/97 through the end of the hospital FY, times 2/3.

(6) DRG system payment for rehabilitation claims having a "through" date from 7/1/97 through the end of the hospital FY, times 2/3.

(7) Covered days from the cases and claims and in 2a(5) and 2a(6), times the revised system per diem that is effective on 7/1/97, times 1/3.

b. DSH reimbursement shall be the predetermined lump sum amount.

c. Pass-throughs shall be settled as previously, based on allowable cost related to days paid in 2a(1), 2a(4), and 2a(7).

X. Underpayments. When the settlement of a provider fiscal year indicates that an underpayment has occurred, the state

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agency shall pay the additional amount to the hospital within 60 days of completion of the settlement.

XI. Refund of overpayments.

A. *Lump sum payment.* When the settlement of a provider fiscal year indicates that an overpayment has occurred, full refund shall be remitted with the cost report. In cases where the state agency discovers an overpayment during desk review, field audit, or final settlement, the state agency shall promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken unless the provider disputes the state agency's determination of the overpayment. If the provider disputes the state agency's determination, recovery, if any, shall be undertaken after the issue date of any administrative decision issued by the state agency after an informal fact finding conference.

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

C. *Payment schedule.* If the provider cannot refund the total amount of the overpayment (1) at the time it files a cost report indicating that an overpayment has occurred, the provider shall request an extended repayment schedule at the time of filing, or (2) within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

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

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

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

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

D. *Extension request documentation.* In the request for an extended repayment schedule, the provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written notification of the approved

repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

E. Interest charge on extended repayment.

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

The director's determination shall be deemed to be final on (1) the due date of any cost report filed by the provider indicating that an overpayment has occurred, or (2) the issue date of any notice of overpayment, issued by DMAS, if the provider does not file an appeal, or (3) the issue date of any administrative decision issued by DMAS after an informal fact finding conference, regardless of whether the provider files a further appeal. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.

XII. *Medicaid Hospital Payment Policy Advisory Council.* In order to ensure the ongoing relevance and fairness of the prospective payment system for hospital services, the Director of the Department of Medical Assistance Services shall appoint a Medicaid Hospital Payment Policy Advisory Council. The Council shall be composed of four hospital or health system representatives nominated by the Virginia Hospital and Healthcare Association, two senior department staff and one representative each from the Department of Planning and Budget and the Joint Commission on Healthcare. This Council will be charged with evaluating and developing recommendations on payment policy changes in areas that include, but are not limited to, the following: (1) utilization reductions directly attributable to the 1995 Appropriations Act utilization initiative and any necessary adjustments to SFY1997 and 1998 DRG rates; (2) the update and inflation factors to apply to the various components of the delivery system; (3) the treatment of capital and medical education costs; (4) the mechanisms and budget implications of recalibration and rebasing approaches; (5) the disproportionate share payment fund and allocation mechanisms; and (6) the timing and final design of an outpatient payment methodology.

Supplement 1. (same as before)

Supplement 2. (same as before)

Supplement 3. (Previous 4.19-A)

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Supplement 4. Outlier Methodology Illustration

SUPPLEMENT 4 to Attachment 4.19-a

OUTLIER METHODOLOGY ILLUSTRATION
(dollar amounts and other values are for illustration purposes only)

Assume the Following:

Medicare: Fixed Loss Cost Outlier Threshold for Fiscal Year 1996	\$15,150.00	
Medicare: Marginal Cost Factor for Cost Outliers for Fiscal Year 1996	0.8000	
Hospital X Operating Cost-to- Charge Ratio	0.7200	
Hospital X Capital Cost-to- Charge Ratio	0.0600	
Medicare Wage Index for Hospital X	0.9413	
Statewide Average Labor Portion of Operating Costs	0.5977	
Hospital X Billed Charges for Case Y	\$100,000.00	
Total Adjusted Costs per Case for Hospital X	\$3,115.00	
Relative Weight for Case Y	3.1790	
Adjustment Factor for DRG Cases	0.6197	

Step 1 Calculate Hospital X Operating Costs for Case Y:

Hospital X Billed Charges for Case Y	\$100,000.00	
Hospital X Operating Cost-to- Charge Ratio	x .7200	
Hospital X Operating Costs for Case Y	\$72,000	

Step 2 Calculate Hospital X DRG Operating Amount for Case Y:

Total Adjusted Operating Costs per Case for Hospital X	\$3,115.00	
Relative Weight for Case Y	x 3.1790	
Hospital X DRG Operating Amount for Case Y	\$9,902.59	

Step 3 Calculate Hospital X Cost Outlier Threshold for Case Y:

Fixed Loss Cost Outlier Threshold	\$15,150.00	
Statewide Average Labor Portion of Operating Costs	x 0.5977	
Labor Portion of Fixed Loss Cost Outlier Threshold	\$9,055.16	
Wage Index for Hospital X	x 0.9413	
Wage Adjusted Labor Portion of Fixed Loss Cost Outlier Threshold	\$8,523.62	
Non-Labor Portion of Fixed Loss Cost Outlier Threshold	+ \$6,094.85	

Wage Adjusted Fixed Loss Cost Outlier Threshold	\$14,618.46	
Hospital X DRG Operating Amount for Case Y	+ \$9,902.59	
Hospital X Cost Outlier Threshold for Case Y	\$24,521.05	

Step 4 Calculate Hospital X Operating Outlier Amount for Case Y:

Hospital X Operating Costs for Case Y	\$72,000.00	
Hospital X Cost Outlier Threshold for Case Y	- \$24,521.05	
Hospital X Operating Outlier Costs for Case Y	\$47,478.95	

Marginal Cost Factor for Cost Outliers	x 0.8000	
Hospital X Operating Outlier Amount for Case Y	\$37,983.16	

Step 5 Calculate Hospital X Total Payment for Case Y:

Hospital X DRG Operating Amount for Case Y	\$9,902.59	
Hospital X Operating Outlier Amount for Case Y	+ \$37,983.16	
Hospital X Total Amount for Case Y	\$47,885.75	
Adjustment Factor for DRG Cases	x 0.6197	
Hospital X Total Payment for Case Y	\$29,674.80	

12 VAC 30-80-140.

Consistent with the Omnibus Budget Reconciliation Act of 1989 § 6403, reimbursement shall be provided for services resulting from early and periodic screening, diagnostic, and treatment services. Reimbursement shall be provided for such other measures described in Social Security Act § 1905(a) required to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State Plan.

A. Payments to fee-for-service providers shall be in accordance with § 6. of Attachment 4.19 B the lower of (i) State agency fee schedule or (ii) actual charge (charge to the general public).

B. Payments to outpatient cost-based providers 4.19(d) shall be in accordance with § (d) in 4.19 B.

C. Psychiatric services delivered in a psychiatric hospital for individuals under age 21 shall be reimbursed at a uniform all-inclusive per diem fee and shall apply to all service providers. The fee shall be all-inclusive to include physician and pharmacy services. The methodology to be used to determine the per diem fee shall be as follows. The base period uniform per diem fee for psychiatric services resulting from an EPSDT screening shall be the median (weighted by children's admissions in State-operated psychiatric hospitals) variable per day cost of State-operated psychiatric hospitals in the fiscal year ending June 30, 1990. The base period per

Emergency Regulations

~~diem fee shall be updated each year using the hospital market basket factor utilized in the reimbursement of acute care hospitals in the Commonwealth.~~

VA.R. Doc. No. R96-476; Filed July 9, 1996, 3:09 p.m.

STATE CORPORATION COMMISSION

BUREAU OF INSURANCE

July 10, 1996

Administrative Letter 1996-11

To: All Insurers Licensed to Write Life Insurance or Accident and Sickness Insurance, Health Maintenance Organizations and Health Service Plans Operating in Virginia

Re: 14 VAC 5-180-10 (Formerly Insurance Regulation No. 34) - Rules Governing Underwriting Practices and Coverage Limitations and Exclusions for Acquired Immunodeficiency Syndrome (AIDS)

14 VAC 5-180-50.C.6 (formerly section 6.C.6. of Regulation No. 34) of the cited regulation provides the minimum test protocol that must be followed before an adverse underwriting decision may be made on the basis of positive HIV-related test results. This test protocol consists of: (i) two positive enzyme - linked immunosorbent assay (ELISA) tests, followed by (ii) one Western Blot.

The Bureau of Insurance has recently become aware that the Food and Drug Administration has approved an oral fluid test for professional use in confirming the presence of HIV antibodies. The test protocol for the recently approved test is the same as that provided in 14 VAC 5-180-50.C.6.

The purpose of this letter is to inform you that the oral fluid test may be used to comply with 14 VAC 5-180-50.C.6. so long as the test protocol set forth in the regulation is followed. Blood tests that follow the test protocol may continue to be used.

Questions concerning any of the above should be directed to:

Robert L. Wright
Principal Insurance Analyst
Virginia State Corporation Commission
Bureau of Insurance
Post Office Box 1157
Richmond, VA 23218
(804) 371-9586

/s/ Alfred W. Gross
Acting Commissioner of Insurance

VA.R. Doc. No. R96-495; Filed July 17, 1996, 9:45 a.m.

July 10, 1996

ADMINISTRATIVE LETTER 1996-12

To: All Insurers, Health Services Plans and Health Maintenance Organizations Licensed to Write Accident and Sickness Insurance in Virginia

**Re: House Bill 1026
Section 38.2-3514.2 of the Code of Virginia**

Under the provisions of 1996 House Bill 1026, Sections 38.2-4214 and 38.2-4319 of the Code of Virginia will be

amended and reenacted, and a new section, numbered 38.2-3514.2 will be added. This new section specifies those conditions under which an insurer, health services plan or health maintenance organization will be permitted to refuse to renew those individual policies, subscription contracts or plans to which this new law applies. The purpose of this letter is to provide guidance in anticipation of a number of questions carriers will likely have concerning the requirements of § 38.2-3514.2, and to clarify Bureau position with respect to compliance with these requirements.

All contracts marketed on and after July 1, 1996 must contain renewability provisions in compliance with § 38.2-3514.2. Non-renewal will not be permitted for reasons other than those stated in § 38.2-3514.2.A. Policies with "noncancellable" or "guaranteed renewable" provisions must comply with 14 VAC 5-140 and 14 VAC 5-130, (formerly Regulations 19 and 22, respectively) as well. Policies with "conditionally renewable" provisions may be non-renewed only for one or more of the reasons stated in § 38.2-3514.2.A, as are applicable. "Conditionally renewable" policies to which this statute applies, and in force on July 1, 1996 must be amended on their renewal date so that their renewal provisions comply with the statutory requirement as well as any other applicable statutory requirements in place as of the policy renewal date. Policies with "optionally renewable" provisions to which this statute applies may not be marketed on or after July 1, 1996. "Optionally renewable" policies in force on July 1, 1996 must be amended on their renewal date to conform to § 38.2-3514.2 and will from that time forward be considered "conditionally renewable" contracts.

Questions concerning any of the above should be directed, in writing to:

Jacqueline K. Cunningham
Supervisor
Life and Health Forms and Rates Section
Virginia State Corporation Commission
Bureau of Insurance
P.O. Box 1157
Richmond, Virginia 23218

/s/ Alfred W. Gross
Acting Commissioner of Insurance

VA.R. Doc. No. R96-496; Filed July 17, 1996, 9:45 a.m.

STATE LOTTERY DEPARTMENT

DIRECTOR'S ORDER NUMBER FOURTEEN (96)

"PICK 3 RACE TRIP CONTEST"; FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1 B (15) and 58.1-4006 A of the Code of Virginia, I hereby promulgate the "Pick 3 Race Trip Contest" game rules for the Virginia Lottery Pick 3 promotional program to be conducted from Monday, May 6, 1996 through Saturday, June 8, 1996. These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
Date: May 6, 1996

VA.R. Doc. No. R96-484; Filed July 16, 1996, 11:51 a.m.

DIRECTOR'S ORDER NUMBER FIFTEEN (96)

VIRGINIA'S FIFTY-NINTH INSTANT GAME LOTTERY; "VIRGINIA'S RICHES," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1 B (15) and 58.1-4006 A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's fifty-ninth instant game lottery, "Virginia's Riches." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
Date: May 20, 1996

VA.R. Doc. No. R96-485; Filed July 16, 1996, 11:51 a.m.

DIRECTOR'S ORDER NUMBER SIXTEEN (96)

VIRGINIA'S FIFTY-EIGHTH INSTANT GAME LOTTERY; "\$25,000 DERBY," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1 B (15) and 58.1-4006 A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's fifty-eighth instant game lottery, "\$25,000 Derby." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
Date: June 7, 1996

VA.R. Doc. No. R96-486; Filed July 16, 1996, 11:51 a.m.

DIRECTOR'S ORDER NUMBER EIGHTEEN (96)

VIRGINIA'S FORTY-EIGHTH INSTANT GAME LOTTERY, "HIGH STAKES"; FORTY-NINTH INSTANT GAME LOTTERY, "HIGH ROLLER"; INSTANT GAME 303, "BONUS BINGO"; AND INSTANT GAME 402, "FULL HOUSE"; END OF GAME; REVISED.

In accordance with the authority granted by Sections 58.1-4006 A and 9-6.14:4.1 B (15) of the Code of Virginia, I hereby give notice that Virginia's Forty-Eighth Instant Game, "High Stakes," Forty-Ninth Instant Game, "High Roller," Instant Game 303, "Bonus Bingo," and Instant Game 402, "Full House," will officially end at midnight on Thursday, July 4, 1996. The last day for lottery retailers to return for credit unsold tickets from "High Stakes," "High Roller," "Bonus Bingo," or "Full House" will be Thursday, August 8, 1996. The last day to redeem winning tickets for "High Stakes," "High Roller," "Bonus Bingo" or "Full House" will be Friday, December 31, 1996, 180 days from the declared official end of the game. Claims for winning tickets from "High Stakes," "High Roller," "Bonus Bingo" and "Full House" will not be accepted after that date. Claims which are mailed and received in an envelope bearing a United States Postal Service postmark of December 31, 1996, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia; and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs

Office, State Lottery Department, 900 East Main Street,
Richmond, Virginia 23219.

This Director's Order supersedes Director's Order Number Seventeen (96), issued June 24, 1996. This Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
Date: June 28, 1996

VA.R. Doc. No. R96-487; Filed July 16, 1996, 11:52 a.m.

DIRECTOR'S ORDER NUMBER NINETEEN (96)

VIRGINIA'S FORTY-FOURTH INSTANT GAME LOTTERY, "MONEY BAGS"; FORTY-SIXTH INSTANT GAME LOTTERY, "ONE-EYED JACK"; FIFTY-THIRD INSTANT GAME LOTTERY, "FOOTBALL FEVER"; AND FIFTY-FOURTH INSTANT GAME LOTTERY, "WINNER TAKE ALL"; END OF GAME.

In accordance with the authority granted by Sections 58.1-4006 A and 9-6.14:4.1 B (15) of the Code of Virginia, I hereby give notice that Virginia's Forty-Fourth Instant Game, "Money Bags," Forty-Sixth Instant Game, "One-Eyed Jack," Fifty-Third Instant Game, "Football Fever," and Fifty-Fourth Instant Game, "Winner Take All," will officially end at midnight on Thursday, July 18, 1996. The last day for lottery retailers to return for credit unsold tickets from "Money Bags," "One-Eyed Jack," "Football Fever," or "Winner Take All" will be Thursday, August 22, 1996. The last day to redeem winning tickets for "Money Bags," "One-Eyed Jack," "Football Fever" or "Winner Take All" will be Tuesday, January 14, 1997, 180 days from the declared official end of the game. Claims for winning tickets from "Money Bags," "One-Eyed Jack," "Football Fever" and "Winner Take All" will not be accepted after that date. Claims which are mailed and received in an envelope bearing a United States Postal Service postmark of January 14, 1997, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia; and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Office, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
Date: July 3, 1996

VA.R. Doc. No. R96-488; Filed July 16, 1996, 11:52 a.m.

FORMS

STATE WATER CONTROL BOARD

Title of Regulation: 9 VAC 25-20-10 et seq. Fees for Permits and Certificates.

The following form has been filed by the Department of Environmental Quality to use in administering 9 VAC 25-20-10 et seq.

Water Division Permit Application Fee Form, issued July 1996.

Copies of this form may be obtained from Cindy Berndt, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240, telephone (804) 698-4000 or toll free 1-800-592-5482.

DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER DIVISION
PERMIT APPLICATION FEE

INSTRUCTIONS

Applicants for individual Virginia Pollutant Discharge Elimination System (VPDES), Virginia Pollution Abatement (VPA), Virginia Water Protection (VWP), Surface Water Withdrawal (SWW), and Ground Water Withdrawal (GWW) Permits are required to pay permit application fees except farming operations engaged in production for market. Fees are also required for registration for coverage under General Permits except for the general permits for sewage treatment systems with discharges of 1,000 gallons per day (GPD) or less and for Corrective Action Plans for leaking underground storage tanks. Except for VWP permits, fees must be paid when applications for permit issuance, reissuance or modification are submitted. Applicants for VWP permits will be notified by the DEQ of the fee due. Applications will be considered incomplete if the proper fee is not paid and will not be processed until the fee is received.

The permit fee schedule can be found on the back of this form. Fees for permit issuance or reissuance and for permit modification are included. Once you have determined the fee for the type of application you are submitting, complete this form. The white and yellow copies of the form and your check or money order payable to "Commonwealth of Virginia-DEQ" should be mailed to the Department of Environmental Quality, Receipts Control, P.O. Box 10150, Richmond, VA 23240. The pink copy of the form and a copy of your check or money order should accompany the permit application. The gold copy is for your records. Please direct any questions regarding this form or fee payment to the DEQ Office to which you are submitting your application.

APPLICANT NAME: _____ SSN/FIN: _____

ADDRESS: _____ DAYTIME PHONE: (____) _____
Area Code

FACILITY/ACTIVITY NAME: _____

LOCATION: _____

TYPE OF PERMIT APPLIED FOR
(from Fee Schedule): _____

TYPE OF ACTION: _____ New Issuance _____ Reissuance _____ Modification

AMOUNT OF FEE SUBMITTED
(from Fee Schedule): _____

EXISTING PERMIT NUMBER (if applicable): _____

DEQ OFFICE TO WHICH APPLICATION SUBMITTED (check one)

Abingdon/SWRO Bridgewater/VRO Kilmarnock/KO Prince William/NRO
 Richmond/PRO Richmond/Headquarters Roanoke/WCRO Virginia Beach/TRO

FOR DEQ USE ONLY

Date: _____
DC #: _____

White and Yellow Copies - DEQ Accounting Office
Pink Copy - DEQ Regional or Permit Program Office
Gold Copy - Applicant

FEE SCHEDULE--APPLICATIONS FOR INDIVIDUAL PERMITS
EXCEPT FOR VIRGINIA WATER PROTECTION PERMITS
(DUE WITH SUBMISSION OF APPLICATION)

TYPE OF PERMIT	ISSUANCE/ REISSUANCE	MODIFICATION
VPDES Industrial Major	\$8,000	\$4,000
VPDES Municipal Major	\$7,100	\$3,550
VPDES Municipal Storm Water	\$7,100	\$3,550
VPDES Industrial Minor, No Standard Limits	\$3,400	\$1,700
VPDES Industrial Minor, Standard Limits	\$2,200	\$1,100
VPDES Industrial Storm Water	\$2,400	\$1,200
VPDES Municipal Minor, 100,000 GPD or More	\$2,500	\$1,250
VPDES Municipal Minor, More than 10,000 GPD but Less than 100,000 GPD	\$2,000	\$1,000
VPDES Municipal Minor, More than 1,000 GPD but 10,000 GPD or Less	\$1,800	\$ 900
VPDES Municipal Minor, 1,000 GPD or Less	\$1,400	\$ 700
VPA Industrial Wastewater Operation	\$3,500	\$1,750
VPA Industrial Sludge Operation	\$2,500	\$1,250
VPA Municipal Wastewater Operation	\$4,500	\$2,250
VPA Municipal Sludge Operation	\$2,500	\$1,250
GWV Initial Permit for an Existing Withdrawal	\$ 400	\$ 200
GWV Permit for a New or Expanded Withdrawal	\$2,000	\$1,000
SWW Certificate for an Existing Withdrawal	\$2,000	\$1,000
SWW Permit for a New or Expanded Withdrawal	\$3,000	\$1,500

FEE SCHEDULE--APPLICATIONS FOR INDIVIDUAL VIRGINIA WATER PROTECTION PERMITS
(APPLICANT WILL BE NOTIFIED OF FEE DUE BY DEQ)

TYPE OF PERMIT	ISSUANCE/ REISSUANCE	MODIFICATION
VWP Category I Project	\$3,000	\$1,500
VWP Category II Project	\$2,100	\$1,050
VWP Category III Project	\$ 800	\$ 400
VWP Waiver	\$ 300	\$ 150

FEE SCHEDULE--REGISTRATION FOR GENERAL PERMIT COVERAGE

The maximum fee for registration for general permit coverage is \$200. The specific amount of the fee depends on the amount of time the general permit will remain in effect. Please contact the DEQ Office to which registration materials are to be submitted for assistance in determining the amount of the fee due.

Forms

Title of Regulation: 9 VAC 25-31-10 et seq. Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation.

The permit application forms to be used by applicants for Virginia Pollutant Discharge Elimination System permits have been filed by the Department of Environmental Quality. The forms will be used in administering 9 VAC 25-31-10 et seq. The regulation became effective July 24, 1996, and a summary was published in 12:20 VA.R. 2651-2652 June 24, 1996. Due to the number of pages, copies of these forms are not being printed in the *Virginia Register*; however, a listing of the forms is printed below.

Application Form 1 - General Information, Consolidated Permits Program, EPA Form 3510-1, June 1980.

National Pollutant Discharge Elimination System Application for Permit to Discharge Wastewater, Standard Form A - Municipal, EPA Form 7550-22 (7-73).

Virginia Pollutant Discharge Elimination System (VPDES) Application for a Permit to Discharge Wastewater, Short Form A, EPA Form 7550-6 (1-73).

Virginia State Water Control Board Fish Farm Questionnaire, July 1996.

Application Form 2C - Wastewater Discharge Information, Consolidated Permits Program, EPA Form 3510-2C, revised February 1985.

Application Form 2D - New Sources and New Dischargers: Application for Permit to Discharge Process Wastewater, EPA Form 3510-2D, September 1986.

Application Form 2E - Facilities Which Do Not Discharge Process Wastewater, EPA Form 3510-2E, September 1986.

Form 2F NPDES, Application for Permit to Discharge Stormwater, Discharges Associated with Industrial Activity, EPA Form 3510-2F, November 1990.

Copies of these forms may be obtained from Cindy Berndt, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240, telephone (804) 698-4000 or toll free 1-800-592-5482.

Title of Regulation: 9 VAC 25-32-10 et seq. Virginia Pollutant Abatement (VPA) Permit Regulation.

The Virginia Pollution Abatement Permit Application General Instructions for use by applicants for Virginia Pollution Abatement permits have been filed by the Department of Environmental Quality. The forms will be used in administering 9 VAC 25-32-10 et seq. The final regulation was published in 12:20 VA.R. 2652-2667 June 24, 1996, and it became effective July 24, 1996. Due to the number of pages, copies of these forms are not being printed in the

Virginia Register; however, a listing of the forms is printed below:

Virginia Pollution Abatement Permit Application, General Instructions, revised 10/95.

Virginia Pollution Abatement Permit Application, Form A, All Applicants, revised 10/95.

Virginia Pollution Abatement Permit Application, Form B, Animal Waste, revised 10/95.

Virginia Pollution Abatement Permit Application, Form C, Industrial Waste, revised 10/95.

Virginia Pollution Abatement Permit Application, Form D, Municipal Waste, revised 10/95.

Copies of these forms may be obtained from Cindy Berndt, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240, telephone (804) 698-4000 or toll free 1-800-592-5482.

GOVERNOR

EXECUTIVE ORDER NUMBER SIXTY-FIVE (96)

DECLARATION OF A STATE OF EMERGENCY THROUGHOUT THE COMMONWEALTH ARISING FROM HURRICANE BERTHA

Recent meteorological forecasts concerning Hurricane Bertha predict that the storm could cause storm surge, heavy rains, flooding, and high winds in the Commonwealth. The potential also exists for tornadoes which could be spawned as a collateral effect of the hurricane. Should the hurricane make landfall in those cities and counties which lie generally east of Interstate Highway 95 in "Tidewater Virginia," as defined in § 10.1-2101 of the *Code of Virginia*, flash flooding, storm surge damage, and wind damage are anticipated in those areas. Inland areas of the state could also be impacted by the residual destructive power of Hurricane Bertha.

The health and general welfare of the citizens of the localities which may be affected require that state action be taken to help prepare for, and should this destructive storm impact the Commonwealth, to alleviate the conditions which may result from this situation. I also find that these potential hurricane effects may constitute a natural disaster wherein human life and public and private property are imperiled, as described in § 44-146.16 of the *Code of Virginia*.

Therefore, by virtue of the authority vested in me by § 44-146.17 of the *Code of Virginia*, as Governor and as Director of Emergency Services, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by § 44-75.1 of the *Code of Virginia*, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby declare that a state of emergency exists in the Commonwealth and direct that appropriate assistance be rendered by agencies of both state and local governments to prepare for and alleviate any conditions resulting from this hurricane, and to implement recovery and mitigation operations so as to return impacted areas to pre-event conditions in so far as possible.

Pursuant to §§ 44-75.1 (3) and (4) of the *Code of Virginia*, I also direct that the Virginia National Guard and the Virginia Defense Force be called forth to state duty to assist in providing such aid. This shall include Virginia National Guard assistance to the Virginia State Police to direct traffic, prevent looting, and perform such other law enforcement functions as the Superintendent of State Police, in consultation with the Coordinator of Emergency Services and with the approval of the Secretary of Public Safety, may find necessary.

In order to marshal all public resources and appropriate preparedness, response and recovery measures to meet this potential threat and recovery from its effects, and in accordance with my authority contained in § 44-146.17 of the Emergency Services and Disaster Laws, I hereby order the following protective and restoration measures:

1. The full implementation by agencies of the state and local governments of Volume II, Virginia Emergency Operations Plan (COVEOP) for Peacetime Disasters,

September 1988, as amended, along with its attendant Annex I-FF, Virginia Hurricane Emergency Response Plan, and other appropriate state agency plans.

2. Full activation of the Virginia Emergency Operations Center (VEOC) and State Emergency Response Team (SERT), which is a multi-agency working group, to coordinate implementation of the COVEOP and to coordinate receipt and evaluation of information related to the effects of this storm. Furthermore, I am directing that the VEOC and SERT coordinate state operations in support of affected localities and the Commonwealth, to include issuing mission assignments to agencies designated in the COVEOP and others that may be identified by the Coordinator of Emergency Services, in consultation with the Secretary of Public Safety, which are needed to provide for the preservation of life, protection of property and implementation of recovery activities. The Coordinator of Emergency Services will work closely with involved agencies to identify sources of funding to cover costs related to the execution of mission assignments.

3. The authorization to assume control over the Commonwealth's telecommunications systems, as required by the State Coordinator of Emergency Services, in coordination with the Department of Information Technology and with the prior consent of the Secretary of Public Safety, making all systems assets available for use in providing adequate communications, intelligence and warning capabilities for the impending event, pursuant to § 44-146.18 of the *Code of Virginia*.

4. The preparation for and if necessary, the evacuation by low-lying localities, particularly in the coastal counties and the Eastern Shore, of citizens subject to the potential effects of this storm. Although I have the power to direct evacuation as authorized in § 44-146.17 (1) of the Emergency Services and Disaster Laws, I will defer to the authorities of the governing bodies of local jurisdictions as to exactly when and to what extent mandatory evacuation of their localities is implemented. I will retain the authority to implement mandatory evacuation, if warranted. The authority to issue local preventive evacuation orders is dependent upon the following procedures: (a) the declaration by the governing body of a local emergency as outlined in § 44-146.21 of the Emergency Services and Disaster Laws; (b) the judicious and timely use of the manual Decision Arc process, or any automated decision aids, device or process, as described in Annex I-FF, Virginia Hurricane Emergency Response Plan, to determine specific local evacuation start times; and (c) prior consultation and close coordination with the Virginia Emergency Operations Center (VEOC) in Richmond. Violations of any order to citizens to evacuate shall constitute a violation of this Executive Order and are punishable as a Class I misdemeanor.

5. The cessation of toll collection on evacuation routes. Coordination and timing of the application of this measure will be accomplished by the Virginia Department of Transportation, in conjunction with the toll road administrations, local jurisdictions, and the

Governor

Department of State Police. The general public will be informed of this action by the best means available.

6. The hosting of evacuees from affected localities by inland jurisdictions in their public shelters is authorized and encouraged. To assist host jurisdictions in this regard, the use of the Sum Sufficient, as defined in § 44-146.28 (a) of the Emergency Services and Disaster Laws, to defray authorized and justified expenses incurred by the host jurisdictions in opening and operating their public shelters is herewith authorized. Invoices and payments will be subject to such approvals and procedures as may be prescribed by the State Coordinator of Emergency Services in consultation with the State Comptroller.

7. The activation, implementation and coordination of appropriate mutual aid agreements and compacts, including the Emergency Management Assistance Compact, and the authorization of the State Coordinator of Emergency Services to enter into any other supplemental agreements, pursuant to §§ 44-146.17 (5) and 44-146.28:1, to provide for the evacuation and reception of injured and other persons and the exchange of medical, fire, police, National Guard personnel and equipment, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies. The State Coordinator of Emergency Services is hereby designated as Virginia's authorized representative within the meaning of the Emergency Management Assistance Compact, § 44-146.28:1, *Code of Virginia*.

8. The authorization of the Departments of State Police, Transportation and Motor Vehicles to grant temporary overweight/registration/license exemptions to carriers transporting essential emergency relief supplies into and within the Commonwealth in order to support the disaster response and recovery, particularly as regards donation management.

The axle and gross weights shown below are the maximum allowed, unless otherwise posted.

Any One Axle	24,000 Pounds
Tandem Axles (more than 40 inches but not more than 96 inches spacing between axle centers)	44,000 Pounds
Single Unit (2 Axles)	44,000 Pounds
Single Unit (3 Axles)	54,500 Pounds
Tractor-Semitrailer (4 Axles)	64,500 Pounds
Tractor-Semitrailer (5 or more Axles)	90,000 Pounds
Tractor-Twin Trailers (5 or more Axles)	90,000 Pounds
Other Combinations (5 or more Axles)	90,000 Pounds
Per Inch of Tire Width in Contact with Road Surface	850 Pounds

In addition to described overweight transportation privileges, carriers are also exempt from registration with DMV. This includes the vehicles enroute and returning to their home base. The above cited agencies shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement.

This authorization shall apply to hours worked by any carrier when transporting passengers, property,

equipment, food, fuel, construction materials and other critical supplies to or from any portion of the Commonwealth for purpose of providing relief or assistance as a result of this disaster, pursuant to § 52-8.4 of the *Code of Virginia*.

The foregoing overweight transportation privileges and the regulatory exemption provided by § 52.8.4.A of the *Code of Virginia*, and implemented in § 2.3.B of VR 545-01-1, "Motor Carrier Safety Regulations," shall remain in effect for sixty (60) days from the onset of the disaster, or until emergency relief is no longer necessary, as determined by the Secretary of Public Safety in consultation with the Secretary of Transportation, whichever is earlier.

9. The discontinuance of provisions authorized in paragraphs 5 and 8 may be implemented and disseminated by publication of administrative notice to all affected and interested parties by the authority I herewith delegate to the Secretary of Public Safety, after consultation with other affected Cabinet-level Secretaries.

10. If deemed necessary, the designation of a State Recovery Task Force under the leadership of the Secretary of Commerce and Trade to promote public, private and industrial redevelopment projects and help sustain long-term community economic vitality in the aftermath of the disaster. This task force will also assist in the restoration of critical public health and safety systems and will do so in close coordination with the Coordinator of Emergency Services as the individual responsible for ensuring implementation of short-term recovery programs.

11. The authorization of appropriate oversight boards, commissions and agencies to ease building code restrictions, and to permit emergency demolition, hazardous waste disposal, debris removal, emergency landfill siting and operations and other activities necessary to address immediate health and safety needs. This state of emergency constitutes a major medical emergency under the Rules and Regulations of the Board of Health Governing Emergency Medical Services, pursuant to Article 3.01 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1, Statewide Emergency Medical Services System and Services, and exemptions specified in the Rules and Regulations regarding patient transport and provider certification in disasters apply.

12. The costs incurred by state agencies and other agents of the Commonwealth as defined herein and in § 44-146.17, except as defined in paragraph 20, page 9, in performing these missions shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 42 of Chapter 912 of the 1996 Acts of Assembly.

13. The implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures pertaining to performances of public work, entering into contracts, incurring of obligations, or other logistical and support measures, as delineated in § 44-

146.28 (b) of the Emergency Services and Disaster Laws. § 44-146.24 also applies to the disaster activities of state agencies.

14. The immunity provisions of § 44-146.23 (a) apply to volunteer, auxiliary and reserve groups including search and rescue team members (SAR), Virginia Association of Volunteer Rescue Squad (VAVRS) personnel, Civil Air Patrol (CAP), member organizations of the Voluntary Organizations Active in Disasters (VOAD), Radio Amateur Civil Emergency Services (RACES), volunteer fire fighters and others when designated as agents of the Commonwealth for specific disaster-related mission assignments and identified by the Coordinator of Emergency Services.

The following conditions apply to the deployment of the Virginia National Guard and the Virginia Defense Force:

1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Services, shall make available on state active duty such units and members of the Virginia National Guard and Virginia Defense Force and such equipment as may be desirable to assist in pre-storm preparation and in alleviating the human suffering and damage to property as a result of Hurricane Bertha.

2. Pursuant to § 52-6 of the *Code of Virginia*, I authorize and direct the Superintendent of State Police to appoint any and all such Virginia Army and Air National Guard personnel called to state active duty as additional police officers. These police officers shall have the same powers and perform the same duties as the regular State Police officers appointed by the Superintendent. However, they shall nevertheless remain members of the Virginia National Guard, subject to military command as members of the State Militia. Any bonds and/or insurance required by § 52-7 of the *Code of Virginia* shall be provided for them at the expense of the Commonwealth.

3. In all instances, members of the Virginia Army National Guard and Virginia Defense Force shall remain subject to military command as prescribed by § 44-78.1 of the *Code of Virginia* and not subject to the civilian authorities of the state or local governments. This shall not be deemed to prohibit working in close cooperation with members of the Virginia Departments of State Police or Emergency Services or local law enforcement or emergency management authorities or receiving guidance from them in the performance of their duties.

4. Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

(a) Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act subject to the requirements and limitations thereof; and, in addition,

(b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on

federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to § 44-14 of the *Code of Virginia*, and subject to the concurrence of the Board of Military Affairs, and subject to the availability of future appropriations which may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

5. The following conditions apply to service by the Virginia Defense Force:

(a) Compensation shall be at a daily rate that is equivalent of base pay only for a National Guard Unit Training Assembly, commensurate with the grade and years of service of the member, not to exceed 20 years of service;

(b) Lodging and meals shall be provided by the Adjutant General or reimbursed at standard state per diem rates;

(c) All privately owned equipment, including, but not limited to, vehicles, boats, and aircraft, will be reimbursed for expense of fuel. Damage or loss of said equipment will be reimbursed, minus reimbursement from personal insurance, if said equipment was authorized for use by the Adjutant General in accordance with § 44-54.12 of the *Code of Virginia*; and

(d) In the event of death or injury, benefits shall be provided in accordance with the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof.

6. The costs incurred by the Department of Military Affairs and Virginia Defense Force in performing these missions shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 493 of Chapter 912 of the 1996 Acts of Assembly.

This Executive Order shall be effective upon its signing, and shall remain in full force and effect until June 30, 1997, unless sooner amended or rescinded by further executive order. That portion providing for benefits for members of the National Guard and other agents of the Commonwealth herein provided for in the event of injury or death shall continue to remain in effect after termination of this Executive Order as a whole.

Governor

Given under my hand and under the Seal of the Commonwealth of Virginia, this 11th day of July, 1996.

/s/ George Allen
Governor

VA.R. Doc. No. R96-491; Filed July 17, 1996, 9:29 a.m.

GENERAL NOTICES/ERRATA

Symbol Key

† Indicates entries since last publication of the *Virginia Register*

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:

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

ERRATA

STATE CORPORATION COMMISSION

Title: Administrative Letter 1996-7. Change of Zip Code

Publication: 12:20 VA.R. 2697 June 24, 1996.

Correction to Administrative Letter:

Page 2697, Administrative Letter 1996-7, second paragraph, last sentence, change "This change should not be filed" to "It is not necessary to file such changes to policies, forms, endorsements, or notices to policyholders"

BOARD OF PHARMACY

Title of Regulation: 18 VAC 110-20-10 et seq. Regulations of the Board of Pharmacy.

Publication: 12:21 VA.R. 2787-2799 July 8, 1996.

Correction to Final Regulation:

Page 2799, column 1, strike form entitled "Application for Re-examination (eff.5/93)," do not strike forms entitled

CALENDAR OF EVENTS

Symbol 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

VIRGINIA AGRICULTURAL COUNCIL

† August 26, 1996 - 1 p.m. -- Open Meeting

† August 27, 1996 - 9 a.m. -- Open Meeting

Best Western Motel, 1467 Carrsville Highway, Franklin, Virginia.

The annual meeting of the Virginia Agricultural Council. The agenda will consist of an annual review of finances, progress reports on approved projects, and general business matters. The council will allot 30 minutes at the conclusion of all other business for the public to appear before the council. Any person who needs any accommodations in order to participate at the meeting should contact Thomas R. 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 515, Richmond, VA 23219, telephone (804) 786-6060.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia State Apple Board

† August 27, 1996 - 10 a.m. -- Open Meeting

Harrisonburg Animal Health Lab, 116 Reservoir Street, Harrisonburg, Virginia. ♿

A meeting to (i) review tax collections and revenues for 1995 crop; (ii) discuss crop estimates for 1996; and (iii) review and approve the budget. 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 accommodations in order to participate at the meeting should contact Nancy L. Israel at least five days before the meeting date so that suitable arrangements can be made.

Contact: Nancy L. Israel, Program Director, Virginia State Apple Board, Washington Bldg., 1100 Bank St., Suite 1008, Richmond, VA 23219, telephone (804) 371-6104 or FAX (804) 371-7786.

Virginia Aquaculture Advisory Board

August 15, 1996 - 10:30 a.m. -- Open Meeting

Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia. ♿

The board will meet in regular session to discuss issues related to the Virginia aquaculture industry. 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 accommodations in order to participate at the meeting should contact T. Robins Buck at least five days before the meeting date so that suitable arrangements can be made.

Contact: T. Robins Buck, Secretary, Virginia Aquaculture Advisory Board, P.O. Box 1163, Suite 211, Richmond, VA 23209, telephone (804) 371-6094.

Virginia Horse Industry Board

August 20, 1996 - 10 a.m. -- Open Meeting

Virginia Cooperative Extension, Charlottesville-Albemarle Unit, 168 Spotnap Road, Lower Level Meeting Room, Charlottesville, Virginia. ♿

A meeting to review the budget for the 1995-1996 fiscal year and to discuss recently awarded grants and the 1997 proposed educational seminar. The board will also discuss additional avenues to market the economic impact study of the industry. 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 accommodations in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

Contact: Andrea S. Heid, Equine Marketing Specialist, Department of Agriculture and Consumer Services, 1100

Bank St., Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD

Virginia Irish Potato Board

† **September 5, 1996 - 8 p.m.** -- Open Meeting
Eastern Shore Agricultural Research and Extension Center,
33446 Research Drive, Painter, Virginia.

A meeting to discuss programs (promotion, research and education), the annual budget, and other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

Contact: J. William Mapp, Program Director, P.O. Box 26, Onley, VA 23418, telephone (804) 787-5867.

STATE AIR POLLUTION CONTROL BOARD

August 7, 1996 - 7:30 p.m. -- Public Hearing
Northern Virginia Community College, 8333 Little River Turnpike, Route 236, Forum Room, Annandale, Virginia.

August 8, 1996 - 10:30 a.m. -- Public Hearing
Loudoun County Government Center, 1 Harrison Street, Board Room, Leesburg, Virginia.

August 8, 1996 - 7:30 p.m. -- Public Hearing
Stafford County Administration Center, 1300 Courthouse Road, Board Room, Stafford, Virginia.

September 9, 1996 -- Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to repeal regulations entitled: **9 VAC 5-90-10 et seq., Regulations for the Control of Motor Vehicle Emissions, 9 VAC 5-100-10 et seq., Regulations for Vehicle Emissions Control Program Analyzer Systems, and 9 VAC 5-110-10 et seq., Regulations for the Control of Motor Vehicles Emissions;** and adopt regulations entitled: **9 VAC 9-91-10 et seq., Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area.** The purpose of the regulation is to require that motor vehicles undergo periodic emissions inspection and be maintained in compliance with emission standards in order to reduce harmful emissions of hydrocarbons, carbon monoxide and oxides of nitrogen. The regulation is being promulgated in response to state and federal laws requiring the emissions inspection program. The regulation applies to vehicles that have actual gross weights of 10,000 pounds or less and are registered in the Counties of Arlington, Fairfax, Loudoun, Prince William, Stafford, and Fauquier and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. It requires biennial emissions inspections in order to register the motor vehicle in the area described

above. The regulation also describes requirements for inspection stations, inspectors, repair facilities and repair technicians.

It is further proposed that the board authorize for public comment the repeal of existing regulations to be replaced by 9 VAC 5-91-10 et seq. Specifically, the proposal is to repeal:

9 VAC 5-90-10 et seq. Regulation for the Control of Motor Vehicle Emissions (present program)

9 VAC 5-100-10 et seq. Regulation for Vehicle Emission Control Program Analyzer Systems (present program)

9 VAC 5-110-10 et seq. Regulation for the Enhanced Motor Vehicle Emissions Inspection Program in the Northern Virginia Area (test-only regulations)

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: The following localities will bear a disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

The Counties of Arlington, Fairfax, Loudoun, Prince William, Stafford, and Fauquier and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

Location of Proposal: The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the Department's Office of Nonattainment and Mobile Sources Planning (Eighth Floor), 629 East Main Street, Richmond, Virginia and the Department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Fredericksburg Satellite Office
Department of Environmental Quality
300 Central Road, Suite B
Fredericksburg, Virginia 22401
Ph: (540) 899-4600

Springfield Satellite Office
Department of Environmental Quality
Springfield Corporate Center, Suite 310
6225 Brandon Avenue
Springfield, Virginia 22150
Ph: (703) 644-0311

Lorton Mobile Sources Operations
Department of Environmental Quality
7240-D Telegraph Square Drive
Lorton, Virginia 22079

Statutory Authority: §§ 46.2-1178.1, 46.2-1179, 46.2-1180 and 46.2-1187.2 of the Code of Virginia.

Calendar of Events

Public comments may be submitted until 4:30 p.m. on Monday, September 9, 1996, to the Director, Office of Nonattainment and Mobile Sources Planning, Department of Environmental Quality, 629 East Main Street, Eighth Floor, P.O. Box 10009, Richmond, Virginia 23240.

Contact: David J. Kinsey, Policy Analyst, Office of Nonattainment and Mobile Sources, Air Division, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4432 or (FAX) (804) 698-4510.

* * * * *

August 9, 1996 -- Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-20-10 et seq., General Provisions and 9 VAC 5-80-10 et seq., Permits for New and Modified Sources**. The amendments concern provisions covering prevention of significant deterioration and include: (i) revision of the maximum allowable increases for particulate matter from being based on total suspended particulate to being based on particulate with an aerodynamic diameter of less than or equal to 10 micrometers; (ii) revision of the "Guideline on Air Quality Models"; (iii) exclusion of certain pollutants when determining whether an emissions increase is considered significant; and (iv) updating the notification process to comply with the Code of Virginia and changing the regulation's internal numbering system to reflect requirements of the Registrar of Regulations.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the Department's Office of Air Program Development (Eighth Floor), 629 East Main Street, Richmond, Virginia, and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office
Department of Environmental Quality
355 Deadmore Street
Abingdon, Virginia
Ph: (540) 676-4800

West Central Regional Office
Department of Environmental Quality
Executive Office Park, Suite D
5338 Peters Creek Road
Roanoke, Virginia
Ph: (540) 561-7000

Lynchburg Satellite Office
Department of Environmental Quality
7701-03 Timberlake Road
Lynchburg, Virginia
Ph: (804) 582-5120

Valley Regional Office
Department of Environmental Quality
116 North Main Street
Bridgewater, Virginia 22812
Ph: (540) 828-2595

Fredericksburg Satellite Office
Department of Environmental Quality
300 Central Road, Suite B
Fredericksburg, Virginia
Ph: (540) 899-4600

Piedmont Regional Office
Department of Environmental Quality
4949-A Cox Road
Innsbrook Corporate Center
Glen Allen, Virginia
Ph: (804) 527-5020

Tidewater Regional Office
Department of Environmental Quality
Old Greenbrier Village, Suite A
2010 Old Greenbrier Road
Chesapeake, Virginia
Ph: (804) 424-6707

Springfield Satellite Office
Department of Environmental Quality
Springfield Corporate Center, Suite 310
6225 Brandon Avenue
Springfield, Virginia
Ph: (703) 644-0311

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

Public comments may be submitted until 4:30 p.m. August 9, 1996, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Contact: Karen Sabasteanski, Policy Analyst, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426.

August 13, 1996 - 9 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

A regular meeting of the board.

Contact: Cindy M. Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378.

ALCOHOLIC BEVERAGE CONTROL BOARD

August 12, 1996 - 9:30 a.m. -- Open Meeting
August 26, 1996 - 9:30 a.m. -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☎

A meeting to receive and discuss reports from and activities of staff members. Other matters have not yet been determined.

Contact: W. Curtis Coleburn, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712 or FAX (804) 367-1802.

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

Board for Architects

August 30, 1996 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board 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 ☎

VIRGINIA AVIATION BOARD

August 21, 1996 - 9 a.m. -- Open Meeting
August 23, 1996 - 9 a.m. -- Open Meeting
Hotel Roanoke and Conference Center, 110 Shenandoah Avenue, Roanoke, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular bi-monthly meeting of the board. Applications for state funding will be presented to the board, funding allocations will be announced, and other matters of interest to the Virginia aviation community will be discussed. This meeting is being held in conjunction with the 23rd Annual Virginia Aviation Conference. For further information on the conference being held at the Hotel Roanoke and Conference Center on August 21-23, 1996, contact Betty Wilson at (804) 225-3783. Individuals with disabilities should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3630, FAX (804) 236-3625, or (804) 236-3624/TDD ☎

BOARD FOR BARBERS

August 5, 1996 - 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 the department at least two weeks 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, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

BOARD FOR BRANCH PILOTS

August 6, 1996 - 9:30 a.m. -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board 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 23230-4917, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Northern Area Review Committee

August 13, 1996 - 2 p.m. -- Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review Chesapeake Bay Preservation Area programs for the Northern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the committee meeting; however, written comments are welcome.

Contact: Florence E. J. Dickerson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

Calendar of Events

Southern Area Review Committee

August 13, 1996 - 10 a.m. -- Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review Chesapeake Bay Preservation Area programs for the Southern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the committee meeting; however, written comments are welcome.

Contact: Florence E. J. Dickerson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

CHILD DAY-CARE COUNCIL

August 8, 1996 - 9:30 a.m. -- Open Meeting
Department of Social Services, Theater Row Building, 730 East Broad Street, Lower Level Conference Room, 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. Public comment period will be at noon. Please call ahead of time for possible changes in meeting time.

Contact: Rhonda Harrell, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., 7th Floor, Richmond, VA 23219, telephone (804) 692-1775.

July 23, 1996 - 9 a.m. -- Open Meeting
Department of Social Services, Theater Row Building, 730 East Broad Street, Lower Level Conference Room, Room 1, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The council will meet to discuss committees' work.

Contact: Rhonda Harrell, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., 7th Floor, Richmond, VA 23219, telephone (804) 692-1775.

COMPENSATION BOARD

August 29, 1996 - 11 a.m. -- Open Meeting
Ninth Street Office Building, 202 North Ninth Street, 9th Floor, Room 913/913A, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A routine business meeting.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 710, Richmond, VA 23218-0710, telephone (804) 786-0786, FAX (804) 371-0235, or (804) 786-0786/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

Board of Conservation and Recreation

† **August 16, 1996 - 10:30 a.m.** -- Open Meeting
Department of Conservation and Recreation, 203 Governor Street, Room 200, Richmond, Virginia. ☎

The Stormwater Management Committee of the Board of Conservation and Recreation will meet with Department of Conservation and Recreation officials to discuss and comment on proposed amendments to the Virginia Stormwater Management Regulations (4 VAC 3-20-10 et seq.).

Contact: Leon E. App, Agency Regulatory Coordinator, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141, or (804) 786-2121/TDD ☎

Chickahominy Scenic River Advisory Board

† **August 15, 1996 - 7:30 p.m.** -- Open Meeting
Eastern Henrico Government Center, 3820 Nine Mile Road, Community Room, Richmond, Virginia.

A meeting to discuss river issues.

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, FAX (804) 371-7899 or (804) 786-2121/TDD ☎

Nottoway Scenic River Advisory Board

August 6, 1996 - 7 p.m. -- Open Meeting
Southampton County Office Building, Courtland, Virginia.

A meeting to discuss river related issues.

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, FAX (804) 371-7899 or (804) 786-2121/TDD ☎

Board on Conservation and Development of Public Beaches

† **August 26, 1996 - 10 a.m.** -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, Meeting Room, Newport News, Virginia. ☎

A meeting to discuss proposals from localities requesting matching grant funds from the board.

Contact: Carlton Lee Hill, Engineer, Department of Conservation and Recreation, Division of Soil and Water Conservation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-3998.

BOARD FOR CONTRACTORS

Recovery Fund Committee

September 10, 1996 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to consider claims 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 at least two weeks prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Holly Erickson, Assistant Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8561.

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Advisory Board

August 7, 1996 - 10 a.m. -- Open Meeting
Department for the Deaf and Hard-of-Hearing, Washington Building, 1100 Bank Street, 11th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A quarterly business meeting of the advisory board. Public comment will be received with advance notice.

Contact: Gloria Cathcart, Human Services Program Specialist, Department for the Deaf and Hard-of-Hearing, Washington Bldg., 1100 Bank St., 11th Floor, Richmond, VA 23219, telephone (804) 371-7892 (V/TTY), toll-free 1-800-552-7917(V/TTY), FAX (804) 552-7882 or (804) 225-2570/TDD ☎

BOARD OF DENTISTRY

† August 16, 1996 - 8 a.m. -- Open Meeting
Courtyard by Marriott-Fair Oaks, 112200 Lee Jackson Highway, Fairfax, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct formal hearings on dental licensure by endorsement applications. This is a public meeting; however, no public comment will be taken.

Contact: Marcia J. Miller, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

† August 27, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the informal conference committee to hear disciplinary cases. This is a public meeting; however, no public comment will be taken.

Contact: Marcia J. Miller, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

BOARD OF EDUCATION

† August 12, 1996 - 7 p.m. -- Public Hearing
Central Middle School, Charlotte Court House, Virginia. ☎

† August 13, 1996 - 7 p.m. -- Public Hearing
John Marshall High School, 4225 Old Brook Road, Richmond, Virginia. ☎

† August 14, 1996 - 7 p.m. -- Public Hearing
Frank W. Cox High School, 2425 Shorehaven Drive, Virginia Beach, Virginia. ☎

† August 15, 1996 - 7:30 p.m. -- Public Hearing
Carroll County High School, Hillsville, Virginia. ☎

† August 19, 1996 - 7 p.m. -- Public Hearing
Nandua High School, Onley, Virginia. ☎

† August 20, 1996 - 7 p.m. -- Public Hearing
Osborn Park High School, 8909 Euclid Avenue, Manassas, Virginia. ☎

† August 21, 1996 - 7 p.m. -- Public Hearing
Harrisonburg High School, 395 South High Street, Harrisonburg, Virginia. ☎

Public hearings to solicit public input on the current Regulations Establishing Standards for Accrediting Public Schools in Virginia.

Contact: Lin Corbin-Howerton, Policy Director, Department of Education, Division of Policy and Public Affairs, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2543, FAX 1-800-225-2053, or toll-free 1-800-292-3820.

LOCAL EMERGENCY PLANNING COMMITTEE - ARLINGTON COUNTY/CITY OF FALLS CHURCH/WASHINGTON NATIONAL AIRPORT

† August 13, 1996 - 5:30 p.m. -- Open Meeting
Arlington County Emergency Communications Center, 1400 North Uhle Street, 5th Floor, Arlington, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting of the planning committee to conduct general business. For more information contact Captain Michael Kilby.

Contact: Captain Michael Kilby, Arlington County Hazardous Materials Coordinator, 1020 N. Hudson St., Arlington, VA

Calendar of Events

22201, telephone (703) 358-4652, (703) 358-4644 or (703) 358-4610/TDD ☎

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

† **September 5, 1996 - 5:30 p.m.** -- Open Meeting

† **October 3, 1996 - 5:30 p.m.** -- Open Meeting

6610 Public Safety Way, Chesterfield, Virginia.

A regular meeting.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

VIRGINIA EMPLOYMENT COMMISSION

State Advisory Board

† **August 12, 1996 - 9 a.m.** -- Open Meeting

Virginia Employment Commission, 502 Viking Drive, Virginia Beach, Virginia. (Interpreter for the deaf provided upon request.)

A regular meeting of the board to receive reports from staff and to discuss matters that may be presented.

Contact: Nancy L. Munnikhuysen, Director, Employer Relations and Customer Service, Virginia Employment Commission, 703 E. Main St., Richmond, VA 23219, telephone (804) 371-6406 or (804) 371-8050/TDD ☎

DEPARTMENT OF ENVIRONMENTAL QUALITY

† **August 12, 1996 - 7 p.m.** -- Public Hearing

Patrick County Administration Building, Rucker Street, 2nd Floor, Stuart, Virginia.

A public hearing to receive input on the application from Vaughan Furniture Company, Inc., to construct a furniture manufacturing facility in the Rich Creek Corporate Park, Stuart, Virginia.

Contact: Allen Armistead, Department of Environmental Quality, Lynchburg Satellite Office, 7701-7703 Timberlake Road, Lynchburg, VA 24502, telephone (804) 582-5120.

Technical Advisory Committee for Solid Waste Management Regulations

September 13, 1996 - 10 a.m. -- Open Meeting

Department of Environmental Quality, 629 East Main Street, First Floor Training Room, Richmond, Virginia. ☎

The Board of Waste Management and the Department of Environmental Quality are considering the amendment of the Solid Waste Management Regulations, 9 VAC 20-80-10 et seq., and have formed a technical committee to advise them on the contents of the proposed

amendment. This committee will reconvene to continue their work on this project.

Contact: Wladimir Gulevich, Director of the Office of Technical Services, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4218, FAX (804) 698-4327, (804) 698-4021/TDD ☎, or e-mail at wgulevich@deq.state.va.us.

VIRGINIA FIRE SERVICES BOARD

† **August 22, 1996 - 7 p.m.** -- Open Meeting

Holiday Inn of Culpeper, U.S. 29 South, Culpeper, Virginia.

A planning session of the board and a meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director, Department of Fire Programs, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

† **August 23, 1996 - 9 a.m.** -- Open Meeting

Holiday Inn of Culpeper, U.S. 29 South, Culpeper, Virginia.

A business meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director, Department of Fire Programs, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire/EMS Education and Training Committee

† **August 22, 1996 - 10:30 a.m.** -- Open Meeting

Holiday Inn of Culpeper, U.S. 29 South, Culpeper, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director, Department of Fire Programs, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire Prevention and Control Committee

† **August 22, 1996 - 8:30 a.m.** -- Open Meeting

Holiday Inn of Culpeper, U.S. 29 South, Culpeper, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director, Department of Fire Programs, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Legislative/Liaison Committee

† **August 22, 1996 - 2 p.m.** -- Open Meeting

Holiday Inn of Culpeper, U.S. 29 South, Culpeper, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director, Department of Fire Programs, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Residential Sprinkler Committee

† **August 21, 1996 - 1 p.m.** -- Open Meeting
Holiday Inn of Culpeper, U.S. 29 South, Culpeper, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director, Department of Fire Programs, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **August 15, 1996 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct informal conferences. No public comment will be taken.

Contact: Elizabeth Young Kirksey, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907; FAX (804) 662-9493 or (804) 662-7197/TDD ☎

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

† **August 6, 1996 - 7 p.m.** -- Open Meeting
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to receive public comments regarding season lengths and bag limits for the 1996-1997 hunting seasons for waterfowl (ducks, geese, and swan). Wildlife Division staff will present recommendations for seasons based on frameworks provided by the U. S. Fish and Wildlife Service. The public's comments will be solicited. A summary of the results of this public meeting will be presented to the Department of Game and Inland Fisheries Board of Directors at its scheduled August 22-23, 1996 meeting, at which the board will adopt 1996-1997 waterfowl hunting seasons and bag limits.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

† **August 22, 1996 - 9 a.m.** -- Open Meeting
† **August 23, 1996 - 8 a.m.** -- Open Meeting
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The board intends to adopt regulations governing the 1996-1997 migratory waterfowl seasons, based on the framework provided by the U.S. Fish and Wildlife Service. The board also intends to propose changes in fish, nongame wildlife, and watercraft regulations, and to select meeting dates for 1997 board meetings. The board will solicit comments from the public during the public hearing portion of the meeting at which time any interested citizen present shall be heard.

In addition, general and administrative issues may be discussed by the board. The board may hold an executive session beginning at 9 a.m. on August 22, 1996. If the board completes its entire agenda on August 22, it may not convene on August 23, the second of the scheduled two days of the meeting.

Contact: Phil Smith, Policy Analyst Senior, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

DEPARTMENT OF HEALTH

August 21, 1996 - 10 a.m. -- Public Hearing
3600 Centre, 3600 West Broad Street, 3rd Floor Conference Room, Richmond, Virginia.

September 20, 1996 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to **repeal** regulations entitled: **12 VAC 5-370-10 et seq., Rules and Regulations for the Licensure of Nursing Homes**, and **adopt** regulations entitled: **12 VAC 5-371-10 et seq., Regulations for the Licensure of Nursing Homes**. The proposed regulations constitute a comprehensive revision of the Commonwealth's existing regulations addressing nursing homes, which were adopted in 1980. This area of the health care field has changed dramatically since then and the proposed regulations are intended to address current conditions, while assuring safe, adequate, and efficient nursing home operations and promoting health safety and adequate care of nursing home residents.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Contact: Nancy R. Hofheimer, Director, Office of Health Facilities Regulations, Department of Health, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2102 or FAX (804) 367-2149.

BOARD OF HEALTH PROFESSIONS

August 23, 1996 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health Professions intends to **adopt** regulations entitled: **Regulations Governing Standards for Dietitians and Nutritionists**.

Calendar of Events

The regulation establishes minimal standards for the use of the titles of dietitian or nutritionist in accordance with provisions of § 54.1-2731 of the Code of Virginia.

Statutory Authority: §§ 54.1-2400 and 54.1-2731 of the Code of Virginia.

Contact: Elaine J. Yeatts, Senior Regulatory Analyst, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9918.

BOARD FOR HEARING AID SPECIALISTS

September 9, 1996 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. ☎

A general board meeting.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **August 6, 1996 - 1 p.m.** -- Open Meeting
State Council of Higher Education for Virginia, Monroe Building, 101 North 14th Street, 9th Floor, Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the Executive Committee.

Contact: Michael McDowell, Public Information Director, State Council of Higher Education for Virginia, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2637.

VIRGINIA HIGHER EDUCATION TUITION TRUST FUND

August 22, 1996 - 1 p.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Richmond, Virginia. ☎

A regular meeting.

Contact: Diana F. Cantor, Executive Director, Virginia Higher Education Tuition Trust Fund, James Monroe Building, 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 746-3634.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

August 6, 1996 - 9 a.m. -- Open Meeting

September 3, 1996 - 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 Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **August 20, 1996 - 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 from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

STATEWIDE INDEPENDENT LIVING COUNCIL

† **August 7, 1996 - 9 a.m.** -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.

A meeting to conduct regular business.

Contact: Jim Rothrock, Statewide Independent Living Council Staff, 1802 Marroit Rd., Richmond, VA 23229, telephone (804) 673-0119, toll-free 1-800-552-5019/TDD and Voice, or (804) 662-9040/TDD ☎

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

† **September 9, 1996 - 1 p.m.** -- Open Meeting
Riverfront Plaza, West Tower, 901 East Byrd Street, Suite 900, Richmond, Virginia.

A regular meeting to discuss such matters as may be presented.

Contact: Adele MacLean, Secretary, 702 Eighth Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508, FAX (804) 371-7999, or (804) 786-1860/TDD ☎

Richmond, VA 23219, telephone (804) 786-8099, FAX (804) 371-4981, or toll-free 1-800-343-0634/TDD ☎

STATE LAND EVALUATION ADVISORY COUNCIL

† **August 13, 1996 - 10 a.m.** -- Open Meeting
Department of Taxation, 2220 West Broad Street, Richmond, Virginia. ☎

A meeting to adopt suggested ranges of values for agricultural, horticultural, forest and open-space land use and the use-value assessment program.

Contact: H. Keith Mawyer, Property Tax Manager, Department of Taxation, Office of Customer Services, Property Tax Unit, 2220 W. Broad St., Richmond, VA 23220, telephone (804) 367-8020.

LIBRARY BOARD

† **August 5, 1996 - 10 a.m.** -- Open Meeting
The Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. ☎

An organizational meeting to provide an orientation to board members with a brief overview of library programs.

Contact: Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

COMMISSION ON LOCAL GOVERNMENT

† **September 16, 1996 - 10 a.m.** -- Open Meeting
Richmond 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.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508, FAX (804) 371-7999 or (804) 786-1860/TDD ☎

BOARD OF MEDICAL ASSISTANCE SERVICES

† **August 20, 1996 - 10 a.m.** -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A meeting to discuss medical assistance service and to take action on issues pertinent to the board.

Contact: Cynthia Klisz, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300,

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

August 9, 1996 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50-95 through 12 VAC 30-80-310. Amount, Duration and Scope of Services, and 12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates--Other Types of Care.** The purpose of this proposal is to promulgate regulations which would allow DMAS to require the use of prescription orders for certain over-the-counter (OTC) therapeutic products as a first approach to drug therapy where these products may be used in place of a more expensive legend-only drug. Payment for the more expensive legend drug would be denied, except in a few specified conditions, unless initial treatment was initiated using these less costly OTC drugs and the results of the OTC therapy were found to be unsatisfactory.

DMAS must implement cost-saving measures in its covered pharmacy services. Among these, enhancements to the Point-of-Service (POS) automated system related to the Prospective Drug Utilization Review (ProDUR) program have been identified as a priority. Additionally, DMAS must develop a Prior Authorization (PA) program. The two initiatives, in tandem, are well suited to implementation in the interest of economy and patient safety. This OTC program will enable the partial fulfillment of the required budget reduction.

Historically, the Joint Legislative Audit and Review Commission recommended, in 1993, that Medicaid cover OTC drugs. Also, in 1994, the American Medical Association adopted a policy which recommended to physicians that they adopt the practice of prescribing OTC medications to their patients.

As a result of the increased movement of drug products from prescription only (legend) to OTC status during recent years, a large number of effective drug products are available to the public in dosage forms/strengths previously obtainable only on prescription. These have been reviewed extensively by expert panels at the U.S. Food and Drug Administration (FDA) and deemed safe and effective. The increased efficacy and cost savings of using these products justifies the initiation of a program to enhance the pharmacy services by providing certain OTC drugs as therapeutic alternatives to costly legend products.

DMAS expects this proposed policy to have a positive impact on families because it recommends the expansion of covered pharmacy services to include certain OTC drugs which, at least for the

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noninstitutionalized population, have heretofore not been covered. This will alleviate some of this financial burden which has been borne by families.

These savings are a part of the savings which are required in Chapter 853, Item (E)(8), the 1995 Appropriations Act. This initiative should produce cost saving in individual patient care in the proposed categories. The extent will vary with the product category. Overall, the initiative should result in cost savings. While individual patient costs may decrease, the population served is composed of those having high utilization problems, such as ulcer patients and patients suffering with inflammatory diseases such as arthritis. Therefore, early intervention with these products in a larger population may result in a smaller decrease in expenditures than might otherwise be anticipated. However, cost savings in the program as a whole may be significant if this early intervention results in fewer serious complications and hospitalizations.

The numbers of prescribers and pharmacy providers should not be affected. The program will be implemented statewide and no negative impact is anticipated to providers. Recipients who may have been taking OTC products in the past with good success, will be allowed under this initiative to obtain those products by doctor's orders. This will result in a savings to the patient, who will now pay only the co-pay instead of full OTC price. Patient compliance should improve as a result, thereby decreasing the potential for additional, more costly therapies. The overall effect is expected to be cost savings to the public in the Medicaid program.

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

Public comments may be submitted until August 9, 1996, to David Shepherd, Pharmacy Services, Division of Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 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.

August 23, 1996 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to **amend** regulations entitled: **12 VAC 30-10-10 et seq. State Plan for Medical Assistance Services: General Provisions** and **adopt** regulations entitled: **12 VAC 30-120-360 et seq. Part VI, Medallion II**. The proposed regulations govern mandatory HMO enrollment in accordance with the 1995 Appropriations Act. Several technical changes are also being made.

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

Public comments may be submitted until August 23, 1996, to Susan Prince, Program Delivery Systems, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

† **August 19, 1996 - 9:30 a.m.** -- Open Meeting

† **August 19, 1996 - 3 p.m.** -- Public Hearing

† **August 29, 1996 - 9:30 a.m.** -- Open Meeting

Fairfax Government Center, 12000 Government Center Parkway, Fairfax, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the workgroup to develop alternative patient focused models for the inclusion of the mentally disabled population in a mandatory managed care environment for residents of Northern Virginia on Virginia Medicaid.

Contact: Nell Skinner, Executive Secretary, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4218, FAX (804) 225-4512, or toll-free 1-800-343-0634/TDD

Drug Utilization Review Board

August 22, 1996 - 2 p.m. -- Open Meeting

Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia.

A meeting to conduct routine business.

Contact: Marianne R. Rollings, Pharmacist Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3820 or FAX (804) 786-0414.

Virginia Medicaid Pharmacy Prior Authorization Committee

August 12, 1996 - 1 p.m. -- Public Hearing

General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.

A public hearing to receive comments on pharmaceutical products that will be recommended for prior authorization to the Board of Medical Assistance Services.

Contact: David Shepherd, Pharmacy Supervisor, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3820 or FAX (804) 786-0414.

Pharmacy Liaison Committee

August 7, 1996 - 1 p.m. -- Open Meeting

Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia.

A meeting to conduct routine business.

Contact: Marianne R. Rollings, Pharmacist Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3820 or FAX (804) 786-0414.

Prior Authorization/Virginia Health Outcomes Partnership Advisory Committee

August 8, 1996 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

A meeting to conduct routine business of the committee, including a discussion of implementation of a prior authorization program for Virginia Medicaid.

Contact: David Shepherd, Pharmacist Supervisor, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3820 or FAX (804) 786-0414.

BOARD OF MEDICINE

Informal Conference Committee

† **August 9, 1996 - 2:30 p.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

† **August 15, 1996 - 9 a.m.** -- Open Meeting
Sheraton Inn, 2801 Flank Road, Fredericksburg, Virginia.

August 15, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

August 23, 1996 - 9 a.m. -- Open Meeting
Fort Magruder Inn, Route 60, Conference Center, Williamsburg, Virginia.

† **August 27, 1996 - 9 a.m.** -- Open Meeting
Sheraton Inn, 2801 Flank Road, Fredericksburg, Virginia.

† **September 4, 1996 - 9 a.m.** -- Open Meeting
Roanoke Marriott Hotel, 2801 Hershberger Road, Roanoke, Virginia.

† **September 13, 1996 - 9 a.m.** -- Open Meeting
Fort Magruder Inn and Conference Center, Route 60, Williamsburg, Virginia.

† **September 17, 1996 - 9 a.m.** -- Open Meeting
Sheraton Inn, 2801 Flank Road, Fredericksburg, Virginia.

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 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7693, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Credentials Committee

† **August 10, 1996 - 8 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia. ☎

The committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and to discuss any other items which may come before the board. The committee will receive public comments of those persons appearing on behalf of candidates.

Contact: Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Executive Committee

† **August 9, 1996 - 8 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 2 and 3, Richmond, Virginia. ☎

The committee will meet in open and closed session to:
(i) review disciplinary files requiring administrative action;
(ii) adopt amendments for approval of promulgation of regulations as presented; and (iii) act on other issues that come before the board. The chairman will entertain public comments on agenda items for 10 minutes following adoption of the agenda.

Contact: Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

August 23, 1996 - 9 a.m. -- Public Hearing
Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Building, 109 Governor Street, 5th Floor Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A public hearing to receive public comments on the Virginia Substance Abuse Prevention and Treatment and Community Mental Health Services Block Grant Applications for Federal Fiscal Year 1997. Copies of this application are available for review at the Office of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Building, 12th Floor, and each community services board office. Comments may be made at the hearing or in writing by no later than August

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23, 1996, to the Office of the Commissioner, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218. Any person wishing to make a presentation at the hearing may call Sterling Deal, Ph.D., Office of Mental Health, Mental Retardation and Substance Abuse Services, at (804) 371-2148 or (804) 371-8977/Voice and TDD. Copies of oral statements should be filed at the time of the hearing. Translators for the deaf are available on request.

Contact: Sterling Deal, Ph.D., Resource Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 371-2148, FAX (804) 371-0091, or (804) 371-8977/Voice and TDD ☎

Secretary of Health and Human Resources System Reform Task Force

August 8, 1996 - 1:30 p.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia.

A meeting to review comments on the proposed system reform pilot projects proposed by the Department of Mental Health, Mental Retardation and Substance Abuse Services/Community Services Board Technical Work Group. Final proposals will be presented to the joint subcommittee established by House Joint Resolution No. 240 to study the publicly funded mental health system.

Contact: Cheryl Crawford, Administrative Assistant, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23236, telephone (804) 371-5682 or FAX (804) 371-0091.

VIRGINIA MILITARY INSTITUTE

Board of Visitors

September 21, 1996 - 8:30 a.m. -- Open Meeting
Virginia Military Institute, Smith Hall, Lexington, Virginia. ☎

A regular meeting. There will be an opportunity for public comment at approximately 9 a.m. immediately after the Superintendent's comments.

Contact: Colonel Edwin L. Dooley, Jr., Secretary, Board of Visitors, Virginia Military Institute, Superintendent's Office, Lexington, VA 24450, telephone (540) 464-7206.

VIRGINIA MUSEUM OF NATURAL HISTORY

Board of Trustees

August 10, 1996 - 7 a.m. -- Open Meeting
English Inn, 2000 Morton Drive, Charlottesville, Virginia. ☎

A meeting of the Research and Collections Committee to discuss (i) appointment of research associates; (ii) appointment of senior fellow; and (iii) revisions to collections policy.

Contact: Rhonda J. Knighton, Administrative Staff Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD ☎

August 10, 1996 - 7:45 a.m. -- Open Meeting
English Inn, 2000 Morton Drive, Charlottesville, Virginia. ☎

A meeting of the Development Committee to discuss development issues related to "Dinosaurs!" exhibit.

Contact: Rhonda J. Knighton, Administrative Staff Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD ☎

BOARD OF NURSING

† **August 13, 1996 - 9 a.m.** -- Open Meeting
† **August 19, 1996 - 9 a.m.** -- Open Meeting
† **August 21, 1996 - 9 a.m.** -- Open Meeting
† **August 27, 1996 - 9 a.m.** -- Open Meeting
† **August 28, 1996 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Fifth Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A Special Conference Committee will conduct informal conferences with licensees and certificate holders to determine what, if any, action should be recommended to the Board of Nursing. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

BOARD FOR OPTICIANS

† **September 13, 1996 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review and other matters requiring board action. In addition, discussion of examination, election of officers, monthly budget statements enforcement cases and apprenticeship program will be discussed. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

BOARD OF OPTOMETRY

† **September 6, 1996 - 9 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, Fifth Floor, Conference Room 3, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A public hearing on proposed amendments to 18 VAC 105-30-10 et seq., Regulations on Certification of Optometrists to use therapeutic pharmaceutical agents. Amendments to the regulations on diseases and conditions which may be treated and the listing of therapeutic pharmaceutical agents are being promulgated as provided for in §§ 54.1-3223 and 9-6.14:4.1 A 18. The board may consider other items of business as may be necessary.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

† **September 18, 1996 - 8 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Fifth Floor, Conference Room 3, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A board meeting to adopt amendments to 18 VAC 105-30-10 et seq., Regulations on Certification of Optometrists to use therapeutic pharmaceutical agents. Amendments to the regulations on diseases and conditions which may be treated and the listing of therapeutic pharmaceutical agents are being promulgated as provided for in §§ 54.1-3223 and 9-6.14:4.1 A 18. The board may consider other items of business as may be necessary.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

BOARD OF PHARMACY

August 5, 1996 - 9 a.m. -- Open Meeting
August 6, 1996 - 9 a.m. (if needed) -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A formal hearing before a panel of the board. Public comments will not be received.

Contact: Scotti Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

August 8, 1996 - 2 p.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

August 12, 1996 - 4 p.m. -- Public Hearing
Cavalier Hotel, Oceanfront and 42nd Streets, Coral Reef Room, Virginia Beach, Virginia.

August 21, 1996 - 11 a.m. -- Public Hearing
Northern Virginia Community College, 8333 Little River Turnpike, Seminar Rooms B, C, and D, Annandale, Virginia.

August 27, 1996 - 1 p.m. -- Public Hearing
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Salon D, Roanoke, Virginia.

A public hearing to receive information concerning the impact of workload and workplace conditions on a pharmacist's ability to provide safe and effective pharmacy services to the public.

Contact: Scotti Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

† **August 20, 1996 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A board meeting and formal hearing. This is a public meeting and there will be a 15-minute public comment period beginning at 9:15 a.m.

Contact: Scotti Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

August 23, 1996 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors and Marriage and Family Therapists intends to amend regulations entitled: **18 VAC 115-20-10 et seq. Regulations Governing the Practice of Professional Counseling.** The purpose of the proposed amendments is to reduce fees for application processing, registration of supervision, and renewal of license.

Statutory Authority: §§ 54.1-113, 54.1-2400, and 54.1-3503 of the Code of Virginia.

Contact: Janet Delorme, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

Calendar of Events

August 23, 1996 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors and Marriage and Family Therapists intends to amend regulations entitled: **18 VAC 115-30-10 et seq. Regulations Governing the Certification of Substance Abuse Counselors.** The purpose of the proposed amendments is to reduce fees for application processing, registration of supervision, and renewal of certificate.

Statutory Authority: §§ 54.1-2400 and 54.1-3503 of the Code of Virginia.

Contact: Janet Delorme, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

† **August 22, 1996 - 11 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☎

An informal conference will be held pursuant § 9-6.14:11 of the Code of Virginia. Public comment will not be heard.

Contact: Evelyn B. Brown, Executive Director, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9967.

NOTE: CHANGE IN MEETING TIME AND MEETING DESCRIPTION

† **August 23, 1996 - 8 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎

An Executive Committee meeting to review credentials, beginning at 8 a.m. Public comment will not be heard. At 8:30 a.m. there will be an informal conference held pursuant to § 9-6.14:11 of the Code of Virginia to consider credentials. Public comment will not be heard. At 10 a.m. there will be regular meeting to conduct general board business; consider committee reports, correspondence, and any other matters under the jurisdiction of the board; conduct regulatory review; consider proposed regulations for marriage and family therapists; and consider amendments for proposed regulation for certified rehabilitation providers. There will be a 30-minute general public comment period, beginning at 10:15 a.m.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912.

BOARD OF PSYCHOLOGY

† **August 6, 1996 - 9:30 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A regular meeting of the board. Public comments will be received beginning at 9:45 a.m.

Contact: M. LaDonna Duncan, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

REAL ESTATE APPRAISER BOARD

August 27, 1996 - 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 the department at least two weeks 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, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

REAL ESTATE BOARD

August 8, 1996 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct regulatory review. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

August 22, 1996 - 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 board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

August 22, 1996 - 9 a.m. -- Open Meeting
Alcoholic Beverage Control Board, 501 Montgomery Street, Alexandria, Virginia. ☎

A meeting to conduct a formal hearing pursuant to the Administrative Process Act in regard to the Real Estate Board v. Paulette Heins, File Number 93-01863.

Contact: Stacie Camden, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2393, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

Goals Subcommittee

† **August 19, 1996 - 2:30 p.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, 4th Floor, West Conference Room, Richmond, Virginia.

A meeting of the Goals Subcommittee to decide whether to change or maintain the state goal of 25% recycling. Please contact Richard Lerner at (804) 237-6666 for details.

Contact: Paddy Katzen, Special Assistant to the Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4488.

VIRGINIA RESOURCES AUTHORITY

† **August 13, 1996 - 9:30 a.m.** -- Open Meeting
The Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

The board will meet to approve minutes of the meeting of the prior month and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Executive Director, Virginia Resources Authority, P. O. Box 1300, Mutual Building, Richmond, VA 23218, telephone (804) 644-3100 or FAX (804) 644-3109.

RICHMOND HOSPITAL AUTHORITY

Board of Commissioners

† **August 22, 1996 - 5 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, 700 E. Main St., Suite 904, Richmond, VA 23219-0548, telephone (804) 782-1938.

DEPARTMENT FOR RIGHTS OF VIRGINIANS WITH DISABILITIES

Protection and Advocacy for Individuals with Mental Illness Advisory Council

August 15, 1996 - 9 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Koger Center, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regularly scheduled bi-monthly meeting of the council. There will be an opportunity for public comment beginning at 11 a.m.

Contact: Jim Hobgood, Program Coordinator, Department for Rights of Virginians with Disabilities, Ninth Street Office Building, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2042, FAX (804) 225-3221, or toll-free 1-800-552-3962.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

August 21, 1996 - 10 a.m. -- Open Meeting
Henrico County Government Center, Administrative Board Room, Parham and Hungary Springs Roads, Richmond, Virginia. ☎

† **September 25, 1996 - 10 a.m.** -- Open Meeting
Ramada Inn, 1130 Motel Drive, Allegheny Room, Woodstock, Virginia. ☎

The board will 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 12 VAC 5-610-10, Sewage Handling and Disposal Regulations.

Contact: Robert Hicks, Secretary to the Board, Sewage Handling and Disposal Appeals Review Board, 1500 E. Main St., Suite 11, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

Calendar of Events

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

Loan Committee

† August 27, 1996 - 10 a.m. -- Open Meeting
† September 24, 1996 - 10 a.m. -- Open Meeting
Department of Business Assistance, 901 East Byrd Street,
19th Floor, Main Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review applications for loans submitted to the authority for approval.

Contact: Cathleen Surface, Executive Director, Virginia Small Business Financing Authority, 901 E. Byrd St., 19th Floor, Richmond, VA 23219, telephone (804) 371-8256, FAX (804) 225-3384, or (804) 371-0327/TDD

DEPARTMENT OF SOCIAL SERVICES

Division of Benefit Programs

† August 14, 1996 - 10 a.m. -- Public Hearing
Department of Social Services, 730 East Broad Street, Lower Level, Conference Room 1, Richmond, Virginia.

A public hearing will be held to receive comments on the proposed use of funds for the 1996-1997 Virginia Energy Assistance Program.

Contact: Cathy N. Olivis, Program Specialist, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1750.

BOARD OF SOCIAL WORK

† August 9, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 4, Richmond, Virginia.

A regular meeting. Public comment will be received at 9:15 a.m.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9914, FAX (804) 662-9943, or (804) 662-7197/TDD

COMMONWEALTH TRANSPORTATION BOARD

August 14, 1996 - 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 of Transportation staff.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

August 15, 1996 - 10 a.m. -- Open Meeting
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A monthly meeting of the 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 Department of Transportation 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

August 21, 1996 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia.

A regular meeting.

Contact: Gloria Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

BOARD OF VETERINARY MEDICINE

August 10, 1996 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Veterinary Medicine intends to amend regulations entitled: **18 VAC 150-20-10 et seq. Regulations Governing the Practice of Veterinary Medicine.** The purpose of the proposed amendments is to establish approved providers of continuing education requirements for retention of documents and conditions for waivers. This action will replace emergency regulations which became effective February 6, 1996.

Statutory Authority: §§ 54.1-2400 and 54.1-3805.2 of the Code of Virginia.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7691, FAX (804) 662-9943, or (804) 662-7197/TDD

† **August 13, 1996 - 8:30 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 2, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A meeting to conduct regulatory review and general board business.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TDD ☎

† **August 14, 1996 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct informal conferences.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TDD ☎

VIRGINIA RACING COMMISSION

† **August 21, 1996 - 9:30 a.m.** -- Open Meeting
Tyler Building, 1300 East Main Street, Richmond, Virginia. ☎

A regular meeting to include a report from Colonial Downs.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23218, telephone (804) 371-7363, FAX (804) 371-6127 or (804) 371-6169/TDD ☎

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Vocational Rehabilitation Advisory Council

September 21, 1996 - 10 a.m.-- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

The council meets quarterly to advise the Department for the Visually Handicapped on matters related to vocational rehabilitation services for blind and visually impaired citizens of the Commonwealth.

Contact: James G. Taylor, Vocational Rehabilitation Program Director, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, or (804) 371-3140/TDD ☎

VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

† **August 12, 1996 - 2:30 p.m.** -- Open Meeting
Patrick Henry Hotel, Jefferson Street, Roanoke, Virginia.

A council business session.

Contact: Jerry M. Hicks, Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Rd., Richmond, VA 23237, telephone (804) 275-6218.

VIRGINIA VOLUNTARY FORMULARY BOARD

† **September 11, 1996 - 10 a.m.** -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor, Board 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 January 15, 1996, and its most recent supplement. Copies of the proposed revisions to the formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, 101 North 14th Street, Room S-45, P.O. Box 2448, Richmond, VA 23218. Written comments sent to the above address and received prior to 5 p.m. on September 11, 1996, will be made a part of the hearing record.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, James Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4325.

† **October 24, 1996 - 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 drug products pertaining to the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, James Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

VIRGINIA WASTE MANAGEMENT BOARD

August 23, 1996 -- Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to **repeal** regulations entitled: **9 VAC 20-100-10 et seq., Yard Waste Composting Facility Regulations** and **adopt** regulations entitled: **9 VAC 20-101-10 et seq., Vegetative Waste Management and Yard Waste Composting Regulations**. 9 VAC 20-100-10 et seq. is being simultaneously incorporated into the Vegetative Waste Management and Yard Waste Composting Regulations and are therefore redundant and unnecessary. 9 VAC 20-101-10 et seq. compiles, establishes, and provides requirements for certain facilities that may be exempted from some or all of the

Calendar of Events

Solid Waste Management Regulations or subject to simplified procedures.

Statutory Authority: §§ 10.1-1402 and 10.1-1408.1 of the Code of Virginia.

Contact: Robert G. Wickline, P.E., Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4213.

INDEPENDENT

STATE LOTTERY BOARD

August 28, 1996 - 9:30 a.m. -- Public Hearing
State Lottery Department, 900 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **11 VAC 5-20-10 et seq. Administration Regulations.** The purpose of the proposed amendments is to clarify procurement exemptions and restrictions, clarify board meeting requirements, remove sections that are duplicative of Code of Virginia provisions when practical, and incorporate housekeeping changes.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774.

August 28, 1996 - 9:30 a.m. -- Public Hearing
State Lottery Department, 900 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **11 VAC 5-30-10 et seq. Instant Game Regulations.** The purpose of the proposed amendments is to clarify revocation or suspension of a lottery retailer's license, authorize cashing at lottery headquarters, eliminate claim form requirements, delete sections that are unnecessary or duplicative, and make housekeeping changes.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774.

August 28, 1996 - 9:30 a.m. -- Public Hearing
State Lottery Department, 900 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **11 VAC 5-40-10 et seq. On-Line Game Regulations.** The purpose of the proposed amendments is to clarify revocation or suspension of a lottery retailer's license, authorize cashing at lottery headquarters, eliminate claim form requirements, revise subscription plan, and make housekeeping changes.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774.

LEGISLATIVE

COMMISSION ON YOUTH

August 5, 1996 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss youth gangs in Virginia.

Contact: Joyce Huey, General Assembly Bldg., 910 Capitol St., Suite 517B, Richmond, VA 23219-0406, telephone (804) 371-2481.

September 24, 1996 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss status offenders.

Contact: Joyce Huey, General Assembly Bldg., 910 Capitol Square, Suite 517B, Richmond, VA 23219-0406, telephone (804) 371-2481.

CHRONOLOGICAL LIST

OPEN MEETINGS

August 5

Barbers, Board for
† Library Board
Pharmacy, Board of
Youth, Commission on

August 6

Branch Pilots, Board for
Conservation and Recreation, Department of
- Nottoway Scenic River Advisory Board
† Game and Inland Fisheries, Department of
† Higher Education for Virginia, State Council of
Hopewell Industrial Safety Council
Pharmacy, Board of
† Psychology, Board of

Calendar of Events

August 7

- Deaf and Hard-of-Hearing, Department for the
- Advisory Board
- † Independent Living Council, Statewide
- Medical Assistance Services, Department of
- Pharmacy Liaison Committee

August 8

- Child Day-Care Council
- Medical Assistance Services, Department of
- Prior Authorization/Virginia Health Outcomes
Partnership (PA/VHOP) Advisory Committee
- Mental Health, Mental Retardation and Substance Abuse
Services, Department of
- Secretary of Health and Human Resources System
Reform Task Force
- Real Estate Board

August 9

- † Medicine, Board of
- Executive Committee
- † Social Work, Board of

August 10

- † Medicine, Board of
- Credentials Committee
- Museum of Natural History, Virginia
- Board of Trustees

August 12

- Alcoholic Beverage Control Board
- † Employment Commission, Virginia
- State Advisory Board
- † Vocational Education, Virginia Council on

August 13

- Air Pollution Control Board, State
- Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
- Southern Area Review Committee
- † Emergency Planning Committee - Local, Arlington
County/City of Falls Church/Washington National Airport
- † Land Evaluation Advisory Council, State
- † Nursing, Board of
- † Resources Authority, Virginia

August 14

- Transportation Board, Commonwealth
- † Veterinary Medicine, Board of

August 15

- Agriculture and Consumer Services, Department of
- Virginia Aquaculture Advisory Board
- † Conservation and Recreation, Department of
- Chickahominy Scenic River Advisory Board
- † Funeral Directors and Embalmers, Board of
- Medicine, Board of
- Rights of Virginians with Disabilities, Department for
- Protection and Advocacy for Individuals with Mental
Illness Advisory Council
- Transportation Board, Commonwealth

August 16

- † Conservation and Recreation, Board of
- † Dentistry, Board of

August 19

- † Medical Assistance Services, Department of
- † Nursing, Board of
- † Recycling Markets Development Council, Virginia

August 20

- Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board
- † Housing Development Authority, Virginia
- † Medical Assistance Services, Board of
- † Pharmacy, Board of

August 21

- Aviation Board, Virginia
- † Fire Services Board, Virginia
- † Nursing, Board of
- Sewage Handling and Disposal Appeals Review Board
- Treasury Board
- † Virginia Racing Commission

August 22

- † Fire Services Board, Virginia
- Fire/EMS Education and Training Committee
- Fire Prevention and Control Committee
- Legislative/Liaison Committee
- † Game and Inland Fisheries, Board of
- Higher Education Tuition Trust Fund, Virginia
- Medical Assistance Services, Department of
- Drug Utilization Review Board
- † Professional Counselors and Marriage and Family
Therapists, Department of
- Real Estate Board
- † Richmond Hospital Authority
- Board of Commissioners

August 23

- Aviation Board, Virginia
- † Fire Services Board, Virginia
- † Game and Inland Fisheries, Board of
- Medicine, Board of
- † Professional Counselors and Marriage and Family
Therapists, Department of
- † Veterinary Medicine, Board of

August 26

- † Agricultural Council, Virginia
- Alcoholic Beverage Control Board
- † Conservation and Recreation, Department of
- Board on Conservation and Development of Public
Beaches

August 27

- † Agricultural Council, Virginia
- † Agriculture and Consumer Services, Department of
- Virginia State Apple Board
- † Dentistry, Board of
- † Medicine, Board of
- † Nursing, Board of
- Real Estate Appraiser Board
- † Small Business Financing Authority, Virginia
- Loan Committee

August 28

- † Nursing, Board of

Calendar of Events

August 29

Compensation Board
† Medical Assistance Services, Department of

August 30

Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
- Board for Architects

September 3

Hopewell Industrial Safety Council

September 4

† Medicine, Board of

September 5

† Agriculture and Consumer Services, Department of
- Virginia Irish Potato Board
† Emergency Planning Committee - Local, Chesterfield
County

September 9

Hearing Aid Specialists, Board for
† Intergovernmental Relations, Advisory Committee on

September 10

Contractors, Board for

September 13

Environmental Quality, Department of
- Technical Advisory Committee for Solid Waste
Management Regulations
† Medicine, Board of
† Opticians, Board for

September 16

† Local Government, Commission on

September 17

† Medicine, Board of

September 18

† Optometry, Board of

September 21

Military Institute, Virginia
- Board of Visitors
Visually Handicapped, Department for the
- Vocational Rehabilitation Advisory Council

September 24

† Small Business Financing Authority, Virginia
- Loan Committee
Youth, Commission on

September 25

† Sewage Handling and Disposal Appeals Review Board

October 3

† Emergency Planning Committee - Local, Chesterfield
County

October 24

† Voluntary Formulary Board, Virginia

PUBLIC HEARINGS**August 7**

State Air Pollution Control Board

August 8

State Air Pollution Control Board
Pharmacy, Board of

August 12

† Education, Board of
† Environmental Quality, Department of
Medical Assistance Services, Department of
- Virginia Medicaid Pharmacy Prior Authorization
Committee
Pharmacy, Board of

August 13

† Education, Board of

August 14

† Education, Board of
† Social Services, Department of
- Division of Benefit Programs

August 15

† Education, Board of

August 19

† Education, Board of
† Medical Assistance Services, Department of

August 20

† Education, Board of

August 21

† Education, Board of
Health, Department of
Pharmacy, Board of

August 23

Mental Health, Mental Retardation and Substance Abuse
Services, Department of

August 27

Pharmacy, Board of

August 28

Lottery Board, State

September 6

† Optometry, Board of

September 11

† Voluntary Formulary Board, Virginia

September 18

† Optometry, Board of