
THE VIRGINIA REGISTER INFORMATION PAGE

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) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation; and (ii) file the proposed regulation with the Registrar 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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PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the *Register's* Internet home page (<http://legis.state.va.us/codecomm/register/regindex.htm>).

July 1999 through June 2000

<u>Volume:Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
15:22	June 30, 1999	July 19, 1999
15:23	July 14, 1999	August 2, 1999
15:24	July 28, 1999	August 16, 1999
15:25	August 11, 1999	August 30, 1999
15:26	August 25, 1999	September 13, 1999
FINAL INDEX - Volume 15		October 1999
16:1	September 8, 1999	September 27, 1999
16:2	September 22, 1999	October 11, 1999
16:3	October 6, 1999	October 25, 1999
16:4	October 20, 1999	November 8, 1999
16:5	November 3, 1999	November 22, 1999
16:6	November 16, 1999 (Tuesday)	December 6, 1999
16:7	December 1, 1999	December 20, 1999
INDEX 1 - Volume 16		January 2000
16:8	December 14, 1999 (Tuesday)	January 3, 2000
16:9	December 28, 1999 (Tuesday)	January 17, 2000
16:10	January 12, 2000	January 31, 2000
16:11	January 26, 2000	February 14, 2000
16:12	February 9, 2000	February 28, 2000
16:13	February 23, 2000	March 13, 2000
16:14	March 8, 2000	March 27, 2000
INDEX 2 - Volume 16		April 2000
16:15	March 22, 2000	April 10, 2000
16:16	April 5, 2000	April 24, 2000
16:17	April 19, 2000	May 8, 2000
16:18	May 3, 2000	May 22, 2000
16:19	May 17, 2000	June 5, 2000
16:20	May 31, 2000	June 19, 2000
INDEX 3 - Volume 16		July 2000

*Filing deadlines are Wednesdays unless otherwise specified.

TABLE OF CONTENTS

CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

Cumulative Table2759

NOTICES OF INTENDED REGULATORY ACTION

TITLE 8. EDUCATION

State Board of Education.....2766

TITLE 12. HEALTH

State Board of Health2766

TITLE 16. LABOR AND EMPLOYMENT

Virginia Workers' Compensation Commission2767

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

Board of Audiology and Speech-Language Pathology2767

Board of Psychology.....2767

TITLE 22. SOCIAL SERVICES

State Board of Social Services.....2768

PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS

TITLE 2. AGRICULTURE

State Milk Commission2769

TITLE 12. HEALTH

Department of Medical Assistance Services2769

TITLE 22. SOCIAL SERVICES

State Board of Social Services.....2770

Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services2770

PROPOSED REGULATIONS

TITLE 2. AGRICULTURE

STATE MILK COMMISSION

Regulations for the Control and Supervision of Virginia's Milk

Industry (amending 2 VAC 15-20-70; adding 2 VAC 15-20-81; repealing 2 VAC 15-20-80). 2772

Regulations for the Control and Supervision of Virginia's Milk Industry (amending 2 VAC 15-20-80). 2782

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

State Plan for Medical Assistance Services Relating to Hospice Services. 2786

Amount, Duration, and Scope of Medical and Remedial Care Services (amending 12 VAC 30-50-270). 2786

Standards Established and Methods Used to Assure High Quality Care (amending 12 VAC 30-60-130). 2786

Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12 VAC 30-80-30). 2786

Amount, Duration and Scope of Selected Services (repealing 12 VAC 30-130-270 through 12 VAC 30-130-530). 2786

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Standards and Regulations for Licensed Adult Day Care Centers (amending 22 VAC 40-60-10 through 22 VAC 40-60-60, 22 VAC 40-60-80, 22 VAC 40-60-90, 22 VAC 40-60-110 through 22 VAC 40-60-150, 22 VAC 40-60-180, 22 VAC 40-60-190, 22 VAC 40-60-200, 22 VAC 40-60-260 through 22 VAC 40-60-280, 22 VAC 40-60-300, 22 VAC 40-60-320, 22 VAC 40-60-330, 22 VAC 40-60-340, 22 VAC 40-60-370 through 22 VAC 40-60-470, 22 VAC 40-60-490, 22 VAC 40-60-510, 22 VAC 40-60-520, 22 VAC 40-60-550 through 22 VAC 40-60-610, 22 VAC 40-60-680, 22 VAC 40-60-690, 22 VAC 40-60-700, 22 VAC 40-60-770, 22 VAC 40-60-780, 22 VAC 40-60-800, 22 VAC 40-60-850, 22 VAC 40-60-860, 22 VAC 40-60-880, 22 VAC 40-60-960, 22 VAC 40-60-980, 22 VAC 40-60-1010, and 22 VAC 40-60-1020; adding 22 VAC 40-60-235, 22 VAC 40-60-425, 22 VAC 40-60-554, 22 VAC 40-60-556, 22 VAC 40-60-564, 22 VAC 40-60-691, 22 VAC 40-60-692, 22 VAC 40-60-694, 22 VAC 40-60-695, 22 VAC 40-60-697, 22 VAC 40-60-698, 22 VAC 40-60-699, 22 VAC 40-60-705, and 22 VAC 40-60-885; repealing 22 VAC 40-60-70, 22 VAC 40-60-100, 22 VAC 40-60-210 through 22 VAC 40-60-250, 22 VAC 40-60-290, 22 VAC 40-60-310, 22 VAC 40-60-350, 22 VAC 40-60-360, 22 VAC 40-60-480, 22 VAC 40-60-530, 22 VAC 40-60-540, 22 VAC 40-60-620 through 22 VAC 40-60-650, 22 VAC 40-60-670, 22 VAC 40-60-710 through 22 VAC 40-60-760, 22 VAC 40-60-790, 22 VAC 40-60-810 through 22 VAC 40-60-840, 22 VAC 40-60-870, 22 VAC 40-60-890 through 22 VAC 40-60-950, 22 VAC 40-60-970, 22 VAC 40-60-990, 22 VAC 40-60-1000, and 22 VAC 40-60-1030 through 22 VAC 40-60-1060). 2801

Child Protective Services Client Appeals (REPEALING). (22 VAC 40-710-10 et seq.)..... 2833

Table of Contents

Policy Regarding Purchased Services (REPEALING).
(22 VAC 40-820-10 et seq.)..... 2833

BOARDS OF EDUCATION; JUVENILE JUSTICE; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; AND SOCIAL SERVICES

Standards for Interagency Regulation of Children's Residential Facilities. (22 VAC 42-10-10 et seq.)..... 2834

FINAL REGULATIONS

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Pertaining to the Setting of Fishing Devices Proximate to the Chesapeake Bay Bridge-Tunnel (amending 4 VAC 20-80-20 and 4 VAC 20-80-30). 2871

DEPARTMENT OF MINES, MINERALS AND ENERGY

Requirements for the Installation and Use of Automated Temporary Roof Support (ATRS) Systems (amending 4 VAC 25-60-10, 4 VAC 25-60-20, 4 VAC 25-60-40 and 4 VAC 25-60-70). 2871

Regulations Governing Disruption of Communications in Mines (amending 4 VAC 25-70-10). 2873

Rules and Regulations Governing Advanced First Aid (REPEALED). (4 VAC 25-80-10) 2874

Regulations Governing Blasting in Surface Mining Operations (amending 4 VAC 25-110-10, 4 VAC 25-110-20, 4 VAC 25-110-200 and 4 VAC 25-110-210; repealing 4 VAC 25-110-60, 4 VAC 25-110-130, 4 VAC 25-110-170, 4 VAC 25-110-320, 4 VAC 25-110-330, 4 VAC 25-110-340, 4 VAC 25-110-350, 4 VAC 25-110-360, 4 VAC 25-110-370, 4 VAC 25-110-380 and 4 VAC 25-110-390). 2874

Requirements for Installation and Use of Cabs and Canopies (amending 4 VAC 25-120-10)..... 2880

TITLE 13. HOUSING

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Virginia Uniform Statewide Building Code (amending 13 VAC 5-61-40)..... 2881

TITLE 21. SECURITIES AND RETAIL FRANCHISING

STATE CORPORATION COMMISSION

Division of Securities and Retail Franchising

Securities Act Regulations (SEC 990020)..... 2881

General Administration--Securities Act (amending 21 VAC 5-10-20 and 21 VAC 5-10-40)..... 2881

Broker Dealers, Broker-Dealer Agents and Agents of the Issuer: Registration, Expiration, Renewal, Updates and Amendments, Termination, Changing Connection, Merger or Consolidation, Examinations/Qualification, Financial Statements and Reports (amending 21 VAC 5-20-10, 21 VAC 5-20-70, 21 VAC 5-20-90, 21 VAC 5-20-150, 21 VAC 5-20-160, 21 VAC 5-20-220, 21 VAC 5-20-280 and 21 VAC 5-20-300; adding 21 VAC 5-20-330). 2881

Securities Registration (amending 21 VAC 5-30-40; adding 21 VAC 5-30-90). 2882

Exempt Securities (amending 21 VAC 5-40-50 and 21 VAC 5-40-100; adding 21 VAC 5-40-130, 21 VAC 5-40-140, and 21 VAC 5-40-150)..... 2882

Investment Advisors (amending 21 VAC 5-80-30, 21 VAC 5-80-60, 21 VAC 5-80-70, 21 VAC 5-80-90, 21 VAC 5-80-100, 21 VAC 5-80-110, 21 VAC 5-80-130, 21 VAC 5-80-160, 21 VAC 5-80-180, 21 VAC 5-80-200, 21 VAC 5-80-210, and 21 VAC 5-80-220)..... 2882

Forms--Securities Act (Repealed). (21 VAC 5-85-10) 2882

Disclosure of Information or Documents by Commission (amending 21 VAC 5-100-10)..... 2882

Virginia Trademark and Service Mark Act (amending 21 VAC 5-120-30; repealing 21 VAC 5-120-110). 2882

Retail Franchising Act Rules and Forms (SEC 990022) (amending 21 VAC 5-110-20, 21 VAC 5-110-30, 21 VAC 5-110-40, 21 VAC 5-110-50, 21 VAC 5-110-60 and 21 VAC 5-110-70; adding 21 VAC 5-110-85). 2918

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

State Income Tax Intercept for Child Support (REPEALED). (22 VAC 40-830-10 et seq.) 2929

Application Fee Scale (REPEALED). (22 VAC 40-840-10 et seq.)..... 2929

Separate Fee Charged for Child Support Enforcement Services (REPEALED). (22 VAC 40-850-10 et seq.) 2929

Policy of the Department of Social Services Division of Child Support Enforcement (REPEALED). (22 VAC 40-860-10 et seq.)..... 2929

Credit Bureau Reporting (REPEALED). (22 VAC 40-870-10 et seq.)..... 2930

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Guidelines for the Logo Program. (24 VAC 30-550-10) 2930

EMERGENCY REGULATIONS

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Pertaining to Scup (amending 4 VAC 20-910-45).....2931

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Methods and Standards for Establishing Payment Rates For Long-Term Care (adding 12 VAC 30-90-340).....2931

THE LEGISLATIVE RECORD

HJR 843: Commission on the Future of Transportation in Virginia..... 2934

HJR 501: Joint Subcommittee to Study the Virginia Freedom of Information Act2935

HJR 432: Commission on the Condition and Future of Virginia's Cities.....2939

HJR 543: Joint Subcommittee to Study Land Development Patterns.....2939

GENERAL NOTICES/ERRATA

STATE CORPORATION COMMISSION

Bureau of Insurance

Administrative Letter

Applications for Individual Health Insurance Coverage; § 38.2-3430.3 C of the Code of Virginia. (1999-7)2942

DEPARTMENT OF TAXATION

Virginia Tax Bulletin

Interest Rates - Third Quarter 1999. (99-7)2943

STATE WATER CONTROL BOARD

Consent Special Orders - Multritrade of Pittsylvania County, L.P.LG & E- Altavista Westmoreland, Old Dominion Electric Cooperative and Virginia Power.....2946

Proposed Consent Special Order - Stillwater, Inc.2946

VIRGINIA CODE COMMISSION

Notice to State Agencies.....2946

Forms for Filing Material for Publication in *The Virginia Register of Regulations*.....2946

ERRATA

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Rules and Regulations. (18 VAC 10-20-10 et seq.) 2946

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings..... 2948

INDEPENDENT

Open Meetings and Public Hearings..... 2966

LEGISLATIVE

Open Meetings and Public Hearings..... 2966

CHRONOLOGICAL LIST

Open Meetings..... 2968

Public Hearings..... 2971

CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 1999 VAC Supplement includes final regulations published through *Virginia Register* Volume 15, Issue 10, dated February 1, 1999). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 2. Agriculture			
2 VAC 20-50-10 et seq.	Repealed	15:11 VA.R. 1692	3/17/99
2 VAC 20-51-10 through 2 VAC 20-51-210	Added	15:11 VA.R. 1693-1700	3/17/99
Title 4. Conservation and Natural Resources			
4 VAC 15-40-240	Amended	15:19 VA.R. 2454	7/7/99
4 VAC 15-40-280	Amended	15:19 VA.R. 2454	7/7/99
4 VAC 15-40-281	Added	15:19 VA.R. 2454	7/7/99
4 VAC 15-50-120	Amended	15:19 VA.R. 2455	7/7/99
4 VAC 15-90-20	Amended	15:20 VA.R. 2586	7/7/99
4 VAC 15-90-70	Amended	15:20 VA.R. 2586	7/7/99
4 VAC 15-90-80	Amended	15:20 VA.R. 2587	7/7/99
4 VAC 15-90-90	Amended	15:20 VA.R. 2588	7/7/99
4 VAC 15-90-100	Amended	15:20 VA.R. 2588	7/7/99
4 VAC 15-90-110	Amended	15:20 VA.R. 2588	7/7/99
4 VAC 15-90-120	Amended	15:20 VA.R. 2588	7/7/99
4 VAC 15-90-130	Repealed	15:20 VA.R. 2589	7/7/99
4 VAC 15-90-141	Added	15:20 VA.R. 2589	7/7/99
4 VAC 15-90-160	Amended	15:20 VA.R. 2589	7/7/99
4 VAC 15-90-170	Amended	15:20 VA.R. 2589	7/7/99
4 VAC 15-90-190	Amended	15:20 VA.R. 2589	7/7/99
4 VAC 15-90-195	Amended	15:20 VA.R. 2589	7/7/99
4 VAC 15-90-200	Amended	15:20 VA.R. 2590	7/7/99
4 VAC 15-90-210	Amended	15:20 VA.R. 2590	7/7/99
4 VAC 15-90-220	Amended	15:20 VA.R. 2590	7/7/99
4 VAC 15-90-250	Repealed	15:20 VA.R. 2590	7/7/99
4 VAC 15-110-30	Amended	15:19 VA.R. 2455	7/7/99
4 VAC 15-110-60	Amended	15:19 VA.R. 2455	7/7/99
4 VAC 15-240-10	Amended	15:19 VA.R. 2455	7/7/99
4 VAC 15-240-20	Amended	15:19 VA.R. 2455	7/7/99
4 VAC 15-240-31	Added	15:19 VA.R. 2455	7/7/99
4 VAC 15-240-40	Amended	15:19 VA.R. 2455	7/7/99
4 VAC 15-240-50	Amended	15:19 VA.R. 2455	7/7/99
4 VAC 15-240-70	Amended	15:19 VA.R. 2455	7/7/99
4 VAC 15-270-60	Amended	15:19 VA.R. 2466	7/7/99
4 VAC 20-20-35	Amended	15:14 VA.R. 2044	3/1/99
4 VAC 20-150-70	Amended	15:19 VA.R. 2456	5/4/99
4 VAC 20-252-60	Amended	15:18 VA.R. 2392	5/1/99
4 VAC 20-252-80	Amended	15:18 VA.R. 2392	5/1/99
4 VAC 20-252-120	Amended	15:18 VA.R. 2393	5/1/99
4 VAC 20-252-130	Amended	15:18 VA.R. 2393	5/1/99
4 VAC 20-252-140	Amended	15:18 VA.R. 2393	5/1/99
4 VAC 20-252-150	Amended	15:18 VA.R. 2394	5/1/99
4 VAC 20-252-160	Amended	15:18 VA.R. 2394	5/1/99
4 VAC 20-430-15	Added	15:19 VA.R. 2456	5/5/99

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-430-60	Amended	15:19 VA.R. 2456	5/5/99
4 VAC 20-620-50	Amended	15:14 VA.R. 2044	3/1/99
4 VAC 20-620-70	Amended	15:14 VA.R. 2045	3/1/99
4 VAC 20-720-40	Amended	15:20 VA.R. 2590	6/1/99
4 VAC 20-720-45 emer	Added	15:19 VA.R. 2474	5/5/99-5/31/99
4 VAC 20-720-50	Amended	15:20 VA.R. 2590	6/1/99
4 VAC 20-720-80	Amended	15:12 VA.R. 1790	2/1/99
4 VAC 20-720-90	Amended	15:19 VA.R. 2457	5/10/99
4 VAC 20-720-106 emer	Added	15:12 VA.R. 1845	2/1/99-2/12/99
4 VAC 20-751-20	Amended	15:18 VA.R. 2395	5/1/99
4 VAC 20-880-10	Amended	15:20 VA.R. 2591	5/26/99
4 VAC 20-880-40	Repealed	15:20 VA.R. 2591	5/26/99
4 VAC 20-880-50	Repealed	15:20 VA.R. 2592	5/26/99
4 VAC 20-900-10	Amended	15:14 VA.R. 2045	3/1/99
4 VAC 20-900-10	Amended	15:19 VA.R. 2457	5/4/99
4 VAC 20-900-20	Amended	15:19 VA.R. 2457	5/4/99
4 VAC 20-900-25	Added	15:14 VA.R. 2045	3/1/99
4 VAC 20-900-25	Amended	15:19 VA.R. 2457	5/4/99
4 VAC 20-900-35	Added	15:14 VA.R. 2045	3/1/99
4 VAC 20-995-20	Amended	15:18 VA.R. 2395	5/1/99
4 VAC 20-995-30	Amended	15:18 VA.R. 2395	5/1/99
4 VAC 20-1020-10 through 4 VAC 20-1020-40	Added	15:12 VA.R. 1790	2/2/99
4 VAC 20-1030-10 through 4 VAC 20-1030-40	Added	15:15 VA.R. 2126-2135	3/15/99
4 VAC 20-1040-10 through 4 VAC 20-1040-40	Added	15:20 VA.R. 2592-2593	5/26/99
4 VAC 25-20 (Forms)	Amended	15:21 VA.R. 2728	--
4 VAC 25-35 (Forms)	Amended	15:14 VA.R. 2075-2077	--
4 VAC 25-35 (Forms)	Amended	15:21 VA.R. 2728	--
4 VAC 25-40 (Forms)	Amended	15:21 VA.R. 2728	--
4 VAC 25-130 (Forms)	Amended	15:11 VA.R. 1736	--
4 VAC 25-130 (Forms)	Amended	15:21 VA.R. 2728	--
4 VAC 25-150 (Forms)	Amended	15:14 VA.R. 2077-2078	--
Title 8. Education			
8 VAC 35-30-30	Amended	15:11 VA.R. 1706	1/18/99
8 VAC 35-30-50	Amended	15:11 VA.R. 1707	1/18/99
8 VAC 35-30-160	Amended	15:11 VA.R. 1707	1/18/99
8 VAC 35-30-200	Amended	15:11 VA.R. 1707	1/18/99
8 VAC 35-30-210	Amended	15:11 VA.R. 1707	1/18/99
8 VAC 35-30-220	Amended	15:11 VA.R. 1708	1/18/99
8 VAC 35-30-230	Amended	15:11 VA.R. 1708	1/18/99
8 VAC 35-30-240	Amended	15:11 VA.R. 1709	1/18/99
Title 9. Environment			
9 VAC 5-20-21	Amended	15:12 VA.R. 1799	4/1/99
9 VAC 5-20-21	Amended	15:21 VA.R. 2667	8/4/99
9 VAC 5-30-20	Repealed	15:12 VA.R. 1791	4/1/99
9 VAC 5-40-880	Amended	15:12 VA.R. 1794	4/1/99
9 VAC 5-40-890	Amended	15:12 VA.R. 1794	4/1/99
9 VAC 5-40-900	Amended	15:12 VA.R. 1795	4/1/99
9 VAC 5-40-940	Amended	15:12 VA.R. 1795	4/1/99
9 VAC 5-40-1040	Amended	15:12 VA.R. 1796	4/1/99
9 VAC 5-40-1660	Amended	15:12 VA.R. 1796	4/1/99
9 VAC 5-40-1670	Amended	15:12 VA.R. 1796	4/1/99
9 VAC 5-40-1690	Amended	15:12 VA.R. 1797	4/1/99
9 VAC 5-40-1750	Amended	15:12 VA.R. 1798	4/1/99
9 VAC 5-40-1770	Amended	15:12 VA.R. 1798	4/1/99
9 VAC 5-40-1780	Amended	15:12 VA.R. 1798	4/1/99

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-40-1810	Amended	15:12 VA.R. 1799	4/1/99
9 VAC 5-40-5350 through 9 VAC 5-40-5480	Repealed	15:12 VA.R. 1793-1794	4/1/99
9 VAC 5-40-5800	Amended	15:12 VA.R. 1801	4/1/99
9 VAC 5-40-5810	Amended	15:12 VA.R. 1802	4/1/99
9 VAC 5-40-5820	Amended	15:12 VA.R. 1804	4/1/99
9 VAC 5-40-5822	Added	15:12 VA.R. 1806	4/1/99
9 VAC 5-40-5824	Added	15:12 VA.R. 1807	4/1/99
9 VAC 5-40-5850	Amended	15:12 VA.R. 1808	4/1/99
9 VAC 5-40-5855	Added	15:12 VA.R. 1811	4/1/99
9 VAC 5-40-5860	Amended	15:12 VA.R. 1812	4/1/99
9 VAC 5-40-5870	Amended	15:12 VA.R. 1815	4/1/99
9 VAC 5-40-5880	Amended	15:12 VA.R. 1816	4/1/99
9 VAC 5-40-5890	Amended	15:12 VA.R. 1820	4/1/99
9 VAC 5-40-5920	Amended	15:12 VA.R. 1822	4/1/99
9 VAC 5-40-5930	Repealed	15:12 VA.R. 1822	4/1/99
9 VAC 5-40-7950 through 9 VAC 5-40-8190	Added	15:21 VA.R. 2669-2690	8/4/99
9 VAC 5-50-400	Amended	15:12 VA.R. 1822	4/1/99
9 VAC 5-50-400	Amended	15:13 VA.R. 1918	4/14/99
9 VAC 5-50-410	Amended	15:12 VA.R. 1823	4/1/99
9 VAC 5-50-410	Amended	15:13 VA.R. 1918	4/14/99
9 VAC 5-50-420	Amended	15:12 VA.R. 1828	4/1/99
9 VAC 5-50-420	Amended	15:13 VA.R. 1924	4/14/99
9 VAC 5-60-60	Amended	15:13 VA.R. 1924	4/14/99
9 VAC 5-60-70	Amended	15:13 VA.R. 1925	4/14/99
9 VAC 5-60-80	Amended	15:13 VA.R. 1926	4/14/99
9 VAC 5-60-90	Amended	15:13 VA.R. 1927	4/14/99
9 VAC 5-60-100	Amended	15:13 VA.R. 1927	4/14/99
9 VAC 5-70-40	Amended	15:12 VA.R. 1791	4/1/99
9 VAC 5-80-30	Repealed	15:11 VA.R. 1717	4/1/99
9 VAC 5-80-2000 through 9 VAC 5-80-2190	Added	15:11 VA.R. 1717-1728	4/1/99
9 VAC 5-80-2010	Erratum	15:13 VA.R. 1955	--
9 VAC 5-200-10	Added	15:13 VA.R. 1931	4/14/99
9 VAC 5-200-20	Added	15:13 VA.R. 1931	4/14/99
9 VAC 5-200-30	Added	15:13 VA.R. 1931	4/14/99
9 VAC 25-190-10	Amended	15:16 VA.R. 2187	6/30/99
9 VAC 25-190-20	Amended	15:16 VA.R. 2188	6/30/99
9 VAC 25-190-30	Repealed	15:16 VA.R. 2189	6/30/99
9 VAC 25-190-40	Repealed	15:16 VA.R. 2189	6/30/99
9 VAC 25-190-50	Amended	15:16 VA.R. 2189	6/30/99
9 VAC 25-190-60	Amended	15:16 VA.R. 2189	6/30/99
9 VAC 25-190-70	Amended	15:16 VA.R. 2191	6/30/99
9 VAC 25-192 (Forms)	Amended	15:12 VA.R. 1854	--
9 VAC 25-260-430	Amended	15:21 VA.R. 2691	8/4/99
9 VAC 25-610 (Forms)	Amended	15:21 VA.R. 2728	--
Title 12. Health			
12 VAC 5-100-10 et seq.	Repealed	15:18 VA.R. 2396	6/23/99
12 VAC 5-405-10 through 12 VAC 5-405-120	Amended	15:20 VA.R. 2593-2597	7/21/99
12 VAC 5-470-10 et seq.	Repealed	15:20 VA.R. 2597	7/21/99
12 VAC 5-600-50	Amended	15:20 VA.R. 2598	7/21/99
12 VAC 5-600-60	Amended	15:20 VA.R. 2598	7/21/99
12 VAC 30-10-140 emer	Amended	15:13 VA.R. 1942	7/1/99-6/30/00
12 VAC 30-10-150 emer	Amended	15:13 VA.R. 1943	7/1/99-6/30/00
12 VAC 30-40-290	Amended	15:18 VA.R. 2396	7/1/99
12 VAC 30-50-30 emer	Amended	15:13 VA.R. 1943	7/1/99-6/30/00
12 VAC 30-50-70 emer	Amended	15:13 VA.R. 1944	7/1/99-6/30/00

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-50-229.1	Amended	15:17 VA.R. 2326	6/9/99
12 VAC 30-50-229.1	Erratum	15:18 VA.R. 2411	--
12 VAC 30-50-320 emer	Added	15:13 VA.R. 1944	7/1/99-6/30/00
12 VAC 30-50-570	Amended	15:18 VA.R. 2398	7/1/99
12 VAC 30-80-170	Amended	15:18 VA.R. 2399	7/1/99
12 VAC 30-120-61 through 12 VAC 30-120-69 emer	Added	15:13 VA.R. 1944-1947	7/1/99-6/30/00
12 VAC 30-120-360	Amended	15:18 VA.R. 2400	7/1/99
12 VAC 30-120-370	Amended	15:18 VA.R. 2401	7/1/99
12 VAC 30-120-370	Erratum	15:19 VA.R. 2502	--
Title 13. Housing			
13 VAC 5-51-20 emer	Amended	15:14 VA.R. 2069	3/10/99-3/9/00
13 VAC 5-51-130 emer	Amended	15:14 VA.R. 2070	3/10/99-3/9/00
13 VAC 5-51-135 emer	Added	15:14 VA.R. 2070	3/10/99-3/9/00
13 VAC 5-51-136 emer	Added	15:14 VA.R. 2070	3/10/99-3/9/00
13 VAC 5-61-200 emer	Amended	15:14 VA.R. 2071	3/10/99-3/9/00
13 VAC 5-61-440 emer	Amended	15:14 VA.R. 2072	3/10/99-3/9/00
13 VAC 10-40-20	Amended	15:12 VA.R. 1829	1/28/99
13 VAC 10-40-130	Amended	15:12 VA.R. 1832	1/28/99
13 VAC 10-40-160	Amended	15:12 VA.R. 1834	1/28/99
13 VAC 10-40-210	Amended	15:12 VA.R. 1835	1/28/99
13 VAC 10-40-220	Amended	15:12 VA.R. 1835	1/28/99
13 VAC 10-40-230	Amended	15:12 VA.R. 1835	1/28/99
13 VAC 10-60-10 et seq.	Repealed	15:18 VA.R. 2403	5/1/99
13 VAC 10-100-10 et seq.	Repealed	15:18 VA.R. 2403	5/1/99
13 VAC 10-110-10 et seq.	Repealed	15:18 VA.R. 2403	5/1/99
13 VAC 10-170-10 et seq.	Repealed	15:18 VA.R. 2404	5/1/99
13 VAC 10-180-10	Amended	15:14 VA.R. 2050	3/10/99
13 VAC 10-180-50	Amended	15:14 VA.R. 2051	3/10/99
13 VAC 10-180-60	Amended	15:14 VA.R. 2053	3/10/99
13 VAC 10-180-70	Amended	15:14 VA.R. 2061	3/10/99
13 VAC 10-180-90	Amended	15:14 VA.R. 2063	3/10/99
Title 14. Insurance			
14 VAC 5-170-20	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170-30	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170-40	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170-50	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170-60	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170-70	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170-80	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170-90	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170-100	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170-105	Added	15:15 VA.R. 2136	4/26/99
14 VAC 5-170-110	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170-120	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170-130	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170-140	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170-150	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170-160	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170-170	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170-180	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170 Appendix A	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170 Appendix B	Amended	15:15 VA.R. 2136	4/26/99
14 VAC 5-170 Appendix C	Amended	15:15 VA.R. 2136	4/26/99
Title 16. Labor and Employment			
16 VAC 15-20-10 et seq.	Repealed	15:17 VA.R. 2330	6/15/99

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
16 VAC 15-21-10 through 16 VAC 15-21-30	Added	15:17 VA.R. 2330	6/15/99
16 VAC 25-90-1910.6	Amended	15:21 VA.R. 2702	8/15/99
16 VAC 25-90-1910.16	Amended	15:21 VA.R. 2709	8/15/99
16 VAC 25-90-1910.94	Amended	15:21 VA.R. 2705	8/15/99
16 VAC 25-90-1910.108	Repealed	15:21 VA.R. 2705	8/15/99
16 VAC 25-90-1910.122	Added	15:21 VA.R. 2702	8/15/99
16 VAC 25-90-1910.123	Added	15:21 VA.R. 2702	8/15/99
16 VAC 25-90-1910.124	Added	15:21 VA.R. 2702	8/15/99
16 VAC 25-90-1910.125	Added	15:21 VA.R. 2702	8/15/99
16 VAC 25-90-1910.126	Added	15:21 VA.R. 2702	8/15/99
16 VAC 25-90-1910.146	Amended	15:21 VA.R. 2707	8/15/99
16 VAC 25-90-1910.178	Amended	15:21 VA.R. 2709	8/15/99
16 VAC 25-100-1915.120	Added	15:21 VA.R. 2709	8/15/99
16 VAC 25-120-1917.1	Amended	15:21 VA.R. 2709	8/15/99
16 VAC 25-130-1918.1	Amended	15:21 VA.R. 2709	8/15/99
16 VAC 25-175-1926.602	Amended	15:21 VA.R. 2709	8/15/99
Title 18. Professional and Occupational Licensing			
18 VAC 50-22-100	Amended	15:12 VA.R. 1837	5/1/99
18 VAC 50-22-140	Amended	15:12 VA.R. 1837	5/1/99
18 VAC 50-30-10	Amended	15:19 VA.R. 2458	7/9/99
18 VAC 50-30-20	Amended	15:19 VA.R. 2460	7/9/99
18 VAC 50-30-30	Amended	15:19 VA.R. 2460	7/9/99
18 VAC 50-30-40	Amended	15:19 VA.R. 2461	7/9/99
18 VAC 50-30-50	Amended	15:19 VA.R. 2461	7/9/99
18 VAC 50-30-60	Amended	15:19 VA.R. 2462	7/9/99
18 VAC 50-30-70	Amended	15:19 VA.R. 2463	7/9/99
18 VAC 50-30-80	Amended	15:19 VA.R. 2463	7/9/99
18 VAC 50-30-90	Amended	15:12 VA.R. 1838	5/1/99
18 VAC 50-30-90	Amended	15:19 VA.R. 2463	7/9/99
18 VAC 50-30-100	Amended	15:19 VA.R. 2464	7/9/99
18 VAC 50-30-120	Amended	15:19 VA.R. 2464	7/9/99
18 VAC 50-30-130	Amended	15:19 VA.R. 2464	7/9/99
18 VAC 50-30-140	Amended	15:19 VA.R. 2465	7/9/99
18 VAC 50-30-150	Amended	15:19 VA.R. 2465	7/9/99
18 VAC 50-30-170	Amended	15:19 VA.R. 2465	7/9/99
18 VAC 50-30-190	Amended	15:19 VA.R. 2465	7/9/99
18 VAC 50-30-200	Amended	15:19 VA.R. 2466	7/9/99
18 VAC 60-20-20 emer	Amended	15:11 VA.R. 1729	1/21/99-1/20/00
18 VAC 60-20-20	Amended	15:21 VA.R. 2712	8/5/99
18 VAC 60-20-30 emer	Amended	15:11 VA.R. 1729	1/21/99-1/20/00
18 VAC 65-20-70 emer	Amended	15:12 VA.R. 1846	2/2/99-2/1/00
18 VAC 65-20-120 emer	Amended	15:12 VA.R. 1846	2/2/99-2/1/00
18 VAC 65-20-130 emer	Amended	15:12 VA.R. 1846	2/2/99-2/1/00
18 VAC 65-20-435 emer	Added	15:12 VA.R. 1846	2/2/99-2/1/00
18 VAC 70-20-30	Amended	15:18 VA.R. 2404	7/1/99
18 VAC 75-20-10	Amended	15:18 VA.R. 2405	6/23/99
18 VAC 75-20-30	Repealed	15:18 VA.R. 2405	6/23/99
18 VAC 75-20-40	Repealed	15:18 VA.R. 2405	6/23/99
18 VAC 75-20-50	Repealed	15:18 VA.R. 2405	6/23/99
18 VAC 75-20-60	Amended	15:18 VA.R. 2405	6/23/99
18 VAC 75-20-70	Amended	15:18 VA.R. 2406	6/23/99
18 VAC 75-20-90	Amended	15:18 VA.R. 2406	6/23/99
18 VAC 76-10-30	Amended	15:17 VA.R. 2331	4/15/99
18 VAC 85-40-10 emer	Amended	15:11 VA.R. 1730	1/21/99-1/20/00
18 VAC 85-40-25 emer	Added	15:11 VA.R. 1731	1/21/99-1/20/00

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 85-40-40 emer	Amended	15:11 VA.R. 1731	1/21/99-1/20/00
18 VAC 85-40-45 emer	Added	15:11 VA.R. 1731	1/21/99-1/20/00
18 VAC 85-40-50 emer	Amended	15:11 VA.R. 1731	1/21/99-1/20/00
18 VAC 85-40-60 emer	Amended	15:11 VA.R. 1731	1/21/99-1/20/00
18 VAC 85-40-65 emer	Added	15:11 VA.R. 1731	1/21/99-1/20/00
18 VAC 85-40-70 emer	Amended	15:11 VA.R. 1731	1/21/99-1/20/00
18 VAC 85-40-80 emer	Amended	15:11 VA.R. 1732	1/21/99-1/20/00
18 VAC 85-80-10 emer	Amended	15:12 VA.R. 1847	1/29/99-1/28/00
18 VAC 85-80-11 emer	Added	15:12 VA.R. 1848	1/29/99-1/28/00
18 VAC 85-80-12 emer	Added	15:12 VA.R. 1848	1/29/99-1/28/00
18 VAC 85-80-35 emer	Added	15:12 VA.R. 1848	1/29/99-1/28/00
18 VAC 85-80-40 through 18 VAC 85-80-90 emer	Amended	15:12 VA.R. 1848-1849	1/29/99-1/28/00
18 VAC 85-110-100	Amended	15:21 VA.R. 2713	8/5/99
18 VAC 85-110-110	Amended	15:21 VA.R. 2713	8/5/99
18 VAC 85-110-130	Amended	15:21 VA.R. 2713	8/5/99
18 VAC 90-20-300 emer	Amended	15:11 VA.R. 1733	1/26/99-1/25/00
18 VAC 90-20-330	Amended	15:19 VA.R. 2467	7/7/99
18 VAC 90-20-420 through 18 VAC 90-20-460 emer	Added	15:11 VA.R. 1733-1735	1/26/99-1/25/00
18 VAC 105-30-10	Amended	15:12 VA.R. 1839	3/31/99
18 VAC 105-30-20	Amended	15:12 VA.R. 1839	3/31/99
18 VAC 105-30-30	Amended	15:12 VA.R. 1839	3/31/99
18 VAC 105-30-35	Added	15:12 VA.R. 1839	3/31/99
18 VAC 105-30-40	Amended	15:12 VA.R. 1840	3/31/99
18 VAC 105-30-50	Repealed	15:12 VA.R. 1840	3/31/99
18 VAC 105-30-60	Amended	15:12 VA.R. 1840	3/31/99
18 VAC 105-30-70	Amended	15:12 VA.R. 1840	3/31/99
18 VAC 105-30-90	Amended	15:12 VA.R. 1841	3/31/99
18 VAC 105-30-100	Amended	15:12 VA.R. 1841	3/31/99
18 VAC 105-30-110	Repealed	15:12 VA.R. 1841	3/31/99
18 VAC 105-30-120	Amended	15:12 VA.R. 1841	3/31/99
18 VAC 110-20-130	Erratum	15:12 VA.R. 1865	--
18 VAC 110-20-490	Amended	15:21 VA.R. 2713	8/4/99
18 VAC 120-40-10 through 18 VAC 120-40-430	Added	15:21 VA.R. 2715-2727	8/5/99
18 VAC 130-20-130	Amended	15:14 VA.R. 2066	5/1/99
18 VAC 135-20-80	Amended	15:18 VA.R. 2408	7/1/99
18 VAC 135-20-120	Amended	15:18 VA.R. 2408	7/1/99
18 VAC 135-20-140	Amended	15:18 VA.R. 2408	7/1/99
18 VAC 135-20-370	Amended	15:18 VA.R. 2408	7/1/99
18 VAC 155-20-40	Amended	15:13 VA.R. 1938	5/1/99
Title 19. Public Safety			
19 VAC 30-20 (Forms)	Added	15:14 VA.R. 2078-2079	--
Title 20. Public Utilities and Telecommunications			
20 VAC 5-400-151	Added	15:19 VA.R. 2473	10/1/99
20 VAC 5-400-151	Erratum	15:21 VA.R. 2732	--
Title 21. Securities and Retail Franchising			
21 VAC 5-120 (Forms)	Amended	15:17 VA.R. 2333-2334	--
Title 22. Social Services			
22 VAC 40-35-10 emer	Amended	15:19 VA.R. 2474	5/19/99-5/18/00
22 VAC 40-35-126 emer	Added	15:19 VA.R. 2477	5/19/99-5/18/00
22 VAC 40-35-127 emer	Added	15:19 VA.R. 2477	5/19/99-5/18/00
22 VAC 40-35-128 emer	Added	15:19 VA.R. 2477	5/19/99-5/18/00
22 VAC 40-190-10 emer	Amended	15:19 VA.R. 2480	5/19/99-5/18/00
22 VAC 40-190-20 emer	Amended	15:19 VA.R. 2482	5/19/99-5/18/00
22 VAC 40-190-25 emer	Added	15:19 VA.R. 2482	5/19/99-5/18/00
22 VAC 40-190-30 emer	Amended	15:19 VA.R. 2483	5/19/99-5/18/00

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-190-40 emer	Amended	15:19 VA.R. 2483	5/19/99-5/18/00
22 VAC 40-190-50 emer	Amended	15:19 VA.R. 2484	5/19/99-5/18/00
22 VAC 40-190-60 emer	Amended	15:19 VA.R. 2485	5/19/99-5/18/00
22 VAC 40-190-70 emer	Amended	15:19 VA.R. 2485	5/19/99-5/18/00
22 VAC 40-190-80 emer	Added	15:19 VA.R. 2486	5/19/99-5/18/00
22 VAC 40-190-90 emer	Added	15:19 VA.R. 2487	5/19/99-5/18/00
22 VAC 40-190-100 emer	Added	15:19 VA.R. 2487	5/19/99-5/18/00
22 VAC 40-190-110 emer	Added	15:19 VA.R. 2487	5/19/99-5/18/00
22 VAC 40-190-120 emer	Added	15:19 VA.R. 2488	5/19/99-5/18/00
22 VAC 40-190-130 emer	Added	15:19 VA.R. 2488	5/19/99-5/18/00
22 VAC 40-190-140 emer	Added	15:19 VA.R. 2489	5/19/99-5/18/00
22 VAC 40-190-150 emer	Added	15:19 VA.R. 2489	5/19/99-5/18/00
22 VAC 40-325-10 and 22 VAC 40-325-20 emer	Added	15:12 VA.R. 1849-1850	4/1/99-3/31/00
22 VAC 40-680-65	Repealed	15:17 VA.R. 2331	6/9/99
22 VAC 40-680-66	Repealed	15:17 VA.R. 2332	6/9/99
Title 23. Taxation			
23 VAC 10-110-225 through 23 VAC 10-110-229 emer	Added	15:12 VA.R. 1851-1853	2/4/99-2/3/00
23 VAC 10-110-228	Erratum	15:14 VA.R. 2081	--
Title 24. Transportation and Motor Vehicles			
24 VAC 30-250-10	Amended	15:21 VA.R. 2727	6/14/99
24 VAC 30-350-10	Amended	15:13 VA.R. 1939	2/22/99

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

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 20-21-10 et seq. Licensure Regulations for School Personnel.** The purpose of the proposed action is to amend the regulations to establish an alternative route to licensure for experienced military personnel. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

Public comments may be submitted until August 5, 1999.

Contact: Thomas A. Elliott, Assistant Superintendent of Teacher Education and Licensure, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522 or FAX (804) 786-6759.

VA.R. Doc. No. R99-197; Filed June 9, 1999, 12:18 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 Education intends to consider amending regulations entitled: **8 VAC 20-21-10 et seq. Licensure Regulations for School Personnel.** The purpose of the proposed action is to establish an endorsement (teaching) area in American Sign Language (ASL). The Board of Education has approved the provision of three years of instruction in ASL for foreign language credit toward an advanced studies diploma. The board also requested licensure requirements of teachers of ASL. Requirements need to be incorporated into the current licensure regulations for school personnel. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

Public comments may be submitted until August 5, 1999.

Contact: Thomas A. Elliott, Assistant Superintendent of Teacher Education and Licensure, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522 or FAX (804) 786-6759.

VA.R. Doc. No. R99-196; Filed June 9, 1999, 12:18 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 Education intends to consider amending regulations entitled: **8 VAC 20-160-10 et seq. Secondary School Transcript.** The purpose of the proposed action is to review the Secondary School Transcript regulations. Revisions to the Board of Education's Regulations Establishing Standards for Accrediting Public Schools in Virginia, October 1997, established new graduation requirements for students earning high school diplomas in Virginia. Beginning with the ninth-grade class of 2000-2001 (graduating class of 2003-2004), students will be required to earn a prescribed number of verified units. This requirement for verified units affects students who are currently taking high school credit bearing courses in grade seven or earlier. To keep with the changes in the SOA, a review of the board's Secondary School Transcript regulations is necessary. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until July 22, 1999.

Contact: Vernon L. Wildy, Associate Director for Secondary Instructional Services, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 225-2877 or FAX (804) 692-3163.

VA.R. Doc. No. R99-185; Filed June 2, 1999, 10:12 a.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

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 Health intends to consider promulgating regulations entitled: **12 VAC 5-185-10 et seq. Procedures and Policies for Administering the Commonwealth Neurotrauma Initiative Trust Fund.** The purpose of the proposed regulation is to carry out the law by developing procedures and policies for soliciting and receiving applications for grants from the CNI Trust Fund, and criteria for reviewing and ranking such applications. The fund exists to prevent and treat traumatic spinal cord and brain injuries. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 32.1-12 and 32.1-73.4 of the Code of Virginia.

Notices of Intended Regulatory Action

Public comments may be submitted until July 23, 1999.

Contact: Douglas R. Harris, Advisor to the Commissioner, Department of Health, 1500 E. Main St., Suite 2214, Richmond, VA 23219, telephone (804) 786-3561, FAX (804) 786-4616 or toll-free 1-800-828-1120/TTY ☎

VA.R. Doc. No. R99-182; Filed June 2, 1999, 8:42 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 State Board of Health intends to consider amending regulations entitled: **12 VAC 5-550-10 et seq. Board of Health Regulations Governing Vital Records.** The purpose of the proposed action is to review the regulations and amend them to ensure the accurate, uniform, efficient, and confidential administration of the Commonwealth's system for maintaining vital records, such as birth, adoption, marriage, divorce, death, and fetal death records, and for allowing necessary changes to these records. Resulting amendments may: (i) provide for the electronic reporting of births; (ii) allow delayed reporting of births when warranted; (iii) specify information needed to evidence home births; and (iv) establish protections against the unauthorized, unwarranted, and indiscriminate disclosure of vital records. Resulting amendments may also address other issues relating to these regulations that the public, regulated persons, and health planning community deem appropriate to raise in response to this notice. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 32.1-12, 32.1-250 and 32.1-257 of the Code of Virginia.

Public comments may be submitted until August 18, 1999.

Contact: Deborah Little-Bowser, State Registrar of Vital Records, Department of Health, Office of Vital Records, P.O. Box 1000, Richmond, VA 23218-1000, telephone (804) 225-5007 or FAX (804) 786-0648.

VA.R. Doc. No. R99-207; Filed June 30, 1999, 10:55 a.m.

TITLE 16. LABOR AND EMPLOYMENT

VIRGINIA WORKERS' COMPENSATION COMMISSION

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 Workers' Compensation Commission intends to consider promulgating regulations entitled: **16 VAC 30-10-10 et seq. Public Participation Guidelines.** The purpose of the proposed regulation is to promulgate public participation guidelines pursuant to § 9-6.14:7.1 of the Code of Virginia. The agency does not intend

to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 9-6.14:7.1 of the Code of Virginia.

Public comments may be submitted until August 9, 1999.

Contact: Sam Lupica, Staff Attorney, Virginia Workers' Compensation Commission, 1000 DMV Dr., Richmond, VA 23220, telephone (804) 367-0438, (804) 367-9740, toll-free 1-877-664-2566 or (804) 367-8600/TTY ☎

VA.R. Doc. No. R99-198; Filed June 9, 1999, 3:30 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

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 Audiology and Speech-Language Pathology intends to consider amending regulations entitled: **18 VAC 30-20-10 et seq. Regulations of the Board of Audiology and Speech-Language Pathology.** The purpose of the proposed action is to amend regulations for the establishment of an application process and fee and a renewal fee for the licensure of school speech-language pathologists as mandated by Chapters 967 and 1005 of the 1999 Acts of Assembly. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-2603 of the Code of Virginia.

Public comments may be submitted until July 21, 1999.

Contact: Elizabeth Young Tisdale, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111 or FAX (804) 662-9943.

VA.R. Doc. No. R99-187; Filed June 2, 1999, 11:36 a.m.

BOARD OF PSYCHOLOGY

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 Psychology intends to consider amending regulations entitled: **18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology.** The purpose of the proposed action is to amend regulations for the establishment of an application process and fee and a renewal fee for the licensure of school

Notices of Intended Regulatory Action

psychologists-limited as mandated by Chapters 967 and 1005 of the 1999 Acts of Assembly. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-3606 of the Code of Virginia.

Public comments may be submitted until July 21, 1999.

Contact: Evelyn B. Brown, Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913 or FAX (804) 662-9943.

VA.R. Doc. No. R99-186; Filed June 2, 1999; 11:36 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

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 Social Services intends to consider amending 22 VAC 40-680-10 and 22 VAC 40-680-20 of regulations entitled: **22 VAC 40-680-10 et seq. Virginia Energy Assistance Program.** The goal of the federal Low Income Home Energy Assistance Act is to assist low-income households, particularly those with the lowest incomes, that pay a high proportion of household income for home energy, primarily in meeting their immediate home energy needs. Federal law does not impose a resource limit. The Virginia Energy Assistance Program is a short-term seasonal program with limited administrative funds. The current regulation denies benefits to applicants with resources exceeding levels set by the current Virginia program. The proposed amendments to the definitions and resources sections will eliminate the resource limit and thus reduce the need for time-consuming verification of resources and ease applicant access to benefits. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until July 21, 1999.

Contact: Patricia Snead, Human Services Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1752 or FAX (804) 692-1709.

VA.R. Doc. No. R99-180; Filed May 27, 1999, 11:50 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 State Board of Social Services intends to consider amending regulations entitled: **22 VAC**

40-770-10 et seq. Standards and Regulations for Agency Approved Providers. The purpose of the proposed action is to amend the regulation to comply with previously promulgated regulations that eliminated language relating to "reason-to-suspect" cases in Child Protective Services and redefined "registry," and to add additional crimes from the Adoption and Safe Families Act of 1997 (Public Law 105-89). The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 63.1-25 and 63.1-56 of the Code of Virginia.

Public comments may be submitted until August 18, 1999.

Contact: Marjorie L. Marker, Adult Services Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1262 or FAX (804) 692-2215.

VA.R. Doc. No. R99-201; Filed June 22, 1999, 1:20 p.m.

PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

This section gives 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.

TITLE 2. AGRICULTURE

STATE MILK COMMISSION

August 11, 1999 - 1 p.m. – Public Hearing
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.

August 10, 1999 - 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 Milk Commission intends to amend regulations entitled: **2 VAC 15-20-10 et seq. Regulations for the Control and Supervision of Virginia's Milk Industry.** The amendments (i) change the classification of eggnog from a Class II product to a Class I product and (ii) modify Class I pricing components, definitions of adjacent markets, price issuance dates, formula methodology, and producer settlement dates. The changes are in response to federal changes scheduled to be implemented in the Federal Milk Marketing Order Reform Final Decision. Should the commission not promulgate these corresponding changes, competitive disadvantages would occur that would result in market disruption with adjacent markets. The amendment will become effective with the implementation of the Federal Milk Marketing Order Reform Final Decision in accordance with § 143 of the federal Agriculture Improvement and Reform Act of 1996 (Farm Bill), 7 USC § 7253.

Statutory Authority: §§ 3.1-430 and 3.1-437 of the Code of Virginia.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200 N. 9th St., Suite 915, Richmond, VA 23219-3414, telephone (804) 786-2013, FAX (804) 786-3779 or (804) 786-2013/TTY ☎

August 11, 1999 - 1 p.m. – Public Hearing
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.

August 10, 1999 - 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 Milk Commission intends to amend regulations entitled: **2 VAC 15-20-10 et seq. Regulations for the Control and Supervision of Virginia's Milk Industry.** The amendment changes the definition of adjacent markets. This change better aligns Southwestern Virginia's markets with the West Virginia adjacent markets for pricing purposes. The amendment will more accurately utilize West Virginia adjacent market pricing in the Virginia formula to yield producer prices in Virginia. Payment times are also changed. Virginia producer prices will better correspond to West Virginia markets adjacent to the Southwestern Virginia markets. This amendment will be repealed with the implementation of the federal Milk Marketing Order Reform in final decision implementation in accordance with § 143 of the federal Agriculture Improvement and Reform Act of 1996 (Farm Bill) 7 USC § 7253.

Statutory Authority: §§ 3.1-430 and 3.1-437 of the Code of Virginia.

Public comments may be submitted until August 10, 1999.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200 N. 9th St., Suite 915, Richmond, VA 23219-3414, telephone (804) 786-2013, FAX (804) 786-3779 or (804) 786-2013/TTY ☎



TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

August 18, 1999 - 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 30-50-10 et seq., Amount, Duration, and Scope of Medical and Remedial Care Services;**

Public Comment Periods - Proposed Regulations

12 VAC 30-60-10 et seq., Standards Established and Methods Used to Assure High Quality Care; 12 VAC 30-80-10 et seq., Methods and Standards for Establishing Payment Rates; Other Types of Care; and 12 VAC 30-130-10 et seq., Amount, Duration and Scope of Selected Services. This regulatory action realigns the Title XIX Medicaid hospice services with those of the Title XVIII Medicare hospice services. The benefits periods will be the same across the two programs, payments for services will be based on location of service delivery and not the agency's home office address, and hospices will be permitted to contract out their physician services.

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

Public comments may be submitted until August 18, 1999, to Vivian Horn, Division of Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854.



TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

August 9, 1999 - 1 p.m. – Public Hearing
Department of Social Services, 730 East Broad Street, Richmond, Virginia.

September 17, 1999 - 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 Social Services intends to amend regulations entitled: **22 VAC 40-60-10 et seq. Standards and Regulations for Licensed Adult Day Care Centers.** The purpose of the proposed amendment is to comply with Code of Virginia mandates and to reflect the current needs of participants in adult day care centers.

Statutory Authority: §§ 63.1-25 and 63.1-194.2 of the Code of Virginia.

Contact: Kathryn Thomas, Program Development Supervisor, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., 7th Floor, Richmond, VA 23219, telephone (804) 692-1793 or FAX (804) 692-2370.

September 17, 1999 - 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 Social Services intends to repeal regulations entitled: **22 VAC 40-710-10 et seq. Child Protective Services Client Appeals.** The Child Protective Services Client Appeals regulation is no longer necessary because its provisions are currently available to appellants through 22 VAC 40-705-10 et seq., Child Protective Services, which combines both programmatic and appeals regulations.

Statutory Authority: §§ 63.1-25 and 63.1-248.6:1 of the Code of Virginia.

Contact: Janice M. Sigler, Appeals and Fair Hearings Program Manager, Department of Social Services, 730 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 692-1832 or FAX (804) 692-1804.

September 17, 1999 - 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 Social Services intends to repeal regulations entitled: **22 VAC 40-820-10 et seq. Policy Regarding Purchased Services.** The purpose of the chapter being repealed was to establish uniform policies and procedures for the purchase of services within local departments of social services. The chapter is no longer needed because the local departments currently follow regulations for each program area when purchasing services for their customers.

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

Contact: Marjorie L. Marker, Adult Services Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1262 or FAX (804) 692-2215.

BOARDS OF EDUCATION; JUVENILE JUSTICE; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; AND SOCIAL SERVICES

August 20, 1999 - 9 a.m. – Public Hearing
Koger Center, Wythe Building, 1604 Santa Rose Road, Conference Rooms A and B, Richmond, Virginia.

September 17, 1999 - 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 Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services intend to adopt regulations entitled: **22 VAC 42-10-10 et seq. Standards for Interagency Regulation of Children's Residential Facilities.** The purpose of the proposed regulation is to ensure that a minimally acceptable level

Public Comment Periods - Proposed Regulations

of care, treatment and education are provided by children's residential facilities.

Statutory Authority: §§ 16.1-309.9, 22.1-321, 22.1-323, 22.1-323.2, 37.1-182, 37.1-189.1, 63.1-25, 63.1-217, 66-10 and 66.24 of the Code of Virginia.

Contact: Charlene Vincent, Coordinator, Office of Interdepartmental Regulation, Department of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1961 or FAX (804) 692-1965.



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.

TITLE 2. AGRICULTURE

STATE MILK COMMISSION

REGISTRAR'S NOTICE: The Milk Commission is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 7 of the Code of Virginia, which exempts the Milk Commission in promulgating regulations regarding (i) producers' licenses and bases; (ii) classification and allocation of milk, computation of sales and shrinkage; and (iii) class prices for producers' milk, time and method of payment, butterfat testing and differential.

Title of Regulation: **2 VAC 15-20-10 et seq. Regulations for the Control and Supervision of Virginia's Milk Industry (amending 2 VAC 15-20-70; adding 2 VAC 15-20-81; repealing 2 VAC 15-20-80).**

Statutory Authority: §§ 3.1-430 and 3.1-437 of the Code of Virginia.

Public Hearing Date: August 11, 1999.

Public comments may be submitted until August 10, 1999.

(See Calendar of Events section for additional information)

Basis: The amendment is issued under the authority of § 3.1-430 of the Code of Virginia. Pursuant to this section, the Milk Commission is vested with the power to promulgate regulations to supervise, regulate, and control the production, transportation, processing, storage, delivery and sale of milk for consumption within the state.

The proposed amendments are necessitated due to revised federal regulations in the issuance of the final decision of the United States Department of Agriculture (USDA), Marketing and Regulatory Programs, Agricultural Marketing Service, Dairy Program, Federal Milk Marketing Order Reform mandated by Section 143 of the Agriculture Improvement and Reform Act of 1996 (Farm Bill), 7 USC § 7253. The final rule included (i) a substantial technical change in the classification of eggnog from a Class II product to a Class I product and (ii) substantial technical changes in pricing methodology, price issuance dates, and producer settlement dates.

The commission's regulations closely parallel those of adjacent markets in pricing and related matters to maintain a stable marketing environment with those markets. As the surrounding markets are all under federal milk marketing orders, which will implement these changes on October 1, 1999, the commission must make similar technical changes to its regulations to maintain market stability and afford the industry some uniformity in regulatory requirements.

Purpose: The proposed amendments support the legislative mandate of the commission to regulate and supervise the dairy industry in Virginia to provide for a continuous and adequate supply of fluid milk to meet the demand of Virginia citizens at reasonable prices and provide for the orderly marketing of milk within Virginia. The amendments will provide necessary uniformity with nationwide technical changes in classification of eggnog and changes in pricing, pricing announcement dates, producer settlement dates, and adjacent markets brought about by the USDA's final rule.

Substance: The amendment to 2 VAC 15-20-70 changes the classification of eggnog from Class II to Class I. This change will result in a higher classification of fluid milk products defined as eggnog. The resulting classification change will result in dairy farmers being compensated at a higher class price for their milk deliveries. This change parallels most of the exact changes that the federal milk marketing orders are implementing in their Federal Milk Marketing Order Reform Final Decision. The proposed amendment provides for technical consistency with the adjacent federal order markets in areas of milk utilization classifications. The amended section will become effective with planned implementation of the final rule on October 1, 1999, or the actual implementation date if delayed by congressional action or litigation.

The proposed new section, 2 VAC 15-20-81, modifies Class I pricing components, definitions of adjacent markets, price issuance dates, formula methodology, and producer settlement dates. Class I pricing components are changed to Class I skim and butterfat prices. Adjacent markets are changed from state and federal orders to specific locations within North Carolina, West Virginia, Virginia and the District of Columbia. Price issuance dates are amended to the 23rd of the month for the following month. Formula methodology has been revised to include redefined adjacent markets. Producer settlement dates are amended to the 23rd day of a month for the first 15 days' deliveries of that month for the partial payment. Final payment must be made by the 17th day of the following month. These changes will parallel those of the revised federal order reform in order to provide consistency in those regulatory areas that require uniformity. Pricing components have been amended to be similar to the federal requirements to maximize comparisons and provide uniformity in settling for producer milk. Price announcement dates and formula methodology have been changed to provide consistency for agency customers' understanding and utilization of information. Producer settlement dates are revised to accommodate federal requirements to afford enhanced cash flow management for producers and processors. The proposed section will become effective with planned implementation of the final rule on October 1, 1999, or the actual implementation date if delayed by

congressional action or litigation. 2 VAC 15-20-80 will be repealed upon actual implementation of the final rule.

Issues: The primary advantage of the amendments is that there will be consistency with the regulatory language and substance of the adjacent milk markets and national markets. This consistency will result in an easier cross walk between the commission's regulations and federal regulations for agency customers. The regulations provide for pricing and accounting methodology which foster market stability, production incentives and equity. There are no disadvantages for the public in this amendment.

Estimated Impact: Projected costs to the agency in implementing the proposed amendment will be minimal. Future costs associated with the amendment will not significantly impact the agency budget, as they are limited to distribution costs associated with communication to individuals on the agency regulatory mailing lists. There should not be any significant impact to the industry because the amendments are basically technical in nature.

The administrative expenses incurred by the State Milk Commission will be funded from existing appropriations.

The amendment will affect 1,170 producers, 131 licensed distributors, 7 cooperatives, all retail distributors retailing fluid milk products, all Virginia consumers and the general public.

No particular locality will be affected as a result of these amendments.

Summary:

The proposed amendments (i) change the classification of eggnog from a Class II product to a Class I product and (ii) modify Class I pricing components, definitions of adjacent markets, price issuance dates, formula methodology, and producer settlement dates.

2 VAC 15-20-70. Classification and allocation of milk, computation of sales and shrinkage.

This section shall apply to all established marketing areas and all milk and dairy products handled by distributors and shall be presumed to come within the jurisdiction of the ~~commission~~ approving authority unless proven otherwise by records of the distributors.

A. Classification.

1. Class I milk shall include all skim milk and butterfat in fluid form, including aseptically processed and packaged ultra high temperature pasteurized products (UHT) for human consumption in ~~commission~~ approving authority defined markets, which is not accounted for as Class II milk, provided that any fluid milk products fortified with added nonfat milk solids shall be Class I in amount equal only to the weight of the equal volume of like unfortified products of the same butterfat content. *Eggnog is classified as a Class I product.*

2. Class I-A milk shall include all fluid milk products identified in subdivision 1 ~~above~~ of this subsection and

sold for fluid human consumption in areas other than ~~commission~~ approving authority defined markets.

3. Class II milk shall include all skim milk and butterfat:

a. Used to produce sterilized products, other than those identified in subsection A 1 above, butter, cheese (including cottage cheese), yogurt, ~~eggnog~~, plastic and frozen cream, sour cream, dips, dry milk (skim or whole), condensed milk (skim or whole), ice cream, ice milk, and frozen desserts, or ice cream, ice milk or frozen dessert mixes, including basic mixtures for use in preparation of ice cream, ice milk, frozen desserts, or ice cream or frozen dessert mixes. All cream sales containing more than 10% butterfat, including half and half cream, light cream and heavy cream.

b. Disposed of for animal feed.

c. Contained in inventory of fluid milk products on hand at the end of the month.

d. Disposed of in bulk to any commercial food establishment for use on the premises in the production of soup, candy, bakery products, or any other nondairy food products.

e. In shrinkage of skim milk and butterfat, respectively, as computed pursuant to subsection B of this section, but not to exceed the following:

(1) Two percent of producer milk received at the distributor's plant, plus

(2) Two percent of milk received at the distributor's plant in bulk tanks from other distributors exclusive of the quantity for which Class II utilization was requested, less 2.0% of milk moved in bulk tanks to another distributor.

f. In shrinkage of skim milk and butterfat, respectively, prorated to other source milk in accordance with subsection B of this section.

4. Skim milk or butterfat contained in any fluid milk products dumped shall be Class II provided that the distributor dumping fluid milk products shall give the ~~commission~~ agency, during normal office hours, not less than four hours advance notice of his intention to dump such fluid milk products and the quantities to be so disposed.

5. Skim milk and butterfat in fluid form transferred by a distributor to another distributor shall be classified as follows:

a. Skim milk and butterfat in packaged fluid milk products shall be classified as Class I-A or Class I in accordance with the requested and agreed upon classification by the transferring and receiving distributors, provided that:

(1) The skim milk and butterfat so assigned to each class shall be limited to the appropriate class utilization remaining in the plant of the receiving

Proposed Regulations

distributor after computations have been made according to subsection D of this section~~7~~; and~~7~~

(2) Other source milk in the transferring plant is not allocated to Class I as a result of such classification of transferred milk.

b. Skim milk and butterfat in bulk fluid form shall be classified as Class II, provided that:

(1) The skim milk and butterfat so assigned to each class shall be limited to the appropriate class utilization remaining in the plant of the receiving distributor after computations have been made according to subsection D of this section~~7~~; and~~7~~

(2) Other source milk in the transferring plant is not allocated to Class I as a result of such classification of transferred milk.

~~(3)~~ c. Skim milk and butterfat in bulk fluid form shall be classified as Class II milk if transferred by a distributor to a plant which is not licensed as a distributor by the ~~commission~~ *approving authority*.

~~(4)~~ d. Skim milk and butterfat in packaged fluid form shall be classified as Class I-A if transferred to a fluid milk plant which is not licensed as a distributor by the ~~commission~~ *approving authority*.

6. Shrinkage in excess of that allowed to be classified as Class II in accordance with subdivision A 3 e of this ~~section~~ *subsection* shall be prorated over a distributor's Class I and Class I-A sales as follows:

a. Compute the total excess shrinkage of skim milk and butterfat, respectively, by subtracting the total amount of skim milk and butterfat classified as Class II under provision of subdivisions A 3 e and f of this subsection, from the total shrinkage as determined in accordance with subdivision B 1 b of this section.

b. Prorate skim milk and butterfat excess shrinkage, respectively, obtained in ~~subsection~~ *subdivision* 6 a of this ~~section~~ *subsection* between (i) skim milk and butterfat sold in Class I products~~7~~; and (ii) skim milk and butterfat sold in Class I-A products.

B. Computation and allocation of shrinkage. ~~4~~. Shrinkage shall be allocated over a distributor's receipts from all sources as follows:

~~a~~. 1. Compute the total shrinkage of skim milk and butterfat, respectively, by subtracting the total amount of skim milk and butterfat accounted for from the total amount of skim milk and butterfat to be accounted for~~7~~; and~~7~~

~~b~~. 2. Prorate skim milk and butterfat shrinkage, respectively, obtained in ~~subsection~~ *subdivision* 1 a of this ~~section~~ *subsection*, between (i) skim milk and butterfat in producer receipts as defined in 2 VAC 15-20-10~~7~~; and (ii) skim milk and butterfat contained in other source milk~~7~~; as defined in 2 VAC 15-20-10.

C. Computation of skim milk and butterfat in each class.

1. For each month the total pounds of skim milk and butterfat utilized in each class shall be reported by each distributor to the ~~commission~~ *agency* on forms specified by the ~~commission~~ *agency*.

2. Computation of skim milk and butterfat used in each classification shall be made in accordance with the conversion factors specified by the ~~commission~~ *approving authority* on the forms used for computation and reporting of utilization provided that in the case of products not listed on these forms, the conversion factor used by a distributor shall be approved by the ~~commission~~ *approving authority*.

3. If any of the water contained in the milk from which a product is made has been removed before the product is received, utilized or disposed of by a distributor, the pounds of milk to be accounted for shall be the weight of the total milk solids in the product plus all of the water originally associated with the solids.

D. Allocation of skim milk and butterfat utilized.

1. Skim milk shall be allocated as follows:

a. Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II under ~~subsection~~ *subdivision* A 3 e of this section.

b. Subtract from the total pounds of skim milk in each class, in series beginning with Class II, the pounds of skim milk in the inventory of fluid milk products on hand at the beginning of the month, and the pounds of skim milk in beginning inventory that was subtracted from Class I the preceding month.

c. Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in Class I-A requested products received in packaged form from other distributors as follows:

(1) From Class I-A, the lesser of the pounds remaining in Class I-A, or such receipts~~7~~; and~~7~~

(2) From Class I, the remainder of such receipts, with reclassification of this quantity in the transferring plant.

d. Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in Class I requested products received in packaged form from other distributors as follows:

(1) From Class I, the lesser of the pounds remaining in Class I, or such receipts~~7~~; and~~7~~

(2) From Class I-A, the remainder of such receipts, with reclassification of this quantity in the transferring plant.

e. Subtract, in the order specified below, from the pounds remaining in each class, in series beginning with Class II, next Class I-A, and then Class I, the pounds of skim milk in each of the following:

(1) Other source milk in a form other than that of a fluid milk product.

(2) Receipts of fluid milk products from a producer-distributor.

(3) Other source milk in the form of fluid milk products.

(4) Receipts of fluid milk products in bulk from other distributors; however, if the pounds remaining in each class are less than the quantity of bulk milk remaining to be allocated, then the remaining quantity must be subtracted from the next highest use classification with reclassification of this quantity in the transferring plant.

(5) Receipts of fluid milk products from other distributors not already allocated.

f. Add to the remaining pounds of skim milk in Class II the pounds subtracted pursuant to subdivision ~~1~~ a of this ~~section~~ subsection.

g. If the pounds of skim milk remaining in all classes exceeds the pounds of skim in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage."

h. Add to Class I the pounds of skim milk in beginning inventory that was subtracted from Class I the preceding month.

2. Butterfat shall be allocated by the same method specified for skim milk in ~~subsection~~ subdivision 1 of this ~~section~~ subsection.

3. Combine the amounts of skim milk and butterfat determined in accordance with the procedures specified in subdivisions ~~1~~ and ~~2~~ of this ~~section~~ subsection into one total for each class and determine the weighted average butterfat content of producer milk in each class.

E. Allocation of classified sales.

1. Producer milk classified as Class I shall be allocated to base deliveries to the extent that base deliveries are available. Producer milk classified as Class I that exceeds base deliveries shall be allocated to excess deliveries.

2. Producer milk classified as Class I-A and Class II shall be allocated to excess deliveries to the extent that excess deliveries are available. Producer milk classified as Class I-A and Class II that exceeds excess deliveries shall be allocated to base deliveries.

3. Producers or cooperative associations shall be paid a base price for base deliveries and an excess price for excess deliveries computed monthly for each distributor in accordance with the following procedure:

a. To determine the excess price for 3.5% milk, add to the value obtained by multiplying the excess deliveries allocated to Class I-A and Class II by the Class II

price for 3.5% milk, the value obtained by multiplying the excess deliveries allocated to Class I by the Class I price for 3.5% milk and divide the sum by the total excess deliveries.

b. To determine the base price for 3.5% milk, add to the value obtained by multiplying the base deliveries allocated to Class I by the Class I price for 3.5% milk, the value obtained by multiplying the base deliveries allocated to Class I-A and Class II by the Class II price for 3.5% milk and divide the sum by the total base deliveries.

4. Delivered base shall be determined in accordance with the following:

a. Delivered base for deliveries made in accordance with 2 VAC 15-20-50 B₇ shall be the assigned base unless deliveries are less than assigned base. When deliveries are less than assigned base, the delivered base shall be ~~{92%}~~ of deliveries.

b. Delivered base for deliveries made in accordance with 2 VAC 15-20-50 C₇ shall be the lesser of assigned base or deliveries.

5. Excess deliveries for producers or cooperative associations shall be the difference between total deliveries and delivered base.

6. If a producer or cooperative association fails to make delivery of milk or delivers milk which is not merchantable or does not meet the requirements of the health authorities having jurisdiction in the market, the base of that producer or cooperative association shall be reduced by a percentage. That percentage shall be determined by dividing the number of days which the producer or cooperative association failed to make delivery of acceptable milk by the number of days in the delivery period.

~~2 VAC 15-20-80. Class prices for producer's milk, time and method of payment, butterfat testing and differential. (Repealed.)~~

~~A. Class prices.~~

Class 4	July through February	March through June
Eastern Virginia Market	\$8.46/cwt.	\$8.26/cwt.
Southwest Virginia Market	\$7.96/cwt.	\$7.76/cwt.
Western Virginia Market	\$8.16/cwt.	\$7.96/cwt.

~~The above established Class I prices shall be adjusted automatically in accordance with the following procedure, provided:~~

~~(1) a. The Eastern Market Class I price shall not exceed the average prevailing Class I price of Federal Order No. 4 and Federal Order No. 5 base zone by more than \$0.80 per hundredweight, nor be less than \$0.30 per hundredweight above the average prevailing Class~~

Proposed Regulations

l price of Federal Order No. 4 and Federal Order No. 5 base zone;	149.4 - 151.4	+ 480
	151.5 - 153.5	+ 500
b. The Southwest Market Class I price shall not exceed the prevailing Class I price of Federal Order No. 11 by more than \$0.60 per hundredweight nor be less than \$0.30 per hundredweight above the prevailing Class I price of Federal Order No. 11 and;	153.6 - 155.6	+ 520
	155.7 - 157.7	+ 540
	157.8 - 159.8	+ 560
	159.9 - 161.9	+ 580
	162.0 - 164.0	+ 600
e. The Western Market Class I price shall not exceed the average prevailing Class I price of Federal Order No. 4 and Federal Order No. 5, Northwest Zone by more than \$0.60 per hundredweight nor be less than \$0.30 per hundredweight above the prevailing Class I price of Federal Order No. 4 and Federal Order No. 5, Northwest Zone:	164.1 - 166.1	+ 620
	166.2 - 168.2	+ 640
	168.3 - 170.3	+ 660
	170.4 - 172.4	+ 680
	172.5 - 174.5	+ 700
	174.6 - 176.6	+ 720
	176.7 - 178.7	+ 740
(2) Class I prices shall be increased by an amount determined by multiplying the number of two point brackets that the average bi-monthly composite index exceeds 101.0 by \$0.20; and	178.8 - 180.8	+ 760
	180.9 - 182.9	+ 780
	183.0 - 185.0	+ 800
	185.1 - 187.1	+ 820
(3) Class I prices shall be decreased by an amount determined by multiplying the number of two point brackets that the average bi-monthly composite index descends below 99.0 by \$0.20.	187.2 - 189.2	+ 840
	189.3 - 191.3	+ 860
	191.4 - 193.4	+ 880
	193.5 - 195.5	+ 900
(4) The average bi-monthly composite index brackets shall be in accordance with the following schedule:	195.6 - 197.6	+ 920
	197.7 - 199.7	+ 940
	199.8 - 201.8	+ 960
Average Bi-monthly Composite Index Brackets Nos. through Nos.	201.9 - 203.9	+ 980
Continued	204.0 - 206.0	+1000
96.9 - 98.9	206.1 - 208.1	+1020
99.0 - 101.0	208.2 - 210.2	+1040
101.1 - 103.1	210.3 - 212.3	+1060
103.2 - 105.2	212.4 - 214.4	+1080
105.3 - 107.3	214.5 - 216.5	+1100
107.4 - 109.4	216.6 - 218.6	+1120
109.5 - 111.5		
111.6 - 113.6		
113.7 - 115.7		
115.8 - 117.8		
117.9 - 119.9		
120.0 - 122.0		
122.1 - 124.1		
124.2 - 126.2		
126.3 - 128.3		
128.4 - 130.4		
130.5 - 132.5		
132.6 - 134.6		
134.7 - 136.7		
136.8 - 138.8		
138.9 - 140.9		
141.0 - 143.0		
143.1 - 145.1		
145.2 - 147.2		
147.3 - 149.3		
Continued		
-20		
0		
+20		
+40		
+60		
+80		
+100		
+120		
+140		
+160		
+180		
+200		
+220		
+240		
+260		
+280		
+300		
+320		
+340		
+360		
+380		
+400		
+420		
+440		
+460		

~~(5) A monthly composite index shall be determined by dividing the sum of the index numbers of the six factors shown in subsections (a X 1), (b X 1), (c X 1), (d X 1), (e X 1), (f X 2) of this subparagraph by seven. The latest available published monthly data for any of the above six factors shall be used in determining the monthly index number.~~

~~(a) The U.S. Index of prices paid, taxes, and farm wage rates as published in "Agricultural Prices" by the U.S.D.A.~~

~~(b) The U.S. Index of prices received as published in "Agricultural Prices" by the U.S.D.A.~~

~~(c) The average price per ton paid by Virginia farmers for 16% dairy feed, as published in "Agricultural Prices" by the U.S.D.A.~~

~~(d) The average cost of the market basket for Richmond-Norfolk-Virginia Beach-Portsmouth, as published in "The Market Basket and Retail Food Prices" by the Virginia Department of Labor and Industry.~~

~~(e) The average weekly earnings of workers in Virginia manufacturing industries, as published in "Trends in Employment Hours and Earnings Virginia and Statistical Metropolitan Areas" by the Virginia Department of Labor and Industry.~~

~~(f) An average of the prevailing Class I prices in North Carolina, Federal Milk Marketing Order No. 4 and Federal Milk Marketing Order No. 11.~~

~~(6) The six month average, November 1973 through April 1974, shall equal 100 for each of the above factors for the purpose of determining the monthly index number for each factor.~~

~~(7) The current month's Class I price adjustment, if any, shall be determined by a bi-monthly composite index which shall be a simple average of the monthly composite indices of the second and third preceding months.~~

~~(8) On or before the seventh day of each month the commission shall determine the Class I prices for the following month and announce same to all licensed processing general distributors.~~

~~Effective May 1, 1995, the following modifications to the indexes will be utilized in determining the monthly composite index used in calculating the Class I price for Virginia State Milk Commission marketing areas pursuant to subdivisions A 1 (1) through A 1 (7) of this section:~~

~~The U.S. Index of prices paid, taxes, and farm wage rates as published in "Agricultural Prices" by the U.S.D.A. will be determined by using the monthly movement of the reweighted and reconstructed prices paid index (PPITW) as published by the U.S.D.A. The monthly movement of the new prices paid index (PPITW) will be applied each month to the preceding month's revised index of prices paid, taxes, and farm wage rates using December 1994 as the base month.~~

~~The U.S. Index of prices received as published in "Agricultural Prices" by the U.S.D.A. will be determined by using the monthly movement of the reweighted and reconstructed prices received index as published by the U.S.D.A. The monthly movement of the new prices received index will be applied each month to the preceding month's revised index of prices received using December 1994 as the base month.~~

~~The average price per ton paid by all Virginia farmers for 16% dairy feed as published in "Agricultural Prices" by the U.S.D.A. will be determined by using the monthly movement of the index of prices paid, production items, complete feeds as published by the U.S.D.A. The monthly movement of this index will be applied each month to the preceding month's index of 16% dairy feed, Appalachian using April 1995 as the base month.~~

~~The authoritative publisher of the Market Basket for Richmond-Norfolk-Virginia Beach-Portsmouth will be the Virginia Department of Agriculture and Consumer~~

~~Services. The resultant index numbers derived from the above calculations will be utilized as specified in the cited regulation.~~

~~2. Class I-A. The price used in computing each distributor's obligation for producer milk (of 3.5% butterfat) allocated to Class I-A shall be the Class II price.~~

~~3. Class II. The price per cwt. for all markets shall be the monthly Class II price announced by the market administrator of the Tennessee Valley marketing area (Federal Order No. 11).~~

~~4. The total value of base deliveries made in accordance with 2 VAC 15-20-50 B (2) shall be discounted in accordance with the following procedure to reflect the cost savings of transporting, storing and handling of producer milk on a uniform daily bases:~~

~~(a) Subtract from each cooperative association's total pounds of base deliveries allocated to Class I sales for each delivery period an amount equal to twice the sum of the differences between the pounds of assigned daily base and the pounds of daily base deliveries which are less than the pounds of assigned daily base for each day during the delivery period.~~

~~(b) The net hundredweight (not less than zero) resulting from the above procedure multiplied by \$0.11 will be the amount of discount for base deliveries during the delivery period.~~

~~5. Producers or their agents shall not sell milk or offer milk for sale at prices other than those established.~~

~~B. Butterfat differential. In making payments to producers and/or cooperative associations of producers required pursuant to this section, each general distributor shall add for each one-tenth of one percent of average butterfat content above 3.5%, and shall deduct for each one-tenth of one percent of average butterfat content below 3.5% as a butterfat differential an amount per hundredweight announced each month by the market administrator of the Tennessee Valley marketing area (Federal Order No. 11).~~

~~C. Butterfat testing. Butterfat testing shall be conducted in accordance with the following procedure:~~

~~1. General distributors shall determine the average butterfat content of all assigned producer milk delivered by each producer who is not a member of a cooperative association, as defined in 2 VAC 15-20-10 by four or more tests made at approximately equal intervals during each delivery period.~~

~~2. All assigned producer milk accompanied by a bill of lading that is delivered by a cooperative association to a licensed distributor and is accepted by the distributor shall be paid for by the distributor at a rate that is determined by the butterfat test specified on the bill of lading accompanying the load of milk.~~

~~3. The butterfat content of all assigned cooperative association milk delivered by methods other than~~

Proposed Regulations

~~specified in subdivision C 2 above, shall be determined in accordance with procedures specified by the commission, if mutual agreement between the cooperative association and the distributor cannot be reached as to the butterfat content of such deliveries.~~

~~4. All sampling and testing shall be conducted by persons licensed by the Virginia Department of Agriculture and Consumer Services. These tests shall be made by the Babcock Test, or other tests approved by that department and shall, as directed by the commission, be subject to check tests made by a licensed tester.~~

D. Time of payment.

~~1. On or before the last day of a delivery period general distributors shall make a partial payment to producers or cooperative associations of producers for base deliveries received during the first 15 days of the delivery period. The partial payment shall be not less than an amount determined by multiplying the previous month's Class II price for 3.5% milk by the hundredweight of base deliveries for the first 15 days of the delivery period; provided full and final payment for the preceding delivery period was made in accordance with subdivision D 2 of this section, otherwise the partial payment shall be not less than an amount determined by multiplying the current Class I price for 3.5% milk by the hundredweight of base deliveries for the first 15 days of the delivery period.~~

~~2. On or before the 15th day following the close of a delivery period general distributors shall make full and final payment to producers or cooperative associations of producers for deliveries received during such delivery period pursuant to this chapter.~~

~~3. Certified or registered mail may be required for all U.S. Postal Service deliveries of producer payments made by general distributors pursuant to subdivisions D 1 and D 2 of this section when directed in writing by the commission.~~

~~4. The commission may, after a hearing, require individual general distributors to make settlement with producers or cooperative associations of producers for deliveries at intervals other than provided in subdivisions D 1 and D 2 of this section.~~

~~5. All licensed producers or association of producers supplying base deliveries to processing general distributors located in Norfolk, Portsmouth, Hampton, Newport News or Chesapeake shall be allocated \$0.10 per hundredweight from the total monthly Eastern Market Class I producer payments. This allocation shall be made prorata in accordance with the monthly base deliveries to the processing general distributors located in the aforementioned cities.~~

~~6. Before the 15th day of each month the commission shall determine the required monthly equalization payments and give written notice to all affected parties of the amounts payable. The monthly equalization~~

~~payments shall be made to the Milk Commission Equalization Fund no later than the 25th day of the month subsequent to the end of each delivery period. On or before the last day of each month the commission shall disburse all funds (less a balance necessary to pay all bank charges) paid in during the current month in accordance with subdivision D 5 of this section.~~

~~E. Redistribution of producer losses. When the commission is satisfied that when one or more licensed distributor(s) is/are unable, due to bankruptcy or receivership, to fulfill the financial obligation to producers and/or cooperative associations of producers for base deliveries, the commission may authorize the establishment of a temporary producer redistribution fund to reallocate a distributor's deficient financial obligation.~~

~~1. When it is determined that an obligation for base milk deliveries cannot be satisfied, the distributor(s), producer(s) or cooperative associations of producers involved shall notify the commission within five working days of a voluntary filing or adjudication of bankruptcy or receivership, or within five working days of the effective date of this regulation for licensed distributors currently in bankruptcy or receivership. This notification shall be in writing accompanied by copies of pertinent court documents.~~

~~2. The producer funded redistribution of losses of an unfulfilled obligation of base deliveries shall be limited to an amount not to exceed the unsecured value of base deliveries calculated in accordance with this chapter.~~

~~3. A producer funded redistribution rate shall be established which will be the lesser of the actual dollar loss under subdivision E 2 or the dollars generated by a rate not in excess of 0.10/cwt., levied on producer's and/or cooperative associations of producers monthly Class I allocated base deliveries for a period not to exceed 12 months for each bankruptcy.~~

~~Each distributor shall remit to the Milk Commission no later than the 15th of each month the amount collected in accordance with this subdivision, applicable to the prior months delivery period at the rate established by the commission.~~

~~4. The Milk Commission shall disburse all redistribution funds, net of applicable bank charges, collected each month for the redistribution fund by the last day of the month. Funds will be disbursed prorata in relationship to the loss incurred by producers and/or cooperative associations of producers, less applicable bank charge.~~

~~5. Producers or cooperative associations of producers shall assign to the commission that portion of their loss claim which pertains to the value of redistributed funds paid on Virginia base deliveries by the commission in order to participate in the producer redistribution fund.~~

~~6. Any overpayment or recovery of loss claims assigned to the commission by producers or cooperative associations of producers to the producer redistribution fund shall be disbursed to producers or cooperative~~

~~associations of producers on a prorata basis of payments made to the fund.~~

2 VAC 15-20-81. Class prices for producer's milk, time and method of payment, and butterfat testing.

A. Class prices.

1. Class I

	July through February	March through June
Eastern Virginia Market	\$8.46/cwt.	\$8.26/cwt.
Southwest Virginia Market	\$7.96/cwt.	\$7.76/cwt.
Western Virginia Market	\$8.16/cwt.	\$7.96/cwt.

The above established Class I prices shall be adjusted automatically in accordance with the following procedure, provided:

(1) a. The Eastern Market Class I price shall not exceed the average prevailing Class I price of Metropolitan Washington, D.C., and Raleigh, North Carolina, base zone by more than \$0.80 per hundredweight nor be less than \$0.30 per hundredweight above the average prevailing Class I price of Metropolitan Washington, D.C., and Raleigh, North Carolina;

b. The Southwest Market Class I price shall not exceed the average prevailing Class I price of Bristol, Virginia, and Charleston, West Virginia, by more than \$0.60 per hundredweight nor be less than \$0.30 per hundredweight above the average prevailing Class I price of Bristol, Virginia, and Charleston, West Virginia; and

c. The Western Market Class I price shall not exceed the average prevailing Class I price of Metropolitan Washington, D.C., and Winston Salem, North Carolina, by more than \$0.60 per hundredweight nor be less than \$0.30 per hundredweight above the average prevailing Class I price of Metropolitan Washington, D.C., and Winston Salem, North Carolina.

(2) Class I prices shall be increased by an amount determined by multiplying the number of two-point brackets that the average bi-monthly composite index exceeds 101.0 by \$0.20; and

(3) Class I prices shall be decreased by an amount determined by multiplying the number of two-point brackets that the average bi-monthly composite index descends below 99.0 by \$0.20.

(4) The average bi-monthly composite index brackets shall be in accordance with the following schedule:

Average Bi-monthly Composite Index Brackets (Nos. through Nos.)	Amount of Adjustment (Cents)
Continued	Continued

96.9 - 98.9	- 20
99.0 - 101.0	- 0
101.1 - 103.1	+ 20
103.2 - 105.2	+ 40
105.3 - 107.3	+ 60
107.4 - 109.4	+ 80
109.5 - 111.5	+100
111.6 - 113.6	+120
113.7 - 115.7	+140
115.8 - 117.8	+160
117.9 - 119.9	+180
120.0 - 122.0	+200
122.1 - 124.1	+220
124.2 - 126.2	+240
126.3 - 128.3	+260
128.4 - 130.4	+280
130.5 - 132.5	+300
132.6 - 134.6	+320
134.7 - 136.7	+340
136.8 - 138.8	+360
138.9 - 140.9	+380
141.0 - 143.0	+400
143.1 - 145.1	+420
145.2 - 147.2	+440
147.3 - 149.3	+460
149.4 - 151.4	+480
151.5 - 153.5	+500
153.6 - 155.6	+520
155.7 - 157.7	+540
157.8 - 159.8	+560
159.9 - 161.9	+580
162.0 - 164.0	+600
164.1 - 166.1	+620
166.2 - 168.2	+640
168.3 - 170.3	+660
170.4 - 172.4	+680
172.5 - 174.5	+700
174.6 - 176.6	+720
176.7 - 178.7	+740
178.8 - 180.8	+760
180.9 - 182.9	+780
183.0 - 185.0	+800
185.1 - 187.1	+820
187.2 - 189.2	+840
189.3 - 191.3	+860
191.4 - 193.4	+880
193.5 - 195.5	+900
195.6 - 197.6	+920
197.7 - 199.7	+940
199.8 - 201.8	+960
201.9 - 203.9	+980
204.0 - 206.0	+1000
206.1 - 208.1	+1020
208.2 - 210.2	+1040
210.3 - 212.3	+1060
212.4 - 214.4	+1080
214.5 - 216.5	+1100
216.6 - 218.6	+1120
Continued	Continued

Proposed Regulations

(5) A monthly composite index shall be determined by dividing the sum of the index numbers of the six factors shown in subsections (a x 1), (b x 1), (c x 1), (d x 1), (e x 1), (f x 2) of this subparagraph by seven. The latest available published monthly data for any of the above six factors shall be used in determining the monthly index number.

a. The U.S. Index of prices paid, taxes, and farm wage rates as published in "Agricultural Prices" by the U.S.D.A.

b. The U.S. Index of prices received as published in "Agricultural Prices" by the U.S.D.A.

c. The average price per ton paid by Virginia farmers for 16% dairy feed, as published in "Agricultural Prices" by the U.S.D.A.

d. The average cost of the market basket for Richmond-Norfolk-Virginia Beach-Portsmouth, as published in "The Market Basket and Retail Food Prices" by the Virginia Department of Labor and Industry.

e. The average weekly earnings of workers in Virginia manufacturing industries, as published in "Trends in Employment Hours and Earnings Virginia and Statistical Metropolitan Areas" by the Virginia Department of Labor and Industry.

f. An average of the prevailing Class I prices in Raleigh, North Carolina; Metropolitan Washington, D.C.; Winston Salem, North Carolina; Bristol, Virginia; and Charleston, West Virginia.

(6) The six-month average, November 1973 through April 1974, shall equal 100 for each of the above factors for the purpose of determining the monthly index number for each factor.

(7) The current month's Class I price adjustment, if any, shall be determined by a bi-monthly composite index which shall be a simple average of the monthly composite indices of the second and third preceding months.

(8) On or before the 23rd day of each month, the agency shall determine the Class I butterfat, skim and net prices for the following month and announce same to all licensed processing general distributors and on the same date the agency will announce the Class II skim, butterfat and net prices.

Effective May 1, 1995, the following modifications to the indexes will be utilized in determining the monthly composite index used in calculating the Class I price for Virginia State Milk Commission marketing areas pursuant to subdivisions A 1 (1) through (7) of this section:

The U.S. Index of prices paid, taxes, and farm wage rates as published in "Agricultural Prices" by the U.S.D.A. will be determined by using the monthly movement of the reweighted and reconstructed prices

paid index (PPITW) as published by the U.S.D.A. The monthly movement of the new prices paid index (PPITW) will be applied each month to the preceding month's revised index of prices paid, taxes, and farm wage rates using December 1994 as the base month.

The U.S. Index of prices received as published in "Agricultural Prices" by the U.S.D.A. will be determined by using the monthly movement of the reweighted and reconstructed prices received index as published by the U.S.D.A. The monthly movement of the new prices received index will be applied each month to the preceding month's revised index of prices received using December 1994 as the base month.

The average price per ton paid by all Virginia farmers for 16% dairy feed as published in "Agricultural Prices" by the U.S.D.A. will be determined by using the monthly movement of the index of prices paid, production items, complete feeds as published by the U.S.D.A. The monthly movement of this index will be applied each month to the preceding month's index of 16% dairy feed, Appalachian using April 1995 as the base month.

The authoritative publisher of the Market Basket for Richmond-Norfolk-Virginia Beach-Portsmouth will be the Virginia Department of Agriculture and Consumer Services. The resultant index numbers derived from the above calculations will be utilized as specified in the cited regulation.

2. Class I-A. The price used in computing each distributor's obligation for producer milk (of 3.5% butterfat) allocated to Class I-A shall be the Class II skim, butterfat, and net prices.

3. Class II. The price per cwt. for all markets shall be the monthly Class II price announced by the market administrator of appropriate marketing area.

4. The total value of base deliveries made in accordance with 2 VAC 15-20-50 B 2 shall be discounted in accordance with the following procedure to reflect the cost savings of transporting, storing and handling of producer milk on a uniform daily basis:

a. Subtract from each cooperative association's total pounds of base deliveries allocated to Class I sales for each delivery period an amount equal to twice the sum of the differences between the pounds of assigned daily base and the pounds of daily base deliveries which are less than the pounds of assigned daily base for each day during the delivery period.

b. The net hundredweight (not less than zero) resulting from the above procedure multiplied by \$0.11 will be the amount of discount for base deliveries during the delivery period.

5. Producers or their agents shall not sell milk or offer milk for sale at prices other than those established.

B. Butterfat testing. Butterfat testing shall be conducted in accordance with the following procedure:

1. General distributors shall determine the average butterfat content of all assigned producer milk delivered by each producer who is not a member of a cooperative association, as defined in 2 VAC 15-20-10, by four or more tests made at approximately equal intervals during each delivery period.

2. All assigned producer milk accompanied by a bill of lading that is delivered by a cooperative association to a licensed distributor and is accepted by the distributor shall be paid for by the distributor at a rate that is determined by the butterfat test specified on the bill of lading accompanying the load of milk.

3. The butterfat content of all assigned cooperative association milk delivered by methods other than specified in subdivision 2 of this subsection, shall be determined in accordance with procedures specified by the agency if mutual agreement between the cooperative association and the distributor cannot be reached as to the butterfat content of such deliveries.

4. All sampling and testing shall be conducted by persons licensed by the Virginia Department of Agriculture and Consumer Services. These tests shall be made by the Babcock Test, or other tests approved by that department, and shall, as directed by the approving authority, be subject to check tests made by a licensed tester.

C. Time of payment.

1. On or before the 23rd day of a delivery period, general distributors shall make a partial payment to producers or cooperative associations of producers for base deliveries received during the first 15 days of the delivery period. The partial payment shall be not less than an amount determined by multiplying the previous month's Class II skim, butterfat or net price for 3.5% milk by the hundredweight of base deliveries for the first 15 days of the delivery period; provided full and final payment for the preceding delivery period was made in accordance with subdivision 2 of this subsection, otherwise the partial payment shall be not less than an amount determined by multiplying the current Class I skim, butterfat and net prices for 3.5% milk by the hundredweight of base deliveries for the first 15 days of the delivery period.

2. On or before the 17th day following the close of a delivery period, general distributors shall make full and final payment to producers or cooperative associations of producers for deliveries received during such delivery period pursuant to this chapter.

3. Certified or registered mail may be required for all U.S. Postal Service deliveries of producer payments made by general distributors pursuant to subdivisions 1 and 2 of this subsection when directed in writing by the agency.

4. The approving authority may, after a hearing, require individual general distributors to make settlement with producers or cooperative associations of producers for deliveries at intervals other than provided in subdivisions 1 and 2 of this subsection.

5. All licensed producers or association of producers supplying base deliveries to processing general distributors located in Norfolk, Portsmouth, Hampton, Newport News or Chesapeake shall be allocated \$0.10 per hundredweight from the total monthly Eastern Market Class I producer payments. This allocation shall be made prorata in accordance with the monthly base deliveries to the processing general distributors located in the aforementioned cities.

6. Before the 15th day of each month, the agency shall determine the required monthly equalization payments and give written notice to all affected parties of the amounts payable. The monthly equalization payments shall be made to the Milk Commission Equalization Fund no later than the 25th day of the month subsequent to the end of each delivery period. On or before the last day of each month, the agency shall disburse all funds (less a balance necessary to pay all bank charges) paid in during the current month in accordance with subdivision 5 of this subsection.

D. Redistribution of producer losses. When the approving authority is satisfied that when one or more licensed distributors is unable, due to bankruptcy or receivership, to fulfill the financial obligation to producers and/or cooperative associations of producers for base deliveries, the approving authority may authorize the establishment of a temporary producer redistribution fund to reallocate a distributor's deficient financial obligation.

1. When it is determined that an obligation for base milk deliveries cannot be satisfied, the distributor(s), producer(s) or cooperative associations of producers involved shall notify the approving authority within five working days of a voluntary filing or adjudication of bankruptcy or receivership, or within five working days of August 1, 1991, for licensed distributors currently in bankruptcy or receivership. This notification shall be in writing accompanied by copies of pertinent court documents.

2. The producer funded redistribution of losses of an unfulfilled obligation of base deliveries shall be limited to an amount not to exceed the unsecured value of base deliveries calculated in accordance with this chapter.

3. A producer funded redistribution rate shall be established which will be the lesser of the actual dollar loss under subdivision 2 of this subsection or the dollars generated by a rate not in excess of 0.10/cwt., levied on producer's and/or cooperative associations of producers monthly Class I allocated base deliveries for a period not to exceed 12 months for each bankruptcy. Each distributor shall remit to the agency no later than the 15th of each month the amount collected in accordance

Proposed Regulations

with this subdivision, applicable to the prior months delivery period at the rate established by the approving authority.

4. The agency shall disburse all redistribution funds, net of applicable bank charges, collected each month for the redistribution fund by the last day of the month. Funds will be disbursed prorata in relationship to the loss incurred by producers and/or cooperative associations of producers, less applicable bank charges.

5. Producers or cooperative associations of producers shall assign to the agency that portion of their loss claim which pertains to the value of redistributed funds paid on Virginia base deliveries by the agency in order to participate in the producer redistribution fund.

6. Any overpayment or recovery of loss claims assigned to the agency by producers or cooperative associations of producers to the producer redistribution fund shall be disbursed to producers or cooperative associations of producers on a prorata basis of payments made to the fund.

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* * * * *

Title of Regulation: 2 VAC 15-20-10 et seq. Regulations for the Control and Supervision of Virginia's Milk Industry (amending 2 VAC 15-20-80).

Statutory Authority: §§ 3.1-430 and 3.1-437 of the Code of Virginia.

Public Hearing Date: August 11, 1999.

Public comments may be submitted until August 10, 1999.

(See Calendar of Events section for additional information)

Basis: The amendment is issued under the authority of § 3.1-430 of the Code of Virginia. Pursuant to this section, the Milk Commission is vested with the power to promulgate regulations to supervise, regulate, and control the production, transportation, processing, storage, delivery and sale of milk for consumption within the state.

The proposed amendment is needed due to the necessity to more accurately define those markets that are adjacent to the Virginia markets in order to price producer milk more accurately against adjacent markets. This change should result in Virginia markets pricing that is better aligned with adjacent markets and thus afford market stability.

Purpose: The proposed amendments support the legislative mandate of the commission to regulate and supervise the dairy industry in Virginia to provide for a continuous and adequate supply of fluid milk to meet the demand of Virginia citizens at reasonable prices and provide for the orderly marketing of milk within Virginia. The amendment will provide for proper adjacent market defining to more accurately identify those markets that most impact Virginia

and enhance the accuracy of established Virginia market producer prices.

Substance: The proposed amendment expands the definition of adjacent markets to provide for more accurate calculation of Virginia producer market prices to improve pricing alignment with those markets. The amended section, 2 VAC 15-20-80, will remain in effect until planned implementation of the final rule on October 1, 1999, or the actual implementation date if delayed by congressional action or litigation. The regulation will be repealed upon actual implementation of the final rule and replaced by 2 VAC 15-20-81.

Issues: The primary advantage of the proposed amendment is that there will be improved accuracy in the price alignment with adjacent markets to afford enhanced price alignment of Virginia markets with those markets to avoid market disruption. There are no disadvantages for the public in this amendment.

Estimated Impact: Projected costs to the agency in implementing the proposed amendment will be minimal. Future costs associated with the amendment will not significantly impact the agency budget, as they are limited to distribution costs associated with communication to individuals on the agency regulatory mailing lists. There should not be any significant impact to the industry because the amendments are basically technical in nature.

The administrative expenses incurred by the State Milk Commission will be funded from existing appropriations.

The amendment will affect 1,170 producers, 131 licensed distributors, 7 cooperatives, all retail distributors retailing fluid milk products, all Virginia consumers and the general public.

No particular locality will be affected as a result of these amendments.

Summary:

The proposed amendment changes the definition of adjacent markets. This change better aligns Southwestern Virginia's markets with the West Virginia adjacent markets for pricing purposes. The amendment will more accurately utilize West Virginia adjacent market pricing in the Virginia formula to yield producer prices in Virginia. Payment times are also changed. Virginia producer prices will better correspond to West Virginia markets adjacent to the Southwestern Virginia markets. This amendment will be repealed with the implementation of the Federal Milk Marketing Order Reform in final decision implementation in accordance with Section 143 of the federal Agriculture Improvement and Reform Act of 1996 (Farm Bill), 7 USC § 7253.

2 VAC 15-20-80. Class prices for producer's milk, time and method of payment, butterfat testing and differential.

A. Class prices.

1. Class I	July through February	March through June	105.3 - 107.3	+ 60
			107.4 - 109.4	+ 80
			109.5 - 111.5	+ 100
			111.6 - 113.6	+ 120
Eastern Virginia Market	\$8.46/cwt.	\$8.26/cwt.	113.7 - 115.7	+ 140
Southwest Virginia Market	\$7.96/cwt.	\$7.76/cwt.	115.8 - 117.8	+ 160
Western Virginia Market	\$8.16/cwt.	\$7.96/cwt.	117.9 - 119.9	+ 180

The above established Class I prices shall be adjusted automatically in accordance with the following procedure, provided:

(1) a. The Eastern Market Class I price shall not exceed the average prevailing Class I price of Federal Order No. 4 and Federal Order No. 5 Metropolitan Washington, D.C., and Raleigh, North Carolina, base zone by more than \$0.80 per hundredweight, nor be less than \$0.30 per hundredweight above the average prevailing Class I price of Federal Order No. 4 and Federal Order No. 5 base zone Metropolitan Washington, D.C., and Raleigh, North Carolina;			120.0 - 122.0	+ 200
			122.1 - 124.1	+ 220
			124.2 - 126.2	+ 240
			126.3 - 128.3	+ 260
			128.4 - 130.4	+ 280
			130.5 - 132.5	+ 300
			132.6 - 134.6	+ 320
			134.7 - 136.7	+ 340
			136.8 - 138.8	+ 360
			138.9 - 140.9	+ 380
			141.0 - 143.0	+ 400
			143.1 - 145.1	+ 420
b. The Southwest Market Class I price shall not exceed the average prevailing Class I price of Federal Order No. 11 Bristol, Virginia, and Charleston, West Virginia, by more than \$0.60 per hundredweight nor be less than \$0.30 per hundredweight above the average prevailing Class I price of Federal Order No. 11 and Bristol, Virginia, and Charleston, West Virginia; and			145.2 - 147.2	+ 440
			147.3 - 149.3	+ 460
			149.4 - 151.4	+ 480
			151.5 - 153.5	+ 500
			153.6 - 155.6	+ 520
			155.7 - 157.7	+ 540
c. The Western Market Class I price shall not exceed the average prevailing Class I price of Federal Order No. 4 and Federal Order No. 5, Northwest Zone Metropolitan Washington, D.C., and Winston Salem, North Carolina, by more than \$0.60 per hundredweight nor be less than \$0.30 per hundredweight above the average prevailing Class I price of Federal Order No. 4 and Federal Order No. 5, Northwest Zone; Metropolitan Washington, D.C., and Winston Salem, North Carolina.			157.8 - 159.8	+ 560
			159.9 - 161.9	+ 580
			162.0 - 164.0	+ 600
			164.1 - 166.1	+ 620
			166.2 - 168.2	+ 640
			168.3 - 170.3	+ 660
			170.4 - 172.4	+ 680
			172.5 - 174.5	+ 700
			174.6 - 176.6	+ 720
			176.7 - 178.7	+ 740
(2) Class I prices shall be increased by an amount determined by multiplying the number of two-point brackets that the average bi-monthly composite index exceeds 101.0 by \$0.20; and			178.8 - 180.8	+ 760
			180.9 - 182.9	+ 780
			183.0 - 185.0	+ 800
			185.1 - 187.1	+ 820
(3) Class I prices shall be decreased by an amount determined by multiplying the number of two-point brackets that the average bi-monthly composite index descends below 99.0 by \$0.20.			187.2 - 189.2	+ 840
			189.3 - 191.3	+ 860
			191.4 - 193.4	+ 880
			193.5 - 195.5	+ 900
(4) The average bi-monthly composite index brackets shall be in accordance with the following schedule:			195.6 - 197.6	+ 920
			197.7 - 199.7	+ 940
			199.8 - 201.8	+ 960
			201.9 - 203.9	+ 980
			204.0 - 206.0	+1000
			206.1 - 208.1	+1020
			208.2 - 210.2	+1040
			210.3 - 212.3	+1060
			212.4 - 214.4	+1080
			214.5 - 216.5	+1100

Average Bi-monthly Composite Index Brackets (Nos. through Nos.)	Amount of Adjustment (Cents)
Continued	Continued
96.9 - 98.9	- 20
99.0 - 101.0	- 0
101.1 - 103.1	+ 20
103.2 - 105.2	+ 40

Proposed Regulations

216.6 - 218.6
Continued

+1120
Continued

(5) A monthly composite index shall be determined by dividing the sum of the index numbers of the six factors shown in subsections (a X 1), (b X 1), (c X 1), (d X 1), (e X 1), (f X 2) of this subparagraph by seven. The latest available published monthly data for any of the above six factors shall be used in determining the monthly index number.

(a) The U.S. Index of prices paid, taxes, and farm wage rates as published in "Agricultural Prices" by the U.S.D.A.

(b) The U.S. Index of prices received as published in "Agricultural Prices" by the U.S.D.A.

(c) The average price per ton paid by Virginia farmers for 16% dairy feed, as published in "Agricultural Prices" by the U.S.D.A.

(d) The average cost of the market basket for Richmond-Norfolk-Virginia Beach-Portsmouth, as published in "The Market Basket and Retail Food Prices" by the Virginia Department of Labor and Industry.

(e) The average weekly earnings of workers in Virginia manufacturing industries, as published in "Trends in Employment Hours and Earnings Virginia and Statistical Metropolitan Areas" by the Virginia Department of Labor and Industry.

(f) An average of the prevailing Class I prices in *Raleigh, North Carolina; Federal Milk Marketing Order No. 4 and Federal Milk Marketing Order No. 11; Metropolitan Washington, D.C.; Winston Salem, North Carolina; Bristol, Virginia; and Charleston, West Virginia.*

(6) The six-month average, November 1973 through April 1974, shall equal 100 for each of the above factors for the purpose of determining the monthly index number for each factor.

(7) The current month's Class I price adjustment, if any, shall be determined by a bi-monthly composite-index which shall be a simple average of the monthly composite indices of the second and third preceding months.

(8) On or before the ~~seventh~~ 23rd day of each month, the ~~commission~~ agency shall determine the Class I *butterfat, skim and net* prices for the following month and announce same to all licensed processing general distributors. *On the same date the agency will announce the Class II skim, butterfat and net prices.*

Effective May 1, 1995, the following modifications to the indexes will be utilized in determining the monthly composite index used in calculating the Class I price for Virginia State Milk Commission marketing areas pursuant to subdivisions A 1 (1) through A 1 (7) of this section:

The U.S. Index of prices paid, taxes, and farm wage rates as published in "Agricultural Prices" by the U.S.D.A. will be determined by using the monthly movement of the reweighted and reconstructed prices paid index (PPITW) as published by the U.S.D.A. The monthly movement of the new prices paid index (PPITW) will be applied each month to the preceding month's revised index of prices paid, taxes, and farm wage rates using December 1994 as the base month.

The U.S. Index of prices received as published in "Agricultural Prices" by the U.S.D.A. will be determined by using the monthly movement of the reweighted and reconstructed prices received index as published by the U.S.D.A. The monthly movement of the new prices received index will be applied each month to the preceding month's revised index of prices received using December 1994 as the base month.

The average price per ton paid by all Virginia farmers for 16% dairy feed as published in "Agricultural Prices" by the U.S.D.A. will be determined by using the monthly movement of the index of prices paid, production items, complete feeds as published by the U.S.D.A. The monthly movement of this index will be applied each month to the preceding month's index of 16% dairy feed, Appalachian using April 1995 as the base month.

The authoritative publisher of the Market Basket for Richmond-Norfolk-Virginia Beach-Portsmouth will be the Virginia Department of Agriculture and Consumer Services. The resultant index numbers derived from the above calculations will be utilized as specified in the cited regulation.

2. Class I-A. The price used in computing each distributor's obligation for producer milk (of 3.5% butterfat) allocated to Class I-A shall be the Class II ~~price~~ *skim, butterfat and net prices.*

3. Class II. The price per cwt. for all markets shall be the monthly Class II price announced by the market administrator of the ~~Tennessee-Valley~~ *appropriate* marketing area (~~Federal Order No. 11~~).

4. The total value of base deliveries made in accordance with 2 VAC 15-20-50 B (2) shall be discounted in accordance with the following procedure to reflect the cost savings of transporting, storing and handling of producer milk on a uniform daily ~~base~~ *basis*:

(a) Subtract from each cooperative association's total pounds of base deliveries allocated to Class I sales for each delivery period an amount equal to twice the sum of the differences between the pounds of assigned daily base and the pounds of daily base deliveries which are less than the pounds of assigned daily base for each day during the delivery period.

(b) The net hundredweight (not less than zero) resulting from the above procedure multiplied by \$0.11 will be the amount of discount for base deliveries during the delivery period.

5. Producers or their agents shall not sell milk or offer milk for sale at prices other than those established.

B. Butterfat differential. In making payments to producers and/or cooperative associations of producers required pursuant to this section, each general distributor shall add for each one-tenth of one percent of average butterfat content above 3.5%, and shall deduct for each one-tenth of one percent of average butterfat content below 3.5% as a butterfat differential an amount per hundredweight announced each month by the market administrator of the ~~Tennessee Valley~~ appropriate marketing area (~~Federal Order No. 14~~).

C. Butterfat testing. Butterfat testing shall be conducted in accordance with the following procedure:

1. General distributors shall determine the average butterfat content of all assigned producer milk delivered by each producer who is not a member of a cooperative association, as defined in 2 VAC 15-20-10, by four or more tests made at approximately equal intervals during each delivery period.

2. All assigned producer milk accompanied by a bill of lading that is delivered by a cooperative association to a licensed distributor and is accepted by the distributor shall be paid for by the distributor at a rate that is determined by the butterfat test specified on the bill of lading accompanying the load of milk.

3. The butterfat content of all assigned cooperative association milk delivered by methods other than specified in subdivision ~~2~~ ~~above of this subsection~~, shall be determined in accordance with procedures specified by the ~~commission~~ agency, if mutual agreement between the cooperative association and the distributor cannot be reached as to the butterfat content of such deliveries.

4. All sampling and testing shall be conducted by persons licensed by the Virginia Department of Agriculture and Consumer Services. These tests shall be made by the Babcock Test, or other tests approved by that department, and shall, as directed by the ~~commission~~ approving authority, be subject to check tests made by a licensed tester.

D. Time of payment.

1. On or before the ~~last~~ 23rd day of a delivery period, general distributors shall make a partial payment to producers or cooperative associations of producers for base deliveries received during the first 15 days of the delivery period. The partial payment shall be not less than an amount determined by multiplying the previous month's Class II *skim, butterfat or net* price for 3.5% milk by the hundredweight of base deliveries for the first 15 days of the delivery period; provided full and final payment for the preceding delivery period was made in accordance with subdivision ~~2~~ of this ~~section~~ subsection, otherwise the partial payment shall be not less than an amount determined by multiplying the current Class I price for 3.5% milk by the hundredweight

of base deliveries for the first 15 days of the delivery period.

2. On or before the ~~45th~~ 17th day following the close of a delivery period, general distributors shall make full and final payment to producers or cooperative associations of producers for deliveries received during such delivery period pursuant to this chapter.

3. Certified or registered mail may be required for all U.S. Postal Service deliveries of producer payments made by general distributors pursuant to subdivisions ~~1~~ and ~~2~~ of this ~~section~~ subsection when directed in writing by the ~~commission~~ agency.

4. The ~~commission~~ approving authority may, after a hearing, require individual general distributors to make settlement with producers or cooperative associations of producers for deliveries at intervals other than provided in subdivisions ~~1~~ and ~~2~~ of this ~~section~~ subsection.

5. All licensed producers or association of producers supplying base deliveries to processing general distributors located in Norfolk, Portsmouth, Hampton, Newport News or Chesapeake shall be allocated \$0.10 per hundredweight from the total monthly Eastern Market Class I producer payments. This allocation shall be made prorata in accordance with the monthly base deliveries to the processing general distributors located in the aforementioned cities.

6. Before the 15th day of each month, the ~~commission~~ agency shall determine the required monthly equalization payments and give written notice to all affected parties of the amounts payable. The monthly equalization payments shall be made to the Milk Commission Equalization Fund no later than the 25th day of the month subsequent to the end of each delivery period. On or before the last day of each month, the ~~commission~~ agency shall disburse all funds (less a balance necessary to pay all bank charges) paid in during the current month in accordance with subdivision ~~5~~ of this ~~section~~ subsection.

E. Redistribution of producer losses. When the ~~commission~~ approving authority is satisfied that when one or more licensed ~~distributor(s)~~ distributors ~~is/are~~ are unable, due to bankruptcy or receivership, to fulfill the financial obligation to producers and/or cooperative associations of producers for base deliveries, the ~~commission~~ approving authority may authorize the establishment of a temporary producer redistribution fund to reallocate a distributor's deficient financial obligation.

1. When it is determined that an obligation for base milk deliveries cannot be satisfied, the distributor(s), producer(s) or cooperative associations of producers involved shall notify the ~~commission~~ approving authority within five working days of a voluntary filing or adjudication of bankruptcy or receivership, or within five working days of the ~~effective date of this regulation~~ August 1, 1991, for licensed distributors currently in bankruptcy or receivership. This notification shall be in

Proposed Regulations

writing accompanied by copies of pertinent court documents.

2. The producer funded redistribution of losses of an unfulfilled obligation of base deliveries shall be limited to an amount not to exceed the unsecured value of base deliveries calculated in accordance with this chapter.

3. A producer funded redistribution rate shall be established which will be the lesser of the actual dollar loss under subdivision ~~2~~ of this subsection or the dollars generated by a rate not in excess of 0.10/cwt., levied on producer's and/or cooperative associations of producers monthly Class I allocated base deliveries for a period not to exceed 12 months for each bankruptcy.

Each distributor shall remit to the ~~Milk-Commission~~ agency no later than the 15th of each month the amount collected in accordance with this subdivision, applicable to the prior months delivery period at the rate established by the ~~commission~~ approving authority.

4. The ~~Milk-Commission~~ agency shall disburse all redistribution funds, net of applicable bank charges, collected each month for the redistribution fund by the last day of the month. Funds will be disbursed prorata in relationship to the loss incurred by producers and/or cooperative associations of producers, less applicable bank charge.

5. Producers or cooperative associations of producers shall assign to the ~~commission~~ agency that portion of their loss claim which pertains to the value of redistributed funds paid on Virginia base deliveries by the ~~commission~~ agency in order to participate in the producer redistribution fund.

6. Any overpayment or recovery of loss claims assigned to the ~~commission~~ agency by producers or cooperative associations of producers to the producer redistribution fund shall be disbursed to producers or cooperative associations of producers on a prorata basis of payments made to the fund.

VA.R. Doc. No. R99-209; Filed June 30, 1999, 10:12 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: **State Plan for Medical Assistance Services Relating to Hospice Services.**

12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care Services (amending 12 VAC 30-50-270).

12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care (amending 12 VAC 30-60-130).

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

12 VAC 30-130-10 et seq. Amount, Duration and Scope of Selected Services (repealing 12 VAC 30-130-270 through 12 VAC 30-130-530).

Statutory Authority: § 32.1-325 of the Code of Virginia and Chapter 464 of the 1998 Acts of Assembly (Item 335S).

Public Hearing Date: N/A -- Public comments may be submitted until August 18, 1999.

(See Calendar of Events section for additional information)

Basis: Section 32.1-325 of the Code of Virginia grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. 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. The Code also provides, in the Administrative Process Act (APA) §§ 9-6.14:7.1 and 9-6.14:9.1, for this agency's promulgation of proposed regulations subject to the Governor's review.

Subsequent to an emergency adoption action, the agency is initiating the public notice and comment process as contained in Article 2 of the APA. The emergency regulation became effective on January 1, 1999. The Code, at § 9-6.14:4.1(C) requires the agency to file 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 regulation was filed with the Virginia Register on January 26, 1999.

The Balanced Budget Act of 1997 §§4441 through 4449 modified hospice services for the Title XVIII Medicare Program. The 1998 General Assembly mandated, in Chapter 464 Item 335S of the 1998 Acts of the Assembly, that the Department revise its regulations, effective January 1, 1999, concerning the reimbursement of hospice organizations to be consistent with Medicare. The modifications affected areas of payment location, benefit periods, contracting of physicians' services, and physician service certification requirements.

Purpose: The purpose of this proposal is to realign the Medicaid coverage of hospice services with those of Medicare so that individuals having terminal illnesses will have a seamless range of services available for their use to benefit their health as well as the welfare of their supporting families.

Substance: Hospice services were originally added to the Title XIX package of available services by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA '85) in section 9505. DMAS did not, however, begin to offer this service to its recipients until July 1, 1990. At the time of this original offer, DMAS was federally required to have its Medicaid-hospice services mirror the Medicare-hospice

services, with few exceptions. This policy stemmed from the requirement that Title XIX hospice services could only be provided by hospice organizations which met the Title XVIII (Medicare) certification requirements.

As originally covered, hospice services are a medically-directed, interdisciplinary program of palliative services for the terminally ill and their families. Hospice emphasizes pain and symptom control provided by a team of professionals, including physicians, nurses, counselors, therapists, aides and volunteers. The majority of hospice services are delivered in the home with inpatient care available as needed. The services which are covered include: nursing care, medical social services, physician services, counseling services, short-term inpatient care, durable medical equipment and supplies, drugs and biologicals, home health aide and homemaker services, and rehabilitation services. The original program also had specified benefit periods and required physician certifications of terminal conditions for individuals' participation.

Hospice services are currently open to Medicaid recipients who have been certified by an attending physician and a hospice medical director as having six months or less to live. Services provided by the hospice agency include: physician, nursing, social work, counseling, personal care, and any other services necessary to carry out a plan of care related to the effects of the terminal illness.

Recipients of hospice services have four benefit periods available: there are two 90-day periods, followed by a 30-day period, followed by an indefinite period. Once the recipient has signed a hospice election form, both the hospice medical director and the attending physician must also sign it within two days or if each certifies verbally not later than two days after hospice care is initiated, then written signatures can be obtained up to eight days after such care is initiated.

Payment for these services is currently based on the location of the hospice agency that is providing the service. There are different payment rates for different areas of the state, for example Northern Virginia versus the remainder of the state. At the time of the initial availability in 1990 of this service, the payment methodology was one of the areas where the mirroring of the Medicare-hospice program was required.

The 1998 General Assembly has mandated, in Chapter 464 Item 335S, that the department revise its regulations concerning the reimbursement of hospice organizations to be consistent with Medicare. The Balanced Budget Act of 1997 (BBA 1997) §§ 4441 through 4449 made the following changes to the current Medicare hospice program necessitating changes to the Virginia Medicaid Hospice Program:

- Payment for hospice services shall be based on the location of the service rather than the location of the agency. This will negate the financial advantage some hospice providers may have by virtue of the physical location in a higher rate area even though the provided services may be in a lower rate area.

- Hospice benefit periods are restructured to include two 90-day periods, followed by an extended period in which certifications must be made every 60 days until the recipient is no longer in the hospice program (either by demise or by electing to leave).
- For each benefit period, physician signatures must be obtained at the beginning of the period.
- Hospice agencies may now contract with physicians for services rather than employing them directly.
- No policy alternatives were available with regard to benefit periods, location of service delivery, and the use of contracted physicians by hospices due to the mandate from the General Assembly. The agency is exercising its discretion to eliminate the redundant provisions of the state only regulations, found at 12 VAC 30-130-470 through 12 VAC 30-130-530. Those provisions that are not redundant and that affect the rights of individuals are being moved into the State Plan.

Issues: The effect of these recommended changes will be to "catch Medicaid up" with changes made in by the BBA 1997 in Medicare. Except for the fact that Medicaid hospice criteria will be consistent with Medicare and, therefore, should be easier to comprehend, the implementation of these provisions will be transparent to the recipient and will have no impact on families. Hospice providers will have only one set of criteria to follow for Medicare and Medicaid that should increase their understanding and streamline their documentation process. These results are expected to favorably contribute to the efficient and economical operation of this important government function.

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

Fiscal/Budget Impact: Implementation of these changes to the Medicaid Hospice Program should have no impact on the recipients of hospice services. Hospice providers who follow the specific criteria will continue to be reimbursed for services provided to recipients who are appropriate for the hospice program. Payment at the site of service may result in a slight reduction of expenditures to the agency.

Currently, there are 45 hospice providers enrolled in Medicaid but this number can fluctuate monthly. The total expenditures from October 1997 to October 1998 were \$2,960,226. The total number of recipients who have used this service since 1994 (including those deceased and those still extant) is 2,274. The average length of stay for those deceased recipients is 70 days. The average length of stay for individuals who are still receiving services is 544 days. These very long average lengths of stay for individuals electing hospice coverage are the source of the federal law change that requires attending physicians to recertify every 60 days the need for this care.

There are no localities that are uniquely affected by these regulations as they apply statewide. The only hospice providers DMAS expects to be negatively affected by this regulatory action are those which specifically opened managerial home offices in Northern Virginia when the

Proposed Regulations

clients they served resided in Central or Southwest Virginia. The act of locating their home office in Northern Virginia enabled these companies to claim the high reimbursement level permitted by DMAS' previous reimbursement methodology. There are no localities that are uniquely affected by these regulations as they apply statewide.

Funding Source/Cost to Localities/Affected Entities: The Department of Medical Assistance Services is established under the authority of Title XIX of the federal Social Security Act, Public Law 89-97, as amended; and Title 32.1, Chapter 10, of the Code of Virginia. The Virginia Medicaid Program is funded with both federal and state funds. The current federal funding participation for medical assistance expenditures is 51.60%, which became effective October 1, 1998. It is estimated that this rate will increase to 51.77% on October 1, 1999. Because the federal and state fiscal years do not coincide, "blended" federal funding rates of 51.57% and 51.73% are used to estimate FY 1999 and FY 2000 expenditures respectively. The funding for hospice services in the Medicaid program for the 1998-2000 biennium is included in Item 335 of the Appropriation Act budget program "Medical Assistance Services (Medicaid)" 456. The subprogram is 45609 "Professional and Institutional Services." Any savings from this regulation will be an ongoing savings.

This regulatory action will not have any impact on local departments of social services.

Forms: The form, Request for Hospice Benefits, has been revised and will be needed during the administration of these regulations.

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 25 (98). 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 impacts.

Summary of the proposed regulation. The 1998 Session of the General Assembly mandated in Chapter 464, Item 335S, that the Department of Medical Assistance Services revise its Medicaid regulations concerning the reimbursement of hospice organizations to be consistent with the Medicare regulations on the reimbursement of hospice organizations. The proposed changes to this regulation are designed to comply with this mandate.

Estimated economic impact. The proposed amended regulation implements two significant changes that will lead to greater economic efficiency. The first change more

closely matches reimbursement payments to hospice organizations with the local costs for their services. The second change allows hospice organizations more flexibility in how they provide their services.

Currently, the payments received by hospice organizations for their services depend upon the location of the hospice agency that is providing the service. There are different payment rates for different areas of Virginia. For example, payment rates are higher in Northern Virginia than in other parts of the Commonwealth. Some hospice providers have opened managerial home offices in Northern Virginia that are responsible for serving clients in Central or Southwest Virginia. This has allowed for these organizations to receive the higher Northern Virginia reimbursement rate while incurring, for example, lower Southwest Virginia costs.

The proposed amended regulation bases the payment for hospice services on the location of the service rather than the location of the provider's managerial home office. Thus hospice providers will receive payment commensurate with local costs (provided that rates are set appropriately per area). Clearly, this should provide for some cost savings in the Virginia Medicaid Hospice Program. Hospice organizations serving patients outside of Northern Virginia will be paid at the relatively lower local rate rather than the higher Northern Virginia rate. Though these hospice organizations will receive payments at lower rates, they will have the opportunity to lower their costs by closing their offices in the high-rent Northern Virginia region.

The amended regulation proposes to allow hospice organizations to contract with physicians for their services rather than require the hospices to employ the physicians directly. By contracting for physicians' services rather than direct employment, it is likely that in many instances hospice organizations will be able to provide the same services at lower cost by avoiding the tax and benefits costs involved with direct employment. Also, as demand at individual hospices fluctuates over time, organizations will likely find it easier to adjust the appropriate quantity of physician services they pay for by contracting for physician services rather than directly employing doctors. In general, allowing organizations additional flexibility in how they can meet required goals increases efficiency.

It is anticipated that the implementation of this proposed amended regulation would have a positive economic impact on the Commonwealth. The data required to estimate the expected economic impact is not currently available.

Businesses and entities affected. The approximately 45 Virginia hospice providers currently enrolled in Medicaid and physicians currently or potentially involved in hospice care would be affected by the implementation of this proposed regulation amendment.

Localities particularly affected and effects on the use and value of private property. Hospice service providers that serve clients primarily or entirely outside of Northern Virginia will no longer have an incentive to maintain managerial home offices in that region. Thus some organizations may cease to demand office space in Northern Virginia and may

rent more office space closer to their clients in other parts of the Commonwealth.

Projected impact on employment. It is quite likely that some hospice organizations will avail themselves of the new opportunity to contract with physicians for services rather than employ the physicians directly. Therefore, physician employment at hospice organizations will likely diminish while work for physicians at practices outside of the hospice organizations will likely increase by approximately the same amount. Thus the nature of physicians' employment will change, while the quantity will not be significantly affected.

Agency's Response to the 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 hospice services.

Summary:

This regulatory action realigns the Title XIX Medicaid hospice services with those of the Title XVIII Medicare hospice services. The benefits periods will be the same across the two programs, payments for services will be based on location of service delivery and not the agency's home office address, and hospices will be permitted to contract out their physician services. In addition, the state-only regulations for hospice services are proposed to be repealed because they are redundant of the State Plan's provisions.

12 VAC 30-50-270. Hospice care services (in accordance with § 1905 (o) of the Act).

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

B. Categories of care. As described for Medicare and applicable to Medicaid, hospice services shall entail the following four categories of daily care:

1. Routine home care is at-home care that is not continuous.
2. Continuous home care consists of at-home care that is predominantly nursing care and is provided as short-term crisis care. A registered or licensed practical nurse must provide care for more than half of the period of the care. Home health aide or homemaker services may be provided in addition to nursing care. A minimum of eight hours of care per day must be provided to qualify as continuous home care.
3. Inpatient respite care is short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the primary ~~caregiver(s) caregiver or caregivers~~ providing at-home care for the recipient. Respite care is limited to not more than ~~5~~ five consecutive days.

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

C. Covered services.

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

2. Other services applicable for the terminal illness that shall be available but are not considered "core" services are *physician services*, drugs and biologicals, home health aide and homemaker services, inpatient care, medical supplies, and occupational and physical therapies and speech-language/pathology services, and any other item or service which is specified under the plan and which is reasonable and necessary for the palliation and management of terminal illness and for which payment may otherwise be made under Title XIX.

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

4. To be covered, a certification that the individual is terminally ill shall have been completed by the physician, or physicians as required by 12 VAC 30-60-130 D, and hospice services must be reasonable and necessary for the palliation or management of the terminal illness and related conditions. The individual must elect hospice care and a plan of care must be established before services are provided. To be covered, services shall be consistent with the plan of care. Services not specifically documented in the patient's medical record as having been rendered will be deemed not to have been rendered and no coverage will be provided.

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

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

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

c. Physician services. Physician services shall be performed by a professional who is licensed to

Proposed Regulations

practice, who is acting within the scope of his or her license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director or the physician member of the interdisciplinary team shall be a licensed doctor of medicine or osteopathy.

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

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

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

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

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

i. Rehabilitation services. Rehabilitation services include physical and occupational therapies and speech-language pathology services that are used for purposes of symptom control or to enable the

individual to maintain activities of daily living and basic functional skills.

D. Eligible groups. To be eligible for hospice coverage under Medicare or Medicaid, the recipient must have a life expectancy of six months or less, have knowledge of the illness and life expectancy, and elect to receive hospice services rather than active treatment for the illness. Both the attending physician and the hospice medical director, *or the attending physician and the physician member of the interdisciplinary team*, must *initially* certify the life expectancy. ~~The hospice must obtain the certification that an individual is terminally ill in accordance with the following procedures: Thereafter, subsequent certifications shall be conducted pursuant to 12 VAC 30-60-130.~~

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

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

12 VAC 30-60-130. Hospice services.

A. Admission criteria.

1. *Service election.* To be eligible for hospice coverage under Medicare or Medicaid, the recipient must be "terminally ill," defined as having a life expectancy of six months or less, and elect to receive hospice services rather than active treatment for the illness. Both the attending physician (if the individual has an attending physician) and the hospice medical director, *or the attending physician and the physician member of the interdisciplinary team*, must *initially* certify the life expectancy. *The election statement must include (i) identification of the hospice that will provide care to the individual; (ii) the individual's or representative's acknowledgement that he has been given a full understanding of the palliative rather than curative nature of hospice care as it relates to the individual's terminal illness; (iii) acknowledgement that certain Medicaid services are waived by the election; (iv) the effective date of the election; and (v) the signature of the individual or representative.*

2. *Service revocation.* The recipient shall have the right to revoke his election of hospice services at any time during the covered hospice periods. DMAS must be contacted if the recipient revokes his hospices services. If the recipient reelects the hospice services, the hospice periods will begin as an initial time frame. Therefore, the above certification and time requirements will apply. The recipient cannot retroactively receive hospice benefits from previously unused hospice periods. The recipient's written revocation statement must be maintained in the recipient's medical record.

B. General conditions. The general conditions provided in this subsection apply to nursing care, medical social services, physician services, counseling services, short-term inpatient care, durable medical equipment and supplies, drugs and biologicals, home health aide and homemaker services, and rehabilitation services.

The recipient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his license. The hospice medical director or the physician member of the interdisciplinary team must be a licensed doctor of medicine or osteopathy. Hospice services may be provided in the recipient's home or in a freestanding hospice, hospital or nursing facility.

The hospice must obtain the written certification that an individual is terminally ill in accordance with the following procedures:

1. For the initial 90-day benefit period of hospice coverage, a Medicaid written certification (DMAS 420) must be signed and dated by the medical director of the hospice and the attending physician, or the physician member of the hospice interdisciplinary team and the attending physician, at the beginning of the certification period. This initial certification must be submitted for preauthorization within 14 days from the physician's signature date. This certification must be maintained in the recipient's medical record.

2. For the subsequent 90-day hospice period, a Medicaid written certification (DMAS 420) must be signed and dated before or on the begin date of the 90-day hospice period by the medical director of the hospice or the physician member of the hospice's interdisciplinary team. The certification must include the statement that the recipient's medical prognosis is that his life expectancy is six months or less. This certification of continued need for hospice services must be maintained in the recipient's medical record.

3. After the second 90-day hospice period and until the recipient is no longer in the Medicaid hospice program, a Medicaid written certification must be signed and dated every 60 days on or before the begin date of the 60-day period. This certification statement must be signed and dated by the medical director of the hospice or the physician member of the hospice's interdisciplinary team. The certification must include the statement that the recipient's medical prognosis is that his life expectancy is

six months or less. This certification must be maintained in the recipient's medical record.

~~B-~~ C. Utilization review. Authorization for hospice services requires an initial preauthorization by DMAS and physician certification of life expectancy. Utilization review will be conducted to determine if services were provided by the appropriate provider and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the ~~patients'~~ recipients' medical records as having been rendered shall be deemed not to have been rendered and no coverage shall be provided. All hospice services shall be provided in accordance with guidelines established in the Virginia Medicaid Hospice Manual.

~~C-~~ D. Hospice services are a medically directed, interdisciplinary program of palliative services for terminally ill people and their families, emphasizing pain and symptom control. The rules pertaining to them are:

1. *Interdisciplinary team.* An interdisciplinary team shall include at least the following individuals: a physician (either a hospice employee or a contract physician), a registered nurse, a social worker, and a pastoral or other counselor. Other professionals may also be members of the interdisciplinary team depending on the terminally ill recipient's medical needs.

~~4-~~ 2. Nursing care. Nursing care must be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.

~~2-~~ 3. Medical social services. Medical social services must be provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician.

~~3-~~ 4. Physician services. Physician services must be performed by a professional who is licensed to practice, who is acting within the scope of his license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director or the physician member of the interdisciplinary team must be a licensed doctor of medicine or osteopathy.

~~4-~~ 5. Counseling services. Counseling services must be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose of training the individual's family or other caregiver to provide care, and for the purpose of helping the individual and those caring for him to adjust to the individual's approaching death. Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. Bereavement counseling is a required hospice service, but it is not reimbursable.

Proposed Regulations

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

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

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

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

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

a. Occupational therapy services shall be those services furnished a patient which meet all of the following conditions:

(1) The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board;

(2) The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board or an occupational therapy assistant certified by the American Occupational Therapy Certification

Board under the direct supervision of an occupational therapist as defined above; and

(3) The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice, including the requirement that the amount, frequency, and duration of the services shall be reasonable.

b. Physical therapy services shall be those furnished a patient which meet all of the following conditions:

(1) The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine;

(2) The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and under the direct supervision of a physical therapist licensed by the Board of Medicine; and

(3) The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice, including the requirement that the amount, frequency, and duration of the services shall be reasonable.

c. Speech-language pathology services shall be those services furnished a patient which meet all of the following conditions:

(1) The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech-Language Pathology;

(2) The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech-Language Pathology; and

(3) The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice, including the requirement that the amount, frequency, and duration of the services shall be reasonable.

11. Documentation of hospice services must be maintained in the recipient's medical record. Coordination of patient care between all health care professionals should be maintained in the recipient's medical record.

12 VAC 30-80-30. Fee-for-service providers.

A. Payment for the following services, except for physician services, shall be the lower of the state agency fee schedule (12 VAC 30-80-190 has information about the state agency fee schedule) or actual charge (charge to the general public):

1. Physicians' services (12 VAC 30-80-160 has obstetric/pediatric fees). Payment for physician services shall be the lower of the state agency fee schedule or actual charge (charge to the general public), except that reimbursement rates for designated physician services when performed in hospital outpatient settings shall be 50% of the reimbursement rate established for those services when performed in a physician's office. The following limitations shall apply to emergency physician services.

a. Definitions. The following words and terms, when used in this subdivision 1, shall have the following meanings when applied to emergency services unless the context clearly indicates otherwise:

"All-inclusive" means all emergency service and ancillary service charges claimed in association with the emergency department visit, with the exception of laboratory services.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"Emergency physician services" means services that are necessary to prevent the death or serious impairment of the health of the recipient. The threat to the life or health of the recipient necessitates the use of the most accessible hospital available that is equipped to furnish the services.

"Recent injury" means an injury which has occurred less than 72 hours prior to the emergency department visit.

b. Scope. DMAS shall differentiate, as determined by the attending physician's diagnosis, the kinds of care routinely rendered in emergency departments and reimburse physicians for nonemergency care rendered in emergency departments at a reduced rate.

(1) DMAS shall reimburse at a reduced and all-inclusive reimbursement rate for all physician services, including those obstetric and pediatric procedures contained in 12 VAC 30-80-160, rendered in emergency departments which DMAS determines are nonemergency care.

(2) Services determined by the attending physician to be emergencies shall be reimbursed under the existing methodologies and at the existing rates.

(3) Services determined by the attending physician which may be emergencies shall be manually reviewed. If such services meet certain criteria,

they shall be paid under the methodology in subdivision 1 b (2) of this subsection. Services not meeting certain criteria shall be paid under the methodology in subdivision 1 b (1) of this subsection. Such criteria shall include, but not be limited to:

(a) The initial treatment following a recent obvious injury.

(b) Treatment related to an injury sustained more than 72 hours prior to the visit with the deterioration of the symptoms to the point of requiring medical treatment for stabilization.

(c) The initial treatment for medical emergencies including indications of severe chest pain, dyspnea, gastrointestinal hemorrhage, spontaneous abortion, loss of consciousness, status epilepticus, or other conditions considered life threatening.

(d) A visit in which the recipient's condition requires immediate hospital admission or the transfer to another facility for further treatment or a visit in which the recipient dies.

(e) Services provided for acute vital sign changes as specified in the provider manual.

(f) Services provided for severe pain when combined with one or more of the other guidelines.

(4) Payment shall be determined based on ICD-9-CM diagnosis codes and necessary supporting documentation.

(5) DMAS shall review on an ongoing basis the effectiveness of this program in achieving its objectives and for its effect on recipients, physicians, and hospitals. Program components may be revised subject to achieving program intent objectives, the accuracy and effectiveness of the ICD-9-CM code designations, and the impact on recipients and providers.

2. Dentists' services.

3. Mental health services including: (i) community mental health services; (ii) services of a licensed clinical psychologist; or (iii) mental health services provided by a physician.

a. Services provided by licensed clinical psychologists shall be reimbursed at 90% of the reimbursement rate for psychiatrists.

b. Services provided by independently enrolled licensed clinical social workers, licensed professional counselors, or licensed clinical nurse specialists-psychiatric shall be reimbursed at 75% of the reimbursement rate for licensed clinical psychologists.

4. Podiatry.

Proposed Regulations

5. Nurse-midwife services.
6. Durable medical equipment.
 - a. The rate paid for all items of durable medical equipment except nutritional supplements shall be the lower of the state agency fee schedule that existed prior to July 1, 1996, less 4.5%, or the actual charge.
 - b. The rate paid for nutritional supplements shall be the lower of the state agency fee schedule or the actual charge.
7. Local health services, including services paid to local school districts.
8. Laboratory services (other than inpatient hospital).
9. Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to payment for handling).
10. X-Ray services.
11. Optometry services.
12. Medical supplies and equipment.
13. Home health services. Effective June 30, 1991, cost reimbursement for home health services is eliminated. A rate per visit by discipline shall be established as set forth by 12 VAC 30-80-180.
14. Physical therapy; occupational therapy; and speech, hearing, language disorders services when rendered to noninstitutionalized recipients.
15. Clinic services, as defined under 42 CFR 440.90.

B. Hospice services payments must be no lower than the amounts using the same methodology used under Part A of Title XVIII, and adjusted to disregard offsets attributable to Medicare coinsurance amounts and take into account the room and board furnished by the facility, equal to at least 95% of the rate that would have been paid by the state under the plan for facility services in that facility for that individual. Hospice services shall be paid according to the location of the service delivery and not the location of the agency's home office.

PART VII. HOSPICE SERVICES.

12 VAC 30-130-470. ~~Scope. (Repealed.)~~

~~A. Medicaid covers hospice services as defined in 12 VAC 30-130-480 A provided by facilities or agencies certified as hospice providers through Medicare and which have a provider agreement with the Department of Medical Assistance Services.~~

~~B. Hospice services may be provided in a variety of settings including the terminally ill individual's home, a freestanding hospice, hospital, or nursing facility; however, reimbursement for hospice services will only be made to the certified hospice provider.~~

12 VAC 30-130-480. ~~Covered hospice services. (Repealed.)~~

~~A. "Hospice" means a medically directed, interdisciplinary program of palliative services for terminally ill people and their families, emphasizing pain and symptom control provided by a team of professionals including physicians, nurses, counselors, social workers, therapists, aides and volunteers. Hospice is primarily a concept of care, rather than a specific place, with the majority of hospice services being delivered in the home with inpatient care available as needed.~~

~~B. "Terminally ill" means an individual has a medical prognosis that his or her life expectancy is six months or less. This prognosis must be certified by written statements signed by the medical director of the hospice or the physician member of the hospice interdisciplinary group and the individual's attending physician.~~

~~C. As required under Medicare and applicable to Medicaid, the hospice itself must provide the "core" services applicable for the terminal illness which are nursing care, physician services, social work, and counseling (bereavement, dietary, and spiritual). However, the hospice may use contracted staff if necessary to supplement hospice employees in order to meet the needs of patients during periods of peak patient loads or under extraordinary circumstances. If contracting is used, the hospice shall maintain professional, financial, and administrative responsibility for the services.~~

~~Other services applicable to the terminal illness that must be available but are not considered "core" services are drugs and biologicals, home health aide and homemaker services, inpatient care, medical supplies, and occupational and physical therapies and speech language pathology services. These other services may be arranged, such as by contractual agreement, or provided directly by the hospice.~~

~~D. As described for Medicare and applicable to Medicaid, hospice services shall include the following four categories of daily care: routine home care, continuous home care, inpatient respite care, and general inpatient care.~~

12 VAC 30-130-490. ~~Admission criteria for covered services. (Repealed.)~~

~~A. To be eligible for hospice care under Medicaid, an individual must be certified as terminally ill. An individual is considered to be terminally ill if he has a medical prognosis that his life expectancy is six months or less. In addition, the individual must have knowledge of the illness and life expectancy and elect to receive hospice services rather than active treatment for the illness. Both the attending physician if the individual has an attending physician and the hospice medical director must certify the life expectancy.~~

~~B. The hospice must obtain the certification that an individual is terminally ill in accordance with the following procedures:~~

- ~~1. For the first 90-day period of hospice coverage, the hospice must obtain, within two calendar days after the period begins, a written certification statement signed by~~

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

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

3. An election to receive hospice care shall be considered to continue through the initial election period and through the subsequent election periods without a break in care as long as the individual remains in the care of a hospice and does not revoke the election. An election period means one of three periods, plus a subsequent extension period during the individual's lifetime, for which an individual may elect to receive coverage of hospice care. The periods consist of two 90-day periods, one 30-day period, and a subsequent extension period during the individual's lifetime. An election to receive hospice care may be made by an individual's representative who is acting pursuant to state law. An individual or representative may designate an effective date for the election period that begins with the first day of hospice care or any subsequent day of hospice care but may not designate an effective date that is earlier than the date that the election is made.

For purposes of the Medicaid hospice benefit, a nursing facility may be considered the residence of a recipient. An addition to hospice reimbursement is made in this situation to take the room and board provided by the facility into account. The hospice shall reimburse the nursing facility for these services.

4. The election statement must include (i) identification of the hospice that will provide care to the individual; (ii) the individual's or representative's acknowledgement that he has been given a full understanding of the palliative rather than curative nature of hospice care as it relates to the individual's terminal illness; (iii) acknowledgement that certain Medicaid services are waived by the election; (iv) the effective date of the election, and (v) the signature of the individual or representative.

12 VAC 30-130-500. Authorization for services. (Repealed.)

A. Hospice services shall be authorized by DMAS and certification shall be made by the physician that the individual is terminally ill and that hospice services are reasonable and necessary for the palliation or management of the terminal illness and related conditions. Within fourteen days of the date of the initial physician certification, the hospice must request authorization from DMAS for accepting the terminally ill individual. This request shall include a description of the individual's diagnoses and a physician's certification that the individual meets criteria for hospice care.

B. DMAS shall make a determination as to the appropriateness of Medicaid payment for the individual's first 90 days of care. Periods of hospice care not authorized by DMAS shall not be approved for payment. The initial date of authorization of services shall not be made retroactive prior to the date of the request for hospice services.

12 VAC 30-130-510. Documentation requirements. (Repealed.)

A. Documentation of hospice services shall, at a minimum:

1. Describe the clinical signs and symptoms of the patient's terminal illness;
2. Document an accurate and complete chronological picture of the patient's clinical course and treatments;
3. Document that a multidisciplinary plan of care specifically designed for the patient has been developed;
4. Document all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response, and identify who provided care (include full name and title);
5. Document changes in each patient's condition; and
6. Identify the category of care as described in 12 VAC 30-130-520 A.

B. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

12 VAC 30-130-520. Categories of care. (Repealed.)

A. As described for Medicare and applicable to Medicaid, hospice services entail the following four categories of daily care:

1. Routine home care is at-home care that is not continuous.
2. Continuous home care consists of at-home care that is predominantly nursing care and is provided as short-term crisis care. A registered nurse or licensed practical nurse must provide care for more than half of the period of care. Home health aide or homemaker services may be provided in addition to nursing care. A

Proposed Regulations

minimum of eight hours of care per day must be provided to qualify as continuous home care.

3. Inpatient respite care is short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the primary caregiver(s) providing at-home care for the recipient. No more than five consecutive days of respite care will be allowed.

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

B. For all services pertaining to terminal illness, the hospice has the responsibility for providing or arranging the services. Utilization review shall be performed to determine if services were provided by the appropriate provider and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate.

12 VAC 30-130-530. Hospice services to terminally ill patients. (Repealed.)

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

The "core" services must be provided routinely and directly by hospice employees. Supplemental services may be contracted for to meet unusual staffing needs that cannot be anticipated and that occur so infrequently that it would not be practical to hire additional staff to fill these needs. Hospices may also contract to obtain physician specialty services. If contracting is used for any services, the hospice must maintain professional, financial and administrative responsibility for the services and must assure that all staff meet the regulatory qualification requirements.

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

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

B. To be covered, a certification that the individual is terminally ill must have been completed and hospice services must be reasonable and necessary for the palliation or management of the terminal illness and related conditions. The individual must elect hospice care and a multidisciplinary plan of care must be established before services are provided. To be covered, services must be consistent with the plan of care designed by a physician after any needed consultation with other hospice team members.

C. All services must be performed by appropriately qualified personnel, but it is the nature of the service, rather than the qualification of the person who provides it, that

determines the coverage category of the service. The following services are covered hospice services:

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

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

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

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

Attending physician means a physician who is a doctor of medicine or osteopathy and is identified by the individual, at the time he or she elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care.

5. Counseling services. Counseling services must be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose of training the individual's family or other caregiver to provide care, and for the purpose of helping the individual and those caring for him or her to adjust to the individual's approaching death.

Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. "Family" includes family members or other persons caring for the individual at home.

Bereavement counseling is a required hospice service, but it is not reimbursable.

6. Short-term inpatient care. Short-term inpatient care may be provided in a participating hospice inpatient unit, or a participating hospital or nursing facility. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings.

Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home. Respite care means short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the primary caregiver or caregivers providing at-home care for the recipient. No more than 5 consecutive days will be allowed.

Hospice patients are exempted from the preadmission screening requirements. However, the above criteria must be met for inpatient hospital stays.

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

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

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

a. Occupational therapy services shall be those services furnished a patient which meet all of the following conditions:

(1) The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board;

(2) The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board or an occupational therapy assistant certified by the American Occupational Therapy Board under the direct supervision of an occupational therapist as defined above;

(3) The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical

practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

b. Physical therapy services shall be those furnished a patient which meet all of the following conditions:

(1) The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine;

(2) The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and under the direct supervision of a physical therapist licensed by the Board of Medicine; and

(3) The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

c. Speech-language pathology services shall be those services furnished a patient which meet all of the following conditions:

(1) The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech-Language Pathology;

(2) The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech-Language Pathology; and

(3) The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

NOTICE: The forms used in administering Hospice Services are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS (12 VAC 30-60)

Certificate of Medical Necessity - Durable Medical Equipment and Supplies, DMAS 352, revised Aug. 1995 (rev. 8/95).

Request for Hospice Benefits, DMAS-120 (rev. 1/99).

VIRGINIA DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Request for Hospice Benefits

NAME: _____ DATE OF BIRTH: ____ / ____ / ____

ADDRESS: _____

MEDICAID NUMBER: _____ (12 digits) MEDICARE NUMBER: _____

OTHER INSURANCE: _____ POLICY NO: _____

SECTION I: ELECTION OF HOSPICE BENEFITS

I, _____, elect to participate in the Medicaid Hospice Benefit.

The hospice I have chosen is: _____

I am aware of the prognosis of my illness and I understand that treatment is palliative rather than curative. I consent to the management of the symptoms of my disease as prescribed by my Attending Physician and/or the Hospice Medical Director. My family and I will help to develop and will participate in a plan of care based on our special needs.

I may receive benefits which include home nursing visits, counseling, medical social work services, drugs and biologicals, and medical supplies and equipment. If needed, I may also receive home health aides/homemakers, physical therapy, occupational therapy, speech/language pathology, inpatient care for acute symptoms, medical procedures ordered by my physician and hospice, and continuous nursing care in the home in acute medical crises. I may request volunteer services, when available and when appropriate. I realize that my family and I have the opportunity for limited respite or relief care in an approved inpatient facility.

In accepting these services, which are more comprehensive than regular Medicaid benefits, I waive my right to regular Medicaid services that are duplicative of services required to be provided by the Hospice except for payment to my attending physician or treatment for medical conditions unrelated to my terminal illness. I understand that I can revoke this benefit at any time and return to regular Medicaid benefits. I understand that the Hospice Benefit consists of benefit periods — two ninety-day periods, subsequent sixty-day periods extending until I am no longer in the hospice benefit. I may be responsible for hospice charges if I become ineligible for Medicaid services.

I understand that at the end of either the first ninety-day period or the second, because of an improvement in my condition, I may choose to save the remainder of the benefit period(s). I may revoke the Hospice Benefit at that time. I also understand that should I choose to do so, I am still eligible to receive the remaining benefit period(s); I am aware, however, that if I choose to revoke Hospice Benefits during a benefit period, I am not entitled to coverage for the remaining days of that benefit period.

I understand that if I choose to do so, once during each election period I may change the designation of the particular hospice from which hospice care will be received by filing a statement with the hospice from which care has been received and with the newly designated hospice. I understand that a change of hospice providers is not a revocation of the remainder of that election period.

I understand that, unless I revoke the Hospice Benefit, hospice coverage will continue.

I understand that if I am a Medicare recipient, I must elect to use the Medicare Hospice Benefit.

Check one:

I am a Medicare recipient and have elected to use the Medicare Hospice Benefit. My Medicare eligibility for hospice benefits begins _____ (date).

I am not a Medicare recipient.

Witness' signature

Medicaid Hospice Recipient's Signature or Legal Rep.

Date

Medicaid Hospice Recipient
(typed or printed)

Date

VIRGINIA DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Request for Hospice Benefits

SECTION II: HOSPICE PROVIDER INFORMATION

HOSPICE PROVIDER: _____

HOSPICE ADDRESS: _____

MEDICAID PROVIDER NUMBER: _____ TELEPHONE: _____

FACILITY CONTACT PERSON: _____
Name/Title

SECTION III: PHYSICIAN CERTIFICATION/RE-CERTIFICATION

PATIENT'S NAME: _____

I certify that, in my best medical judgment, the reasonable, medically predictable life expectancy for this patient is 6 months or less. Based on this medical prognosis I am requesting Medicaid Hospice Benefits for this recipient beginning _____ (date). I understand that unless the recipient revokes Hospice Benefits, hospice services will continue as long as recipient remains eligible for Medicaid.

Attending Physician's Signature/Date _____ Medical Director's Signature/Date _____

Attending Physician (typed or printed) _____ Medical Director (typed or printed) _____

Having reviewed this patient's care and course of illness, I certify that in my best medical judgment this patient remains appropriate for hospice care.

Second Benefit Period (90 days) _____
Hospice Medical Director or Attending/Date

Sixty-day Extension _____
Hospice Medical Director or Attending/Date

Sixty-day Extension _____
Hospice Medical Director or Attending/Date

SECTION IV: NOTICE OF TERMINATION OF HOSPICE BENEFITS

Hospice benefits for _____ (recipient) are hereby terminated effective _____, 19_____, for the following reason. Discharge Summary is attached.

_____ Recipient is deceased. Date of death is _____, 19_____.

_____ Other (Please clarify) _____

SECTION V: DMAS OFFICE USE ONLY

COMMENTS:
(Staff Signature/Date)

Approved _____, effective _____ / _____

Denied _____ Days Denied _____

Pending _____

DMAS-420, Revised 1/99

Proposed Regulations

SECTION III: PHYSICIAN CERTIFICATION/RE-CERTIFICATION (CONTINUED)
(This form may be copied for continued use)

PATIENT'S NAME: _____
MEDICAID #: _____

Having reviewed this patient's care and course of illness, I certify that in my best medical judgment this patient remains appropriate for hospice care.

Subsequent 60 day period _____
Attending Physician/Hospice Medical Director

Date

Subsequent 60 day period _____
Attending Physician/Hospice Medical Director

Date

Subsequent 60 day period _____
Attending Physician/Hospice Medical Director

Date

Subsequent 60 day period _____
Attending Physician/Hospice Medical Director

Date

Subsequent 60 day period _____
Attending Physician/Hospice Medical Director

Date

Subsequent 60 day period _____
Attending Physician/Hospice Medical Director

Date

VA.R. Doc. No. R99-89; Filed June 30, 1999, 11:44 a.m.



TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Title of Regulation: 22 VAC 40-60-10 et seq. Standards and Regulations for Licensed Adult Day Care Centers (amending 22 VAC 40-60-10 through 22 VAC 40-60-60, 22 VAC 40-60-80, 22 VAC 40-60-90, 22 VAC 40-60-110 through 22 VAC 40-60-150, 22 VAC 40-60-180, 22 VAC 40-60-190, 22 VAC 40-60-200, 22 VAC 40-60-260 through 22 VAC 40-60-280, 22 VAC 40-60-300, 22 VAC 40-60-320, 22 VAC 40-60-330, 22 VAC 40-60-340, 22 VAC 40-60-370 through 22 VAC 40-60-470, 22 VAC 40-60-490, 22 VAC 40-60-510, 22 VAC 40-60-520, 22 VAC 40-60-550 through 22 VAC 40-60-610, 22 VAC 40-60-680, 22 VAC 40-60-690, 22 VAC 40-60-700, 22 VAC 40-60-770, 22 VAC 40-60-780, 22 VAC 40-60-800, 22 VAC 40-60-850, 22 VAC 40-60-860, 22 VAC 40-60-880, 22 VAC 40-60-960, 22 VAC 40-60-980, 22 VAC 40-60-1010, and 22 VAC 40-60-1020; adding 22 VAC 40-60-235, 22 VAC 40-60-425, 22 VAC 40-60-554, 22 VAC 40-60-556, 22 VAC 40-60-564, 22 VAC 40-60-691, 22 VAC 40-60-692, 22 VAC 40-60-694, 22 VAC 40-60-695, 22 VAC 40-60-697, 22 VAC 40-60-698, 22 VAC 40-60-699, 22 VAC 40-60-705, and 22 VAC 40-60-885; repealing 22 VAC 40-60-70, 22 VAC 40-60-100, 22 VAC 40-60-210 through 22 VAC 40-60-250, 22 VAC 40-60-290, 22 VAC 40-60-310, 22 VAC 40-60-350, 22 VAC 40-60-360, 22 VAC 40-60-480, 22 VAC 40-60-530, 22 VAC 40-60-540, 22 VAC 40-60-620 through 22 VAC 40-60-650, 22 VAC 40-60-670, 22 VAC 40-60-710 through 22 VAC 40-60-760, 22 VAC 40-60-790, 22 VAC 40-60-810 through 22 VAC 40-60-840, 22 VAC 40-60-870, 22 VAC 40-60-890 through 22 VAC 40-60-950, 22 VAC 40-60-970, 22 VAC 40-60-990, 22 VAC 40-60-1000, and 22 VAC 40-60-1030 through 22 VAC 40-60-1060).

Statutory Authority: §§ 63.1-25 and 63.1-194.2 of the Code of Virginia.

Public Hearing Date: August 9, 1999

Public comments may be submitted until September 17, 1999.

(See Calendar of Events section for additional information)

Basis: Section 63.1-194.2 of the Code of Virginia gives the State Board of Social Services authority to promulgate and enforce regulations to protect the health, safety, welfare and individual rights of participants of adult day care centers and to promote their highest level of functioning.

Purpose: The purpose of amending this regulation is to bring it into compliance with Code mandates that have been enacted since the regulation was last revised in 1987, including requirements for criminal record checks for employees, training requirements for medication aides, and changes to building and fire codes. While these changes have been implemented procedurally, they have not been incorporated into the regulation.

The purpose of the amended regulation is also to strengthen the requirements regarding the care of current adult day care center participants and to prepare for changes anticipated in the future. In the past 10 years there has been an increase in the number of programs and participants, an increase in the health care needs of participants, and a decrease in the functional level and independence of those served.

The proposed regulation is essential to protect the health, safety and welfare of participants of adult day care centers because there has been an increase in the health care needs of participants and a decrease in the functional level and independence of these participants. This regulation will require a greater degree of care and oversight than has been required in the existing regulation.

Substance: The regulation increases requirements for education and training of staff who provide care to participants and it provides for increased oversight of the care needs of participants. There is an increased emphasis on working closely with family members or care givers to assure that the participant's care needs are met at all times.

PART I. GENERAL PROVISIONS (previously titled Introduction)

- Revises definitions of some words because of Code of Virginia changes
- Adds some definitions that were needed because of changes to the text of the regulation

PART II. ADMINISTRATION

- Adds requirements for licensee regarding such things as financial responsibility, protection of participants, and record keeping
- Increases the requirement for liability insurance coverage from \$500,000 to \$1,000,000

PART III. PERSONNEL

- Adds reference to requirement for criminal record checks for all employees
- Adds a requirement for staff to be considerate and respectful of aged and disabled persons; for staff to be clean and well-groomed; for staff to be able to communicate in English; for staff to be able to understand and apply the standards as they relate to job responsibilities, and for staff who work directly with participants and who are counted in the staff-to-participant ratio be at least 18 years of age
- Revises requirements pertaining to screening for tuberculosis to conform with current Department of Health recommendations
- Adds specific training topics or areas that must be covered before staff work directly with participants
- Adds a requirement for staff to receive 24 hours of training in specific areas following their initial orientation training and to be overseen by a supervisor or trained staff person until this training is complete

Proposed Regulations

- Leaves the requirement for eight hours of contact training per year for each staff person but adds that these hours must be in addition to the required first aid, CPR and orientation training
- Adds a requirement for the director to be in the center 51% of the center's weekly hours of operation
- Adds a requirement for the director to be at least 21 years of age (previously 18) and to have at least a bachelor's degree and two year's experience working with older adults or persons with disabilities; proposes that current licensure in Virginia as a nursing home administrator or current licensure in Virginia as an R.N. or L.P.N. can substitute for the bachelor's degree
- Adds a requirement for the director to have 24 hours of continuing education annually
- Expands the requirements for volunteers to include the need for qualifications appropriate to the services they render; requires them to be under the direct supervision of a staff person when participants are present; specifies the requirements for volunteers to be counted in the staff-to-participant ratio

PART IV. SUPERVISION

- Retains the requirement for one staff person for every six participants and includes the requirement for the ratio to be maintained for field trips as well as in the center

PART V. BUILDINGS AND GROUNDS (title in existing regulation is Physical Environment)

This section was rearranged for clarity and consistency.

- Rewords requirements regarding approvals from other agencies to conform to procedures already in use
- Requires outdoor areas of centers to be equipped with appropriate seasonal outdoor furniture
- Requires heat to be supplied from a central heating plant or approved electrical heating system
- Increases required minimum indoor temperature from 68° to 70°F unless otherwise mandated by state or federal authorities
- Requires the facility to develop and implement a plan to protect participants from heat related illness if air-conditioning is not available
- Increases the required indoor square footage per participant from 40 sq. ft. to 50 sq. ft. for centers licensed after the effective date of the regulation
- Requires one toilet that is suitable to accommodate a participant who needs human assistance or specialized equipment for every 10 participants in care in centers licensed after the effective date of the regulation
- Requires that in restrooms with multiple stalls, there must be at least one toilet suitable to accommodate a

participant who needs human assistance or specialized equipment

- Requires water temperature at taps used by participants to be maintained between 105° and 120°F
- Requires there to be at least one telephone that will operate during power outages

PART VI. ADMISSION, RETENTION AND DISCHARGE (previously was part of section titled Programs and Services)

- Requires admission policies to include admission criteria that will be discussed with each person entering the program
- Requires that only those persons meeting the admission criteria be admitted to the center
- Expands the information to be included in the admission assessment
- Requires assessment to be updated at least every six months
- Expands the information to be included in the plan of care for each participant
- Adds a requirement for information about advance directives and requires a current photograph or written description in the participant's record
- Adds a requirement for information regarding allergies and food intolerances
- Requires more specific test information for TB screening at admission
- Requires a report of physical examination for participants annually (annual TB screening not required)
- Clarifies information regarding center-initiated discharges; provides for the center to have a process for participants to appeal discharges

PART VII. PROGRAMS AND SERVICES

Some standards that were previously in this section were moved to Part VI.

- Adds introductory statement about the aim of planning the programs and services
- Adds a list of participants' rights
- Requires each participant's physical and mental health, behavior and attitude to be continually monitored and discussed with the staff, participant and care givers
- Requires specific on-going health care monitoring in many areas including blood pressure, weight, circulation, respiration, skin integrity, nutrition
- Requires the facility to arrange for professional rehabilitative services for participant if needed
- Adds requirements for preventing the spread of disease

- Adds requirements regarding medication management based upon Code of Virginia requirements
- Adds requirements for caring for participants who need assistance with activities of daily living (eating/feeding, ambulation/transfer, toileting, bathing and dressing)
- Expands requirements for planning and implementing activities
- Clarifies and simplifies the requirements for the provision of meals and snacks
- Clarifies and simplifies the requirements for transporting participants
- Adds a section regarding field trips

PART VIII. EMERGENCY PREPAREDNESS (title was Emergencies in existing regulation)

- Requires "current certification" in first aid and CPR rather than "annual renewal"
- Adds new items to the list of things to be included in the first aid kit
- Requires plans for the specific emergencies of: medical and mental health emergencies; wandering and missing participants; building evacuation; severe weather and loss of utilities; and transportation emergencies
- Requires a written record to be maintained of all emergencies
- Requires staff to notify the Department of Social Services in the event of certain emergencies

Issues: Implementing the proposed changes to the regulation should increase the quality of care given to adult day care center participants and maintain or improve their highest levels of functioning. Families and care givers should have increased confidence in the care being given their center participant.

Anticipated regulatory impact:

Projected cost to state - none

Projected cost to localities - none

Most centers that are currently licensed already fully comply with these requirements; therefore, there should be little or no fiscal impact on them. The regulation should have a positive effect on participants and their families.

There are currently 53 licensed adult day care centers in the state. The majority of these have nonprofit sponsorship and are not required by law to be licensed.

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 25 (98). 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 impacts.

Summary of the proposed regulation. This revision of the existing regulations updates the standards for licensed adult day care facilities. The rules establish standards for facilities, staff and operation of the facilities.

Estimated economic impact. The existing rules governing licensed adult day care facilities have been in place since 1987. The standards of care in the industry have changed significantly since that time. In close cooperation with providers in the industry, the Department of Social Services (DSS) has attempted to rewrite the regulations to better reflect standard practices in the industry. According to both DSS and industry representatives, these regulations reflect current best practices and, hence, will not require any significant changes in operation or facilities from those that would occur in the absence of these rules. One advantage of promulgating rules that reflect industry standards is that those in the industry, and those wishing to enter the industry, will have a reliable source for finding the best practices in the industry. It also signals to those seeking care in these facilities that the care will meet reasonable minimum standards.

For the reasons stated, we expect that this proposal will have little impact on behavior but may produce a net economic benefit by providing clear information both to practitioners and clients about standard practices in the industry.

Businesses and entities affected. There are 53 facilities currently licensed for adult day care in Virginia.

Localities particularly affected. This proposal will not have a disproportionate impact on any particular localities in the Commonwealth.

Projected impact on employment. These changes will not have any significant impact on employment in Virginia.

Effects on the use and value of private property. Since these standards reflect best practices already used in the industry, they should not have any impact on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Social Services concurs with the findings of the Department of Planning and Budget.

Summary:

The proposed amendments bring the regulation into compliance with statutory mandates that have been enacted since the regulation was last revised in 1987. Amendments include requirements for criminal record checks for employees, training requirements for

Proposed Regulations

medication aides, and changes to building and fire codes. The proposed amendments also strengthen the requirements regarding the care of current adult day care center participants.

PART I. INTRODUCTION GENERAL PROVISIONS.

Article 1. Definitions.

22 VAC 40-60-10. Definitions.

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

"Administer ~~medicine~~ medication" means to ~~give either the medication container or the prescribed dosage to the person for whom it is prescribed or intended~~ open a container of medicine or to remove the prescribed dosage and to give it to the participant for whom it is prescribed.

Section 54.1-3408 of the Code of Virginia, states that only ~~people~~ persons authorized by state law may administer drugs. People authorized to administer medication include licensed physicians, registered nurses, licensed practical nurses, ~~physicians'~~ physician assistants, and other individuals who meet the requirements of the law. In addition to these persons designated in the by law, a ~~physician may choose to designate, in writing, a person who does not meet the requirements of the law to be his authorized agent. This permits the person to administer medication legally to that physician's designated patients, in accordance with such a physician's instructions~~ person may administer medications who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping, when the drugs administered would be normally self-administered by a program participant in an adult day care center licensed by the Department of Social Services.

"Adult" means any person 18 years of age or older.

"Adult day care center" means "a facility, which is either operated for profit or which desires licensure, ~~for and which provides supplementary care and protection during a part of the day only to four or more aged, infirm or disabled adults which is operated during a part of the day only, which provides supplementary care and protection of individuals who reside elsewhere except (i) a facility or portion of a facility licensed by the State Board of Health or the State Board of Mental Health, Mental Retardation and Substance Abuse Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage." (Chapter 9, § 63.1-172C 63.1-194.1 of the Code of Virginia)~~

"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in

accordance with the requirements of § 54.2983 of the Code of Virginia, or (ii) a witnessed oral statement, made by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in accordance with the provisions of § 54.1-2983 of the Code of Virginia.

"Ambulatory" means the ability of a person who is physically and mentally able to make an exit from a building in an emergency, including the ascent and descent of stairs, without the assistance of another person or without the use of any device such as, but not limited to, a wheelchair, walker or leg prosthesis. ~~The determination of whether a person is ambulatory shall be based on information contained in the report of the physical examination as required by paragraph 5 of subsection B of 22 VAC 40-60-600~~ condition of a participant who is physically and mentally capable of self-preservation by evacuating in response to an emergency to a refuge area as defined by the Uniform Statewide Building Code without the assistance of another person, or from the structure itself without the assistance of another person if there is no such refuge area within the structure, even if such participant may require the assistance of a wheelchair, walker, cane, prosthetic device, or a single verbal command to evacuate.

NOTE: ~~This is not a medical definition, but is related to the placement of elderly and impaired adults in buildings that are appropriate in terms of fire safety.~~

"Care" means assistance with the activities and tasks of daily living provided to participants.

"Character and reputation" means findings have established that knowledgeable and objective people agree that the subject maintains business and professional, family, and community relationships which are characterized by honesty, fairness, truthfulness, and a concern for the well-being of others to the extent that the subject is considered suitable to be entrusted with the health, safety, and welfare of aged, infirm, or disabled adults.

"Commissioner" means the Commissioner of Social Services, also known as the Director of the Virginia Department of Social Services.

"Communicable disease" means a disease that may be transmitted directly or indirectly from one individual to another.

"Contrast" means a significant difference in diversity of adjacent parts by color, tone, or light.

"Department" means the Virginia Department of Social Services.

"Department's representative" means an employee of the Virginia Department of Social Services who is acting as the authorized agent of the commissioner in carrying out the responsibilities and duties specified in Chapter 9, Title 63.1 of the Code of Virginia.

"Director" means the person who has been delegated responsibility for the programmatic and administrative functions of the adult day care day care program.

"Disabled" means the inability to perform some or all of the activities and tasks of daily living due to physical or mental ~~handicaps~~ impairments or injuries.

"Infirm" means the inability to perform some or all of the activities and tasks of daily living ~~due to~~ because of weakness or illness.

"Legal guardian" means an individual who has legal control and management of the person, or the property, or of both the person and the property of the participant. A legal guardian is appointed by a court. A legal guardian of the person is appointed to see that the participant has proper care and supervision in keeping with his needs. A legal guardian of the property is appointed to manage the financial affairs in the best interest of the participant.

"Licensee" means any person, association, partnership, corporation or governmental unit to whom the license is issued.

"Licensed health care professional" means any health care professional currently licensed by the Commonwealth of Virginia to practice within the scope of his profession, such as a clinical social worker, dentist, licensed practical nurse, nurse practitioner, pharmacist, physical therapist, physician, physician assistant, psychologist, registered nurse, and speech-language pathologist.

"Licensed practical nurse" means any individual who holds a current, valid, license from the Commonwealth of Virginia as an L.P.N.

~~"Nonambulatory" means the inability of a person, who because of physical or mental impairment, must be led, assisted, or carried by another person, or who is dependent on the use of a device such as, but not limited to, a walker, wheelchair or leg prosthesis to make an exit from a building in an emergency. The determination of whether a person is nonambulatory shall be based on information contained in the report of the physical examination as required by paragraph 5 of subsection B of 22 VAC 40-60-600 condition of a participant of an adult day care center who by reason of physical or mental impairment is not capable of self-preservation by evacuating in response to an emergency to a refuge area as defined by the Uniform Statewide Building Code without the assistance of another person, or from the structure itself without the assistance of another person if there is no such safe refuge area within the structure.~~

~~NOTE: This is not a medical definition, but is related to the placement of elderly and impaired adults in buildings that are appropriate in terms of fire safety.~~

"Nurse" means any individual who holds a current, valid license from the Commonwealth of Virginia as a licensed practical nurse or as a registered nurse.

"Participant" means an aged, infirm or disabled adult who takes part in the program of care and receives services from the center.

"Personal representative" means the person representing or standing in the place of the resident for the conduct of his

affairs. This may include a guardian, committee, attorney-in-fact under the durable power of attorney, next of kin, descendent, trustee, or other person expressly named by the participant as his agent.

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

"Program director" means the person responsible for programmatic functions and supervision of all staff who work directly with participants.

"Protection" means the intent to prevent harm and to provide oversight of the participant.

~~"Recommended dietary allowances (RDA)" are the levels of intake of essential nutrients considered, in the judgment of the Committee on Dietary Allowances of the Food and Nutrition Board of the National Research Council on the basis of available scientific knowledge, to be adequate to meet the known nutritional needs of practically all healthy persons.~~

~~The RDAs were approved by the governing board of the National Research Council, whose members are drawn from the councils of the National Academy of Sciences, the National Academy of Engineering, and the Institute of Medicine. The members of the committee responsible for the report were chosen for their special competencies and with regard for appropriate balance.~~

~~The study was supported by the National Institute of Health, United States Public Health Service.~~

"Registered nurse" means any individual who holds a current, valid license from the Commonwealth of Virginia as an R.N.

"Respite care" means temporary care given to a person to relieve family members or other caregivers. These standards apply only if respite care is provided during part of the day. If 24-hour respite care is planned or provided for four or more people, the Standards and Regulations for Licensed Homes for Adults *Adult Care Residences* (22 VAC 40-71-10 et seq.) shall apply.

~~"Responsible person" means the person who assumes the responsibility for arranging for care and services for the participant. The responsible person may or may not be the legal guardian for the participant, and may or may not be related to the participant.~~

"Snack" means a light meal or nutritious meal supplement.

"Sponsor" means an individual, partnership, association, or corporation responsible for the operation of an adult ~~day care~~ day care center subject to licensure.

"Staff or staff person" means *compensated* administrative, program, and service, ~~and volunteer~~ personnel including the licensee when the licensee is an individual.

"Standard precautions" means an approach to infection control. According to the concept of standard precautions, all human blood and certain human body fluids are treated as if

Proposed Regulations

known to be infectious for human immunodeficiency virus (HIV), hepatitis B virus, and other blood borne pathogens.

"Supplementary care" means a part of the total care that is required by participants. Supplementary care augments the care that the family or other persons provide. Care provided by an adult ~~day-care~~ day care center is supplementary care.

"Supervision" means the general oversight of the physical and mental well-being of participants.

~~"Volunteer personnel" means persons who work at the center more than four consecutive hours or six total hours a week or who are counted in the staff-to-participant ratio. Volunteer personnel does include individuals who are not paid by the center but who are paid by other organizations.~~

"These standards" means the requirements in this chapter, 22 VAC 40-60-10 et seq., Standards and Regulations for Licensed Adult Day Care Centers.

"Volunteer" means a person who works at the center and:

1. Is not compensated; and
2. Is supervised by a staff member when working with participants.

~~Article 2.
Legal Base.~~

22 VAC 40-60-20. ~~Department authority~~ Legal base.

~~Sections 63.1-172 through 63.1-194 Article 3 (§ 63.1-194.1 et seq.) of Chapter 9 of Title 63.1 of the Code of Virginia describe describes the responsibility of the Department of Social Services for the regulation of residential and day-care programs for adults, including adult day-care day care centers.~~

22 VAC 40-60-30. Board authority.

Section ~~63.1-174~~ 63.1-194.2 of the Code of Virginia requires the State Board of Social Services to prescribe standards for certain activities, services and facilities for adults, including adult ~~day-care~~ day care centers.

~~Article 3.
Purpose.~~

22 VAC 40-60-40. Purpose.

The purpose of the ~~Standards and Regulations for Licensed Adult Day-Care Centers~~ this chapter is to protect aged, infirm, or disabled adults who are away from their homes during a part of the day by:

1. Ensuring that the activities, services, and facilities of adult ~~day-care~~ day care centers are conducive to the well-being of the participants; and
2. Reducing risks in the caregiving environment.

~~Article 4.
Applicability.~~

22 VAC 40-60-50. Applicability.

~~These Standards and Regulations for Licensed Adult Day-Care Centers apply~~ This chapter applies to any facility:

1. That is operated for profit or desires to be licensed; and
2. That provides supplementary care and protection for four or more adults:
 - a. Who are aged, infirm or disabled;
 - b. Who are in care for less than 24 hours per day; and
 - c. Who reside elsewhere.

22 VAC 40-60-60. Facilities not covered.

The following types of facilities are not subject to licensure as an adult ~~day-care~~ day care center:

1. A facility or portion of a facility licensed by the State Board of Health;
2. A facility or portion of a facility licensed by the State Board of Mental Health and Mental Retardation;
3. A home or residence of an individual who provides care only for persons related to him by blood or marriage;
4. A facility or a portion of a facility ~~which is certified that is licensed~~ by the Department of Mental Health, Mental Retardation and Substance Abuse Services, and ~~which that~~ conducts a mental health program where treatment is provided for adults who are experiencing varying degrees of mental health related problems;
5. A facility or a portion of a facility ~~certified licensed~~ by the Department of Mental Health, Mental Retardation and Substance Abuse Services ~~which that~~ conducts a mental retardation program where treatment is provided for mentally retarded or developmentally disabled adults;
6. A facility or a portion of a facility ~~which that~~ conducts programs whose primary purpose is training or employment for physically or mentally impaired adults (e.g., sheltered workshops, etc.); and
7. A facility or a portion of a facility ~~which that~~ conducts a socialization or recreation activity program for adults who do not receive assistance with the activities or tasks of daily living or protective oversight and supervision (e.g., senior centers, etc.).

PART II.
ADMINISTRATION.

~~Article 1.
Sponsorship.~~

22 VAC 40-60-70. ~~Sponsor requirement.~~ (Repealed.)

~~Each center shall have a clearly identified sponsor. An individual, partnership, association, corporation, or governmental unit may operate an adult day-care center.~~

22 VAC 40-60-80. Sponsorship Licensee.

A. When the center is sponsored by an individual proprietorship, the individual is the licensee.

B. When the center is sponsored by a partnership, the partnership shall serve as the licensee and have a written agreement (articles of partnership) ~~which that~~ allows operation and maintenance of an adult ~~day-care~~ *day care* center.

C. When the center is sponsored by an unincorporated association, the association shall have a governing board ~~which that~~ serves as the licensee and have a written constitution or written by-laws ~~which that~~ allows the operation and maintenance of an adult ~~day-care~~ *day care* center.

D. When the center is sponsored by a corporation, the corporation shall have a governing board ~~which that~~ serves as the licensee and have a charter, articles of incorporation or certificate of authority to transact business in the Commonwealth of Virginia, ~~which that~~ specifies that the purpose of the corporation allows operation and maintenance of an adult ~~day-care~~ *day care* center.

E. When the center is sponsored by a public agency, the governmental unit sponsoring the center shall be the licensee.

22 VAC 40-60-90. Requirements of sponsor for licensee.

~~The sponsor, represented by the individual proprietor or by the officers and agents of a partnership, association, or corporation shall be of good character and reputation; and shall not have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.~~

A. *The licensee shall ensure compliance with all regulations for licensed adult day care centers and terms of the license issued by the department; with other relevant federal, state or local laws and regulations; and with the center's own policies.*

B. *The licensee shall meet the following requirements:*

1. *The licensee shall give evidence of financial responsibility.*
2. *The licensee shall be of good character and reputation.*
3. *The licensee shall protect the physical and mental well-being of the participants.*
4. *The licensee shall keep such records and make such reports as required by this chapter for licensed adult day care centers. Such records and reports may be inspected at any reasonable time in order to determine compliance with this chapter.*
5. *The licensee shall meet the qualifications of the administrator if he assumes those duties.*

22 VAC 40-60-100. Posting of the license. (Repealed.)

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

22 VAC 40-60-110. Deceptive representation or advertisement.

An adult ~~day-care~~ *day care* center shall not make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made an advertisement of any sort regarding services or anything so offered to the public, ~~which that~~ contains any promise, assertion, representation, or statement of fact which is untrue, deceptive, or misleading.

~~Article 2.
Operational Responsibilities.~~

22 VAC 40-60-120. Operational responsibilities.

The licensee shall be responsible for the overall planning of the program and services to be provided by the center. The operational responsibilities of the licensee shall include, but not be limited to, the following:

1. To develop a written statement of the purpose and scope of the services to be provided by the center, a description of adults who may be accepted into the program as well as those whom the program cannot serve, and written policies under which the center will operate;

NOTE: This requirement applies only to initial application for licensure unless there is a significant change.

2. To ensure that the center's activities, services, and facilities are maintained in compliance with ~~the Standards and Regulations for Licensed Adult Day Care Centers this chapter~~, with the terms of the current license issued by the department and with other relevant federal, state, or local laws and regulations;
3. To appoint and identify in writing a director to be responsible for the day-to-day operation and management of the center, except when the sponsor is an individual who serves as the director or a partnership in which a partner serves as the director;
4. To provide for an adequate number of qualified staff capable of carrying out the operation of the program;
5. To develop a written organizational chart indicating lines of authority and a staffing plan which includes a staffing schedule;
6. To establish sound policies under which the center shall operate; and
7. To ensure sound financial management of the center.

~~Article 3.
Financial Responsibilities.~~

Proposed Regulations

22 VAC 40-60-130. Financial responsibilities.

~~Section 63.1-176 of the Code of Virginia:~~ With an initial application for licensure, the applicant shall provide the department with the following evidence of financial responsibility:

1. A projected budget detailing income and expenses of the proposed center for the first year of operation;
2. A complete balance sheet showing separately the current assets committed to and current liabilities charged against the proposed center; and
3. Documentation of funds or credit available for the first 90 days of operation.

NOTE: Financial records may be requested pursuant to § ~~63.1-177~~ 63.1-194.7 of the Code of Virginia.

22 VAC 40-60-140. Liability insurance.

The center shall maintain public liability insurance for bodily injury with a minimum limit of at least ~~\$500,000~~ \$1,000,000 for each occurrence or ~~\$500,000~~ \$1,000,000 aggregate. Evidence of insurance coverage shall be made available to the department's representative upon request.

NOTE: Language of specific policies may vary provided that the minimum amount of coverage is met.

Article 4. Record Keeping Responsibilities.

22 VAC 40-60-150. Recordkeeping requirement.

The licensee shall ensure that the center maintains a system of recordkeeping ~~which~~ that complies with these standards.

22 VAC 40-60-180. Consent for disclosure.

If the participant or ~~legal guardian~~ *personal representative* consents in writing, records shall be shared with other facilities or agencies *to coordinate care or* upon referral or discharge.

22 VAC 40-60-190. Record storage.

All records required by these standards for both participants and personnel shall be kept in a locked cabinet or area and retained at the center for ~~one year~~ *five years* after termination of enrollment or termination of employment, unless specified otherwise in ~~these standards~~ *this chapter*.

PART III. PERSONNEL.

Article 1. General Qualifications.

22 VAC 40-60-200. Staff General qualifications.

The following standards shall apply to all staff:

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

~~2. All staff persons shall understand and be sensitive to the varying capabilities, interests, needs, and problems of the individuals in care.~~

~~3. All staff persons shall be:~~

A. All staff members, including the administrator, shall

- ~~a. 1. Be of good character and reputation;~~
- ~~b. 2. Be competent, qualified and capable of carrying out assigned responsibilities;~~
- ~~c. 3. Be willing and able to accept training and supervision;~~
- 4. Be considerate, understanding and respectful of aged and disabled persons;*
- 5. Be clean and well groomed; and*

6. Meet the requirements specified in the Regulation for Criminal Record Checks for Homes for Adults and Adult Day Care Centers (22 VAC 40-90-10 et seq.).

~~d. B. All staff members shall be able to communicate in English effectively both orally and in writing as applicable to the their job responsibility; and responsibilities.~~

~~e. C. All staff members must be able to understand and apply these these standards in the Standards and Regulations for Licensed Adult Day Care Centers which as they relate to their respective responsibilities.~~

D. All staff persons who work directly with participants and who are counted in the staff-to-participant ratio shall be at least 18 years of age.

22 VAC 40-60-210. Staff ratio. (Repealed.)

~~All staff persons who work directly with participants and who are counted in the staff to participant ratio shall be at least 18 years of age.~~

~~EXCEPTION: Paid or volunteer assistants may be between 14 and 18 years of age provided that they are under the immediate supervision of an adult staff person who is present at the center and shall not be left alone with, in charge of, or responsible for a group of participants.~~

Article 2. Personnel Records.

22 VAC 40-60-220. Keeping of records. (Repealed.)

~~Personnel records shall be kept at the center for volunteer personnel who begin work on or after April 1, 1987 and for paid staff.~~

22 VAC 40-60-230. Contents of records. (Repealed.)

~~Personnel records shall include the following:~~

- ~~1. The original application for employment or other written material providing:
 - ~~a. Identifying information including name of staff person, beginning date of employment or volunteering, and job title;~~~~

~~b. Information needed to demonstrate that the individual possesses the qualifications required for the position such as, but not limited to, interviews; observations; references; experience; education related to the position; and description of previous employment.~~

~~2. Written documentation that at least two references as to character and reputation as well as competency were checked with previous employers, if any, and/or other knowledgeable and objective sources prior to employment or volunteering (e.g., letters of reference; notations of telephone reference checks including the name of the person or persons contacted, the date or dates of contact, the firm or firms contacted, and the results);~~

~~3. Documentation and dates of participation in orientation, training and staff development activities; and~~

~~4. Date of termination of employment, when applicable.~~

22 VAC 40-60-235. Employee records and health requirements.

A. A record shall be established for each staff member. It shall not be destroyed until five years after employment is terminated.

B. Personal and social data to be maintained on employees are as follows:

1. Name;
2. Birth date;
3. Current address and telephone number;
4. Position and date employed;
5. Last previous employment;
6. Copies of at least two references or notations of verbal references, obtained prior to employment, reflecting the date of the reference, the source and the content;
7. An original criminal record report and a sworn disclosure statement;
8. Previous experience or training or both;
9. Social Security number;
10. Name and telephone number of person to contact in an emergency;
11. Documentation of attendance of formal training received after employment, including title of course, location, date and number of hours; and
12. Date and reason for termination of employment.

C. The following required health information shall be maintained at the facility for the licensee or administrator or both, each staff member, and each volunteer who comes in contact with participants.

1. Initial tuberculosis examination and report.

a. Each individual shall obtain an evaluation documenting the absence of tuberculosis in a communicable form no earlier than 30 days before or no later than seven days after employment or contact with residents.

b. Each individual shall submit the results of a Mantoux tuberculin skin test, chest x-ray or bacteriological examination, as deemed appropriate by the examining physician, documenting that the individual is free of tuberculosis in a communicable form.

c. The documentation shall include all information contained on the AReport of Tuberculosis Screening" form recommended by the Virginia Department of Health. This documentation shall be maintained at the facility.

d. An evaluation shall not be required for an individual who (i) has separated from employment with a facility licensed/certified by the Commonwealth of Virginia, (ii) has had a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening to the new employer.

2. Subsequent evaluations for tuberculosis.

a. Any individual who comes in contact with a known case of infectious tuberculosis shall be screened as determined appropriate based on consultation with the local health department.

b. Any individual who develops chronic respiratory symptoms of three weeks duration shall be evaluated immediately for the presence of infectious tuberculosis.

c. Any individual not previously reacting significantly to a Mantoux tuberculin skin test shall be retested annually. Annual chest x-rays are not required in the absence of symptoms.

d. Any individual with documented evidence of previously reacting significantly to a Mantoux tuberculin skin test shall be reevaluated annually by a physician or an official of the local health department. Annual chest x-rays are not required nor indicated except as in subdivisions 1 and 2 of this subsection.

3. Any individual suspected of having infectious tuberculosis shall not be allowed to return to work or have any contact with the participants and staff of the center until a physician has determined that the individual is free of infectious tuberculosis.

4. The facility shall report any active case of tuberculosis developed by a staff member to the local health department.

D. At the request of the administrator of the center or the department, a report of examination by a licensed physician

Proposed Regulations

shall be obtained when there are indications that the safety of participants in care may be jeopardized by the physical or mental health of a specific individual.

~~Article 3.
Health Requirements.~~

~~22 VAC 40-60-240. Staff health information. (Repealed.)~~

~~Health information required by these standards shall be maintained for all staff (including the licensee, the director, and volunteer personnel) who come in contact with participants or who handle food.~~

~~A. Initial tuberculosis examination and report.~~

~~1. Each staff person shall obtain an evaluation indicating the absence of tuberculosis in a communicable form within 30 days before or 30 days after employment or contact with program participants.~~

~~EXCEPTION: When a staff person terminates work at one licensed facility and begins working at another licensed facility with a gap in service of six months or less, the previous statement of tuberculosis screening may be transferred to the second facility.~~

~~2. Each staff person shall submit a statement that he is free of tuberculosis in a communicable form. This statement shall be maintained at the center and shall include the following:~~

- ~~a. The type or types of test or tests used and the test result or results;~~
- ~~b. The date of the statement, and~~
- ~~c. The signature of the physician, the physician's designee, or an official of a local health department.~~

~~B. Subsequent evaluations.~~

~~Any staff person who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms shall within 30 days after exposure/development receive an evaluation in accordance with subsection A of 22 VAC 40-60-240.~~

~~22 VAC 40-60-250. Request of examination report. (Repealed.)~~

~~At the request of the licensee or director of the facility or the Department of Social Services, a report of examination by a physician shall be obtained when there are indications that the safety of participants in care may be jeopardized by the physical or mental health of a specific staff person.~~

~~22 VAC 40-60-260. Report affecting performance of duties.~~

~~Any individual who upon examination or as a result of tests shows indication of a physical or mental condition which that may jeopardize the safety of participants in care or which that would prevent performance of duties:~~

- ~~1. Shall be removed immediately from contact with participants and food served to participants; and~~

- ~~2. Shall not be allowed contact with participants or food served to participants until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed, dated statement from the physician.~~

~~22 VAC 40-60-270. Removal of staff.~~

~~Any individual who cannot adequately perform their his duties or who may jeopardize the health or safety of the participants shall be relieved of their his duties and removed from the center.~~

~~Article 4.
Staff Training.~~

~~22 VAC 40-60-280. Orientation and staff training.~~

~~A. Prior to assuming job responsibilities working directly with participants, all staff shall receive training in:~~

- ~~1. Their individual responsibilities in the event of fire, including the location and operation of any fire extinguishers and fire alarm boxes and approved exits;~~
- ~~2. Their individual responsibilities in the event of illness or injuries, including the location and use of the first aid and emergency supplies; and~~
- ~~3. Their individual responsibilities in the event of emergencies, such as a lost or missing participant, severe weather emergencies, etc. and loss of utilities;~~
- ~~4. Standard precautions; and~~
- ~~5. Participant rights.~~

~~22 VAC 40-60-290. Orientation.~~

~~B. Staff who work with participants shall receive training in the following topics no later than one week after starting employment or volunteer work: at least 24 hours of training no later than three weeks after starting employment; part-time staff shall receive the training no later than six weeks after employment.~~

~~C. A supervisor or designated trained staff shall closely oversee the individual's work with participants until training is complete.~~

~~D. The following areas or topics shall be covered in the staff training:~~

- ~~1. The purpose and goals of the adult day-care day care center;~~
- ~~2. The policies of the center as they relate to the staff member's responsibilities and to the responsibilities of other staff members;~~
- ~~3. Procedures for detecting and reporting suspected abuse, neglect, or exploitation of participants to the appropriate local department of social services (§ 63.1-55.3 of the Code of Virginia);~~
- ~~4. Confidential treatment of personal information about participants and their families;~~

~~5. The Standards and Regulations for Licensed Adult Day Care Centers, as they relate to the employee's responsibilities;~~

~~6. Needs of the center's target population (for example, those with dementia, developmental disability, depression);~~

~~7. Individual capabilities and special needs of the elderly, the cognitively impaired adult, or the handicapped, including specific needs of participants in care; and~~

~~8. The specific needs of participants in care, including diagnoses, plans of care, and adjustment issues;~~

~~9. The schedule of activities;~~

~~10. Behavioral interventions, behavior acceptance and accommodation, and behavior management techniques;~~

~~11. Interdisciplinary team approach;~~

~~12. Communication skills;~~

~~13. Review of basic terminology;~~

~~14. Advance directive policies;~~

~~15. How to safely and appropriately help participants perform activities of daily living (ADLs), including good body mechanics;~~

~~16. Risk management; and~~

~~17. The needs of participants' family members or care givers.~~

22 VAC 40-60-300. Staff development.

On an annual basis, employed staff who are primarily responsible for the direct care of the participants shall attend at least eight contact hours of staff development activities which shall consist of in-service training programs, workshops, or conferences related to adult day care or gerontology provided that both subject areas are addressed during the year relevant to the needs of the population in care. These staff development activities shall be in addition to first aid, CPR, or orientation training.

~~Article 5.
Administrative Staff.~~

22 VAC 40-60-310. Administrative staff. (Repealed.)

~~During the center's hours of operation, one adult on the premises shall be in charge of the administration of the center. This person shall be either the director or an adult appointed by the licensee or designated by the director.~~

~~Article 6.
Program Staff.~~

22 VAC 40-60-320. Director.

A. ~~Responsibilities.~~ There shall be one person responsible for the center's program who is present at least 51% of the

center's weekly hours of operation and whose responsibilities shall include, but not be limited to, the following areas:

1. The content of the program offered to the participants in care;

2. Programmatic functions, including orientation, training, and scheduling of all staff who directly supervise participants, whether or not the director personally performs these functions;

3. Management of the supervision provided to all staff who directly supervise participants, whether or not the director individually supervises such staff;

4. Assignment of a sufficient number of qualified staff to meet the participants' needs for:

a. Adequate nutrition;

b. Health supervision and maintenance;

c. Personal care;

d. Socialization, recreation, activities and stimulation;

~~e. Recreation;~~

~~f. Activities and stimulation;~~

~~g. e. Supervision and protection;~~

~~h. f. Safety; and~~

5. The duties and responsibilities required by this chapter.

B. *The director shall meet the following qualifications.*

1. The director shall be at least ~~18~~ 21 years of age.

2. The director shall have completed at least ~~48 semester hours or 72 quarter hours of post secondary education from an accredited college or institution, and shall have completed at least two years of experience working with elderly or handicapped people~~ a bachelor's degree from an accredited college or university and two years of experience working with older adults or persons with disabilities. This may be paid full-time employment, or its equivalent in part-time employment or in, volunteer work, or internship. The following qualifications may be substituted for a bachelor's degree:

a. Current licensure as a nursing home administrator from the Board of Nursing Home Administrators; or

b. Current licensure in Virginia as a registered nurse who meets the experience requirements in subdivision 2 of this subsection.

3. The director shall demonstrate knowledge, skills and abilities in the administration and management of the adult ~~day care~~ day care program including: (i) knowledge and understanding of impaired elderly and ~~handicapped or disabled~~ individuals, (ii) supervisory and interpersonal skills, (iii) ability to plan and implement the program, and (iv) knowledge of financial management

Proposed Regulations

sufficient to ensure program development and continuity.

4. The director shall demonstrate knowledge of supervisory and motivational techniques sufficient to: (i) accomplish day-to-day work; (ii) train, support and develop staff; (iii) plan responsibilities for auxiliary staff to ensure that services are provided to participants.

5. *The director shall complete 24 hours of continuing education annually to maintain and develop skills. This training shall be in addition to first aid, CPR, or orientation training. Documentation of training shall be retained at the facility and shall include title of course, location, date and number of hours.*

22 VAC 40-60-330. Assistant director.

If the director is *not routinely* present in the center ~~less than four hours per day~~ at least 51% of the weekly hours of operation, there shall be an officially designated assistant director who shall meet the qualifications of the director and who shall assume responsibility in the absence of the director.

~~Article 7.
Volunteers and Volunteer Personnel.~~

22 VAC 40-60-340. Definition Volunteers.

~~Volunteers are persons who come to the center less than four consecutive hours or six total hours a week and are not counted in the staff-to-participant ratio. Volunteer personnel are persons who work at the center more than four consecutive hours or six total hours a week or more often or who are counted in the staff-to-participant ratio. Volunteer personnel shall meet all the personnel and health requirements for the applicable position.~~

A. *All volunteers used shall:*

1. *Have qualifications appropriate to the services they render;*
2. *Be subject to laws and regulations governing confidential treatment of personal information; and*
3. *Be at least 13 years of age.*

B. *Duties and responsibilities of all volunteers shall be clearly defined.*

C. *At least one staff member shall be assigned responsibility for overall selection, supervision and orientation of volunteers.*

D. *All volunteers used shall be under the direct supervision of a designated staff person when participants are present.*

E. *Volunteers may be counted in the staff-to-participant ratio if both of the following criteria are met:*

1. *These volunteers meet the qualifications and training requirements for compensated employees; and*

2. *For each volunteer, there shall be at least one compensated employee also counted in the staff-to-participant ratio.*

F. *Criminal history record checks are not required for volunteers.*

22 VAC 40-60-350. Supervision. (Repealed.)

~~All volunteers and volunteer personnel shall be under the individual supervision of a director, assistant director, or designated staff person.~~

22 VAC 40-60-360. Duties. (Repealed.)

~~The duties of volunteers and volunteer personnel shall be clearly defined.~~

PART IV.
SUPERVISION.

Article 1.
General Supervision.

22 VAC 40-60-370. General supervision.

A. *During the center's hours of operation, one adult on the premises shall be in charge of the administration of the center. This person shall be either the director or an adult staff member appointed by the licensee or designated by the director.*

~~There shall be~~ B. *At least two staff persons shall be on duty at the center and on field trips at all times when one or more participants are present. Both of these staff persons must be at least 16 18 years of age and one of them must be an adult at least 21 years of age. During a field trip, a volunteer may substitute for one of the two required staff persons. See 22 VAC 40-60-340 E for use of volunteers as staff.*

Article 2.
Staff-to-Participant Ratio.

22 VAC 40-60-380. Staff-to-participant ratio.

There shall be a minimum of one staff person on duty providing direct care and supervision for every six participants in care, *whether at the center or on field trips.*

~~NOTE: Staff members who are under 18 years of age shall not be counted in the staff-to-participant ratio.~~

22 VAC 40-60-390. Additional staffing.

The number of any additional staff persons required shall depend upon:

1. The program and services the center provides; and
2. The functional ~~level~~ levels of the participants.

PART V.
~~PHYSICAL ENVIRONMENT BUILDINGS AND GROUNDS.~~

22 VAC 40-60-400. Physical environment.

A center must provide an environment ~~which~~ that protects the participants from physical harm but is not so restrictive

as to inhibit physical, intellectual, emotional, or social stimulation.

~~Article 4.
Safety, Health and Comfort.~~

22 VAC 40-60-410. Location of facility.

~~No An adult day-care day care center shall not be located where conditions exist that would be hazardous to the physical health and safety of participants.~~

22 VAC 40-60-420. Building construction and maintenance Approval from other agencies; requirements prior to initial licensure.

~~A. If space used or planned for use by the center is renovated or altered, the plans shall be submitted to the department for review prior to the expected change.~~

~~B. Prior to beginning operation and prior to use of newly constructed, renovated, remodeled, or altered buildings or sections of buildings, written documentation of the following shall be provided: Before issuance of the first license and before use of newly constructed, renovated, remodeled, or altered buildings or sections of buildings, written documentation of the following shall be provided by the applicant or licensee to the licensing representative:~~

~~1. Inspection and approval of the building or buildings from the local building official or the Office of the State Fire Marshal, whichever is applicable, or approval of a plan of correction; Approval from the appropriate authority that each building is in compliance with building and fire codes, or that a plan of correction has been approved; and~~

~~2. Inspection and Approval from the local health department, or approval of a plan of correction related to, for meeting the requirements for:~~

- ~~a. Sanitation and health;~~
- ~~b. a. Water supply;~~
- ~~e. Sewerage b. Sewage disposal system; and~~
- ~~d. c. Food service, if applicable.~~

~~3. Inspection and approval from the local fire department that the center is free from fire hazards or approval of a plan of correction.~~

~~C. At the time of a renewal application, written documentation of annual approval, or approval of a plan of correction, shall be provided from:~~

- ~~1. The office of the State Fire Marshal, if applicable;~~
- ~~2. The local health department; and~~
- ~~3. The local fire department.~~

~~D. The buildings shall be free from safety hazards.~~

22 VAC 40-60-425. Approval from other agencies; requirements subsequent to initial licensure.

A. An annual fire inspection report shall be provided, or approval of a plan of correction, to the licensing representative from the appropriate fire official.

B. Annual approval from the local health department shall be provided, or approval of a plan of correction, for meeting requirements for:

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

22 VAC 40-60-430. Special requirements for nonambulatory or physically handicapped impaired individuals.

A. If the center is licensed for nonambulatory participants, at least one separate entrance shall be ramped, wheelchair-accessible, or at ground level, with no steps, so that participants can evacuate safely in the event of fire or emergency.

B. Doorways and passageways shall be wide enough to accommodate wheelchairs and walkers, before any participant who uses a wheelchair or a walker is accepted for care.

22 VAC 40-60-440. Maintenance of buildings and grounds.

A. The buildings and grounds shall be well maintained and free from safety hazards.

B. An area shall be available and accessible so that participants shall have opportunities for supervised outdoor activities. The area shall be equipped with appropriate seasonal outdoor furniture.

C. A safe area for discharge and pick-up shall be available to accommodate daily arrival and departure of participants.

D. Adequate outdoor lighting shall be provided to ensure safe ambulation and loading and unloading of participants upon arrival and departure if the center operates during hours of dim light or darkness.

E. Grounds shall be properly maintained to include mowing of grass and removal of snow and ice.

F. All interior and exterior stairways and ramps shall have a nonslip surface or carpet. If carpet or other covering is used, it shall be secured to the stairways or ramps.

G. Sturdy handrails shall be provided on all stairways, ramps, elevators, and at all changes in floor level.

H. All interior and exterior stairways, changes in floor level, and ramps shall be indicated by a warning strip or contrast in color to aid participants who have impaired vision.

Proposed Regulations

22 VAC 40-60-450. Sanitation.

~~A. Cleanliness of~~ The facility and all of its furnishings and equipment, *inside and out*, shall be ~~properly clean and maintained in good repair and in safe condition.~~

~~B. Adequate provisions for the collection and legal disposal of garbage, ashes and waste material shall be made.~~

- ~~1. Covered, vermin-proof, watertight containers shall be used outdoors.~~
- ~~2. Outdoor containers shall be emptied once a week and kept clean.~~
- ~~3. Indoor wastebaskets shall be emptied daily.~~

~~B. C. The facility shall be free from insects, rodents, and other pests. The grounds shall be kept free of their breeding places.~~

~~D. Cleaning products, pesticides, and all poisonous or harmful materials shall be stored separately from food and shall be kept in a locked place when not in use.~~

~~C. E. Adequate kitchen facilities and equipment shall be provided for preparation and serving of meals and snacks or for the catering of meals.~~

~~D. F. Sufficient working refrigeration shall be available to store perishable food and medicine.~~

~~E. G. Drinking water shall be available at all times.~~

~~F. H. Drinking fountains, if used, shall be of a type approved by the local health department.~~

~~G. I. Individual disposable cups shall be provided for drinking water when fountains are not used.~~

~~H. J. If disposable dishes, cups or utensils, or both, are used, they shall be sturdy enough to prevent them from being a safety hazard. They shall be used once and then discarded.~~

~~K. All sheets and pillow cases shall be laundered before being used by another person.~~

~~L. All blankets, spreads, and coverings shall be laundered or dry cleaned, as needed.~~

22 VAC 40-60-460. Lighting.

A. All areas of the facility shall be well lighted for the safety and comfort of the participants during all hours of operation according to the nature of activities.

NOTE: Special lighting requirements relating to medications are under subdivision 3 of subsection C of ~~22 VAC 40-60-620~~ 22 VAC 40-60-298 D 3 b.

B. Artificial lighting shall be by electricity ~~or battery.~~

C. Emergency lighting.

1. Flashlights or battery lanterns in working order shall be available at all times.
2. Open flame lighting is prohibited.

~~C. D. Additional lighting, as necessary to provide and ensure presence of contrast, shall be available for immediate use in areas that may present safety hazards, such as but not limited to stairways, doorways, passageways, changes in floor level, kitchens, bathrooms and basements.~~

~~D. E. Hallways, stairwells, foyers, doorways, and exits utilized~~ used by participants shall be kept well lighted at all times ~~when~~ participants are present in the building or buildings. Whenever natural light is not sufficient, artificial lighting shall be used.

~~E. F. Glare shall be kept at a minimum in rooms used by participants.~~

1. When necessary to reduce glare, windows shall be equipped with shades, curtains or other coverings.
2. All lights, including fluorescent lights, shall be covered with shades or protective fixtures or specially equipped to reduce glare and ensure protection.

~~F. G. If used, fluorescent lights shall be replaced if they flicker or make noise.~~

~~G. H. All sources of light including windows, light fixtures, bulbs, etc., shall be kept clean.~~

22 VAC 40-60-470. ~~Temperature and Heating, ventilation, and cooling.~~

~~A. Heat shall be supplied from a central heating plant or by an approved electrical heating system.~~

~~A. B. Areas used by participants shall be well ventilated to the outside and dry.~~

~~B. C. The temperature of the rooms used by participants shall be maintained at a level safe and suitable for elderly, disabled, and impaired adults:~~

1. The minimum inside temperature shall be ~~68F~~ 70°F. *This standard applies unless otherwise mandated by federal or state authorities.*
2. ~~There shall be~~ Fans or air conditioners, or both, shall be available. ~~These shall be~~ and used when the inside temperature exceeds 84°F.
3. ~~Each day care center shall have at least one portable thermometer to assure correct temperature.~~
4. 3. Fans and air conditioners shall be placed to avoid direct drafts on participants and to ~~avoid~~ prevent safety hazards.
4. *When air conditioners are not provided, the facility shall develop and implement a plan to protect participants from heat-related illnesses.*
5. *At least one movable thermometer shall be available in each building for measuring temperatures in individual rooms that do not have a fixed thermostat that shows the temperature in the room.*

22 VAC 40-60-480. Equipment and materials. (Repealed.)

~~A. All furniture and equipment inside and outside the center shall be maintained in good repair and in safe condition.~~

~~B. Cleaning products, pesticides, and all poisonous or harmful materials shall be stored separately from food and shall be kept in a locked place when not in use.~~

~~C. If elevators are used, the following requirements shall be met:~~

- ~~1. They shall be kept in safe running condition.~~
- ~~2. They shall have sturdy handrails installed.~~
- ~~3. They shall be inspected at least annually by the insurance company, the local housing authority, or the elevator company.~~
- ~~4. A copy of the inspection report shall be retained by the center.~~
- ~~5. If elevators are used, an alternative exit shall be accessible for use in case of a fire and other emergencies.~~

~~D. Sturdy handrails shall be installed at all stairs, ramps, and changes in floor levels.~~

~~E. All interior and exterior stairways and ramps shall have nonslip surfaces or carpet. If carpet or covering is used, it shall be secured to the stairways or ramps.~~

~~F. All interior and exterior stairways, changes of floor level, and ramps shall be indicated by a warning strip or contrast in color to aid the participants who have impaired vision.~~

~~G. Floors shall not be slippery. If rugs or floor coverings are used, they shall be secured to the floor.~~

~~Article 2.
Space, Furnishings, and Supplies.~~

22 VAC 40-60-490. Activity General areas.

A. ~~The~~ Any center licensed after (the effective date of this chapter) shall provide at least ~~40~~ 50 square feet of indoor floor space for each participant, in addition to hallways, office space, bathrooms, storage space, or other rooms or areas that are not normally used for program activities.

B. There shall be sufficient and suitable space for planned program activities; that may be interchangeable or adaptable for a variety of activities *including meals*.

1. There shall be at least one room with sufficient space for the participants to gather together for large group activities.
2. There shall be rooms or areas appropriate for small group activities and individual activities.

C. Furnishings.

1. The furniture shall be sturdy, safe, and appropriate for elderly and impaired adults.

2. All centers shall have:

- a. At least one chair for each participant and each staff person, excluding any people who remain in wheelchairs throughout the day;
- b. Table space adequate for all participants to take part in activities at the same time; and
- c. Recliners, lounge chairs, rockers, or other seating to allow participants to relax and rest.

22 VAC 40-60-510. Bathroom Restroom facilities.

A. In any center licensed after (the effective date of this chapter), there shall be a minimum of one toilet that is suitable to accommodate a participant who needs human assistance or specialized equipment available for every 10 participants in attendance.

~~B. If 10 or fewer participants are in attendance, there shall be at least one bathroom or toilet stall large enough to accommodate a participant who needs personal assistance or who uses a walker or wheelchair.~~

~~C. B.~~ If more than 10 participants are in attendance:

- ~~1. There shall be separate bathrooms for men and women to allow for privacy; and~~
- ~~2. At least one bathroom or toilet stall for men and another bathroom or toilet stall for women shall be large enough to accommodate a participant who may need personal assistance or who uses a walker or wheelchair, if the center is licensed for nonambulatory participants.~~

~~D. In bathrooms equipped with more than one toilet, each toilet shall be enclosed for privacy.~~

- ~~1. Restrooms equipped with more than one toilet shall have each toilet enclosed.~~
- ~~2. Restrooms that are equipped with only one toilet can be used by either men or women.~~
- ~~3. Restrooms that are equipped with multiple stalls must be designated for men or for women.~~

~~C. In any center licensed after (the effective date of this chapter), each restroom having multiple stalls shall have at least one toilet that is suitable to accommodate a participant who needs human assistance or specialized equipment.~~

~~E. D.~~ Sturdy grab bars or safety frames shall be installed beside all toilets used by participants.

~~F. E.~~ There shall be a minimum of one sink for every two toilets, with heated and cold running water, and the sinks shall be located close enough together to ensure to toilets to encourage washing of hands after each toileting procedure.

~~F. There shall be an ample supply of hot and cold running water from an approved source available to the participants at all times.~~

~~G. Hot water at taps available to participants shall be maintained within a range of 105° to 120°F.~~

Proposed Regulations

~~G. H.~~ There shall be an adequate supply of toilet tissue, soap, and disposable hand towels and *disposable gloves* in each ~~bathroom~~ *restroom* at all times.

I. If bathing facilities are provided there shall be:

1. Handrails by bathtubs,
2. Handrails in stall showers, and
3. Stools by stall showers.

22 VAC 40-60-520. Dining area.

~~A. The dining area shall be large enough to provide sufficient table space and chair space to accommodate the participants. However, participants may eat in shifts. Dining areas shall have a sufficient number of sturdy tables and chairs to serve all residents, either all at one time or in shifts.~~

B. If the center is licensed for nonambulatory participants, the dining area shall be large enough to provide sufficient table space and floor space to accommodate participants in wheelchairs.

22 VAC 40-60-530. Storage. (Repealed.)

~~A. Sufficient space shall be provided for coats, sweaters, umbrellas, toilet articles, and similar personal possessions of participants and staff.~~

~~B. Sufficient space shall be available for equipment, materials, and supplies used in the program.~~

22 VAC 40-60-540. Telephones. (Repealed.)

~~A. At least one operable, nonpay telephone shall be provided in each building.~~

~~B. The telephone shall be easily accessible. If the center is licensed for nonambulatory participants, the telephone shall be of a height accessible to a person in a wheelchair.~~

22 VAC 40-60-550. Rest area.

A. A separate room or area shall be available for participants who become ill, need to rest, or need to have privacy. ~~A.~~ The separate room or area shall be equipped with one bed ~~or~~, comfortable cot *or recliner* for every 12 participants.

B. Additional beds ~~or~~, comfortable cots *or recliners* shall be available to accommodate all participants who are scheduled for rest periods, ~~provided at least one cot is not scheduled for use.~~ **EXCEPTION:** In centers that are open for evening or night care, beds shall be available for participants ~~as necessary who need them.~~

C. A minimum of one pillow covered with a pillow case, two sheets and one blanket, spread or covering per bed or cot shall be provided.

D. Additional covering or blankets and pillows shall be ~~added as required~~ *available as necessary for recliners.*

~~E. All sheets and pillow cases shall be laundered before being used by another person.~~

~~F. All blankets, spreads, and coverings shall be laundered or dry cleaned, as needed.~~

22 VAC 40-60-554. Storage.

A. Sufficient space shall be provided to store coats, sweaters, umbrellas, toilet articles, and similar personal possessions of participants and staff.

B. Sufficient space shall be available for equipment, materials, and supplies used in the program.

22 VAC 40-60-556. Telephones.

A. Each building shall have at least one operable, nonpay telephone easily accessible to staff. There shall be additional telephones or extensions as may be needed to summon help in an emergency, including one that will operate during power outages.

B. Participants shall have reasonable access to a nonpay telephone on the premises.

C. Privacy shall be provided for participants to use the telephone.

PART VI.

PROGRAMS AND SERVICES ADMISSION, RETENTION AND DISCHARGE.

Article 1.

Admission policies and Procedures.

22 VAC 40-60-560. Admission and assessment policies.

~~A. Admission policies.~~

~~1. A.~~ The adult day-care *day care* center shall have written admission policies consistent with the program statement *required in 22 VAC 40-60-120.*

~~2. B.~~ The admission policies shall *include admission criteria that shall be discussed with each person entering the program, as well as with any family member or any other person who enrolls the participant his family members, or personal representative, as appropriate.* A copy of the admission policies shall be available upon request for each of these people.

~~3. C.~~ Only those people whose needs can be met by the ~~center's program~~ *persons who meet the admission criteria* shall be admitted to the center.

~~4. D.~~ All participants shall be 18 years of age or older.

~~B. Assessment policies.~~

22 VAC 40-60-564. Assessment procedures.

~~1. A.~~ The center staff shall be responsible for conducting or securing a written assessment of an applicant prior to admission.

~~2. B.~~ The assessment shall be based upon the information presented by the applicant, family members, friends ~~or~~ *responsible person, personal representative,* and the report of ~~any~~ *the required* physical examination *and from other care providers.*

~~3.~~ C. The assessment shall be used to identify the person's ~~strengths~~ *abilities* and needs to determine if and how the program can serve the participant.

4. D. The assessment shall include at minimum a description of the participant's:

~~a.~~ ~~Physical~~ 1. *Medical and functional* condition, including:

~~(1)~~ a. Ambulatory ability,

~~(2)~~ b. Ability to perform activities of daily living, such as eating and toileting,

~~b.~~ ~~Social situation, including living arrangements and the availability of family, friends, and other people and organizations in the community to provide services to the participant;~~

~~c.~~ *Health status.*

~~e.~~ 2. Mental status, including any intellectual impairment and known psychiatric or emotional problems; ~~and,~~

3. *Social situation, including living arrangements and the availability of family, friends, and other people and organizations in the community to provide services to the participant, and*

~~d.~~ 4. Economic conditions, ~~to enable the director to plan appropriate activities and to make appropriate referrals to other organizations.~~

~~5.~~ E. The initial assessment shall be reviewed and updated on a scheduled basis, but at least ~~annually~~ *every six months*. This reassessment shall be in writing.

~~6.~~ F. A reassessment shall also be made and documented in writing when there are changes to indicate that a participant's needs may no longer be met by the current plan of care.

22 VAC 40-60-570. Plan of care for each participant.

A. Prior to admission, a ~~beginning or preliminary multi-disciplinary~~ plan of care, based upon the assessment, shall be developed in writing for each participant. *The participant and responsible family members shall have opportunity for input.* The plan shall be updated and completed within 30 days of admission.

B. The plan shall be designed to *maintain or improve the functional capabilities of the participant when possible, or to prevent further deterioration participant's highest level of functional ability.* The plan shall include:

1. A description of the participant's needs;

~~2. The activities and services in which the person will participate in order to meet those needs;~~

~~3. Realistic goals for the participant, when appropriate, and suggestions for family members to work toward while the participant is in the program; and~~

2. *Realistic goals to meet those needs;*

3. *The activities and services to meet those goals and who will provide them; and*

4. If appropriate, the time by which the goals should be achieved.

C. The written plan of care and personal information shall be reviewed and updated ~~on a scheduled basis as needed, but as significant changes occur and~~ at least ~~annually~~ *every six months*. The revised plan of care shall be in writing.

D. The revised plan shall conform to the requirements of the initial plan as specified in subsection B of ~~22 VAC 40-60-570~~ *this section*.

22 VAC 40-60-580. Agreement.

A. There shall be a written agreement between the participant and the center. The agreement shall be signed by the participant or ~~legal guardian~~ *personal representative* and the center representative.

B. The agreement shall specify the services to be provided by the center; conditions for dismissal or discharge; and financial arrangements. ~~EXCEPTION:~~ For some participants, the agreement need not specify financial arrangements provided ~~that~~ the financial arrangements are made, signed for, and handled by ~~the legal guardian or responsible person~~ *a personal representative*.

C. A copy of the agreement (~~or appropriate portion of the agreement~~) shall be given to the participant; ~~a full copy shall be given or to the legal guardian or responsible person, if applicable;~~ *personal representative, as appropriate,* and a copy shall be kept at the center.

D. The agreement shall be reviewed and updated whenever there is any change in the services or the financial arrangements.

22 VAC 40-60-590. ~~Personal information for each Participant record.~~

~~A. An individual record containing all information, reports, and documents required by this chapter, and other information relevant to the plan of care, shall be kept for each participant.~~

~~A. B. The following personal information shall be kept current for all participants, to be used for the initial and ongoing assessments and plans of care, as well as in the event of an emergency each participant.~~

1. Full name of participant, address, and telephone number;

2. Names, addresses, and telephone numbers of at least two family members, friends, or other designated people to be contacted in the event of illness or an emergency; ~~and~~

3. Names, addresses, and telephone numbers of the participant's *local primary care provider*, personal physician, any ~~clinics where the participant receives treatment,~~ *other health or social service provider* and the name of the preferred hospital in the event of an

Proposed Regulations

~~emergency, and the local social service case worker if the Department of Social Services is involved in the placement;~~

4. *Information regarding advance directives, if applicable; and*

5. *A current photograph or written description of the participant.*

~~B. Individual records shall be kept for participants containing all information, reports, and documents required by these standards and regulations.~~

22 VAC 40-60-600. Physical examinations/medical information at admission.

A. Screening for tuberculosis and a physical examination by or under the direction of a licensed physician shall be obtained either within 30 days prior to acceptance for admission or within 30 days prior to admission.

B. The report of the required physical examination shall include:

1. The date of the physical examination;
2. All diagnoses ~~or~~ *and* significant medical problems, ~~or both;~~
3. Any special requirements and all recommendations for care including:
 - a. A list of *all* medications including dosages, route, and ~~times medications are to be administered, frequency of administration;~~
 - b. Any special diet, *or any food intolerances;*
 - c. Any allergies ~~or any food intolerance, or both, such as, but not limited to, medication allergies, food allergies, animal allergies;~~
 - d. Any therapy, *treatments or procedures* the individual ~~is~~ *is* undergoing or should receive, *and by whom;* and
 - e. Any restrictions or limitations on physical activities or program participation;
4. A statement that the individual is or is not capable of administering his own medications without assistance;
5. A statement that the individual is or is not physically and mentally ~~able to make an exit from the building in an emergency without the assistance of another person or without the use of a device such as, but not limited to, a wheelchair, walker or leg prosthesis. (This does not apply to a participant admitted to a licensed center prior to April 1, 1987. A participant transferred to another licensed center or admitted on or after April 1, 1987 must meet the standard.);~~ *capable of self-preservation by being able to respond in an emergency, either to an area of safe refuge or from the building, without the assistance of another person, even if he may require the assistance of a wheelchair, walker, cane, prosthetic device, or a single verbal command.*

6. A statement that the individual does not have tuberculosis in a communicable form, including the type ~~or types and of test or tests used for tuberculosis and the results;~~ *and. This information shall include the results of a Mantoux tuberculin skin test, chest x-ray, or bacteriological examination as deemed appropriate by a physician to rule out tuberculosis in a communicable form. Documentation is required, which includes the information contained on the form recommended by the Virginia Department of Health.*

7. The signature of a licensed physician, the physician's designee, or an official of a local health department.

Article 2. Health Care.

22 VAC 40-60-610. Medical reports after admission.

~~A. Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms shall, within 30 days after exposure or development, receive an evaluation in accordance with 22 VAC 40-60-600.~~

A. *Subsequent medical evaluations.*

1. *Each participant shall annually submit a report of physical examination by a physician including the information required in subdivisions B 1 through 5 and B 7 of 22 VAC 40-60-600 (annual screening for tuberculosis is not required for participants).*

~~B. 2. At the request of the licensee or director of the facility or the Department of Social Services, a report of examination by a physician shall be obtained when there are indications that the day-care day care center can no longer provide appropriate or safe care because of changes in the participant's physical or mental health. 4- The written report of the physical examination shall be:~~

- a. Dated.
- ~~2. The written report of the physical examination shall be~~ b. Signed by a physician, the physician's designee, or an official of a local health department.
- ~~3. The report of the physical examination shall be~~ c. Used in evaluating the participant's continued suitability for adult ~~day care day care.~~

~~C. 3. All medical reports shall be kept at the center where the participant is served.~~

B. *Subsequent evaluations for tuberculosis.*

1. *Any individual who comes in contact with a known case of infectious tuberculosis shall be screened as deemed appropriate in consultation with the local health department.*
2. *Any individual who develops respiratory symptoms of three or more weeks' duration shall be evaluated immediately for the presence of infectious tuberculosis.*

3. If an individual develops an active case of tuberculosis, the center shall report this information to the local health department.

22 VAC 40-60-620. Medication management. (Repealed.)

A. Prescription medication shall be in the original container with the prescription label affixed.

B. Unless it is contrary to the day care center's policy, participants may keep and take their own medication provided that:

1. Their physicians have deemed them capable of administering medication to themselves, and

2. The center ensures that other participants do not have access to any participant's medication.

C. If there are any participants whose physicians have deemed them incapable of administering medication to themselves, or if the day care center chooses to administer all medication, the following standards apply:

1. The medication shall be kept in a locked compartment or area.

2. The medication shall be kept in a darkened area, free from dampness and high temperatures, and refrigerated if required.

3. The area in which the medication is administered shall have sufficient light so that the labels can be accurately read and the correct dosage can be clearly determined.

4. Each staff person who administers the medication shall be authorized by § 43-524.65 of the Code of Virginia, or by written authorization of the participant's physician. A copy of all physician's authorizations shall be kept in the participant's record so long as they are in effect.

5. A written record shall be kept of all medication administered to the participants while at the day care center. This record shall be retained at the center for one year and shall include:

- a. Date,
- b. Name of participant,
- c. Name of drug or drugs or prescription number,
- d. Time administered,
- e. Name of person administering, and
- f. Any adverse or unusual reaction that occurs.

22 VAC 40-60-630. Health care supervision. (Repealed.)

A. Changes in a participant's physical or mental health, behavior, attitude, or other significant changes, shall be discussed with the participant, family, physician or clinic, or other responsible person as appropriate. A written notation in the participant's record shall document the change and the person to whom it was reported.

B. If a participant suffers an illness or accident requiring medical attention:

1. The center shall ensure that the participant receives immediate access to medical attention,

2. The family or other responsible person and the participant's personal physician shall be notified immediately, and

3. The notification shall be documented in the participant's record along with the details of the incident and action taken.

22 VAC 40-60-640. Health care needs. (Repealed.)

A. If center staff identify a need for health care services, this need shall be discussed with the participant, family members, or other responsible persons as appropriate. The discussion shall be documented in the participant's record and included in the update of the plan of care.

B. In the event that the center provided health care services to meet these needs, the provider of health care shall be licensed, certified, or registered, as required by law.

22 VAC 40-60-650. Ill participants. (Repealed.)

A. A participant who is apparently ill shall not enter the adult day care center without written approval from a physician.

B. If a participant becomes ill during the day:

1. He shall be separated from all other participants in care;

2. The responsible person shall be notified immediately in order that the participant may be returned home, if necessary; and

3. The ill participant shall be checked at least every 15 minutes until he leaves the center.

Article 3.
Discharge Policies.

22 VAC 40-60-670. Participant involvement. (Repealed.)

Unless clearly impossible, the participant shall be informed of and participate in discharge planning.

22 VAC 40-60-680. Center initiated discharge.

In the event that A. When the center initiates the discharge, the a written plan of discharge notice shall identify the reasons for discharge and outline the services needed by the participant upon discharge. The plan discharge notice shall be discussed with the participant and family members or other responsible persons personal representative whenever possible. Although primary responsibility for the location and delivery of these services falls upon the participant and family members or other responsible people personal representative, adult day care day care staff shall assist, when possible.

Proposed Regulations

B. The center shall notify the participant and family members or personal representative at least 14 calendar days prior to the actual discharge date.

C. When a participant's condition presents an immediate and serious risk to the health, safety or welfare of the participant or others and immediate discharge is necessary, the 14-day notification of planned discharge does not apply.

D. The center shall have a process by which participants, family members or personal representatives can appeal a center-initiated discharge.

22 VAC 40-60-690. Non-center initiated discharge.

~~If requested by~~ When the participant or ~~responsible person,~~ a family member or personal representative initiates the discharge, adult ~~day-care~~ day care staff shall offer to assist the participant with the transition from adult ~~day-care~~ day care to other appropriate programs or services, such as counseling or arranging a visit to the other program or preparing a transfer report for the new program.

~~Article 4. Program of Care.~~

~~PART VII. PROGRAMS AND SERVICES.~~

22 VAC 40-60-691. Goals of programs and services.

Programs and services shall be designed to:

1. Keep participants active, within the limitations permitted by physicians' orders.
2. Encourage participants to maintain maximal independence in the activities of daily living.
3. Assist participants to adjust to their disabilities and to redirect their interests if they are no longer able to maintain involvement in past activities.

22 VAC 40-60-692. Rights of participants.

A. The participant shall be treated as an adult with consideration, respect and dignity, including privacy in treatment and in care for personal needs.

B. The participant shall be encouraged and supported to maintain the highest level of personal and functional independence that conditions and circumstances permit.

C. The participant shall be encouraged to participate in planning for his care, in program planning, and in deciding to participate in a given activity, to the extent possible.

D. The participant shall be involved in a program of services designed to promote a positive attitude about his usefulness and capabilities, and designed to encourage learning, growth, and awareness of constructive ways to develop talents and interests.

E. The participant shall be cared for in an atmosphere of sincere interest and concern in which needed support and services are provided.

F. The privacy and confidentiality of each participant shall be fully respected.

G. The participant shall not be abused, exploited, punished, coerced or threatened in any way.

H. The participant shall be protected from solicitation, harassment and unwanted visitors.

I. Services provided shall meet acceptable standards of care. There shall be a good faith effort to provide care according to the plan of care. Satisfaction with care shall be routinely checked and concerns addressed.

J. The participant shall have the right to voice grievances about care or treatment without discrimination or reprisal.

22 VAC 40-60-694. Health care supervision.

Each participant's physical and mental health, behavior and attitude shall be continually monitored and significant changes discussed with the staff, the participant, family members, physician or clinic, or personal representative, as appropriate. A written notification in the participant's record shall document the change and the persons to whom it was reported.

22 VAC 40-60-695. Health care services.

A. A program of health care monitoring shall be in place to assess the participant's health status and to maintain functional abilities. Health care monitoring shall be on-going and shall include, but not be limited to:

1. Blood pressure;
2. Weight;
3. Hydration;
4. Circulation;
5. Respiration;
6. Positioning;
7. Skin integrity;
8. Nutritional status;
9. Elimination; and
10. Sensory capabilities.

B. When center staff identify the need for additional health care services or referral to other providers, this need shall be discussed with the participant, family members, or personal representative, as appropriate. The discussion shall be documented in the participant's record and included in the update of the plan of care.

C. In the event the center provides skilled health care services to meet the needs of the participant, the provider of health care shall be licensed, certified or registered as required by law.

D. Facilities shall arrange for specialized rehabilitative services by qualified personnel as needed by the participant.

Rehabilitative services include physical therapy, occupational therapy and speech-language pathology services. Rehabilitative services may be indicated when the participant has lost or has shown a change in his ability to respond or to perform a given task and requires professional rehabilitative services in an effort to regain lost function. Rehabilitative services may also be indicated to evaluate the appropriateness and individual response to use of assistive technology.

E. All rehabilitative services rendered by a rehabilitative professional shall be performed only upon written medical referral by a physician or other health care professional.

22 VAC 40-60-697. Preventing the spread of disease.

A. If a participant arrives at the center with the signs and symptoms listed in subsection B of this section, the participant shall not be allowed to attend until the symptoms no longer exist.

B. The participant shall be excluded if he has:

1. A temperature over 100°F;
2. Recurrent vomiting or diarrhea;
3. An upper respiratory infection; or
4. Any other communicable disease.

C. If a participant develops signs or symptoms listed in subsection B of this section during the day, the following shall apply:

1. He shall be separated from all other participants in care;
2. The appropriate family member or personal representative shall be notified immediately in order to make arrangements for the participant to leave the center as soon as possible;
3. The ill participant shall be checked every 15 minutes, or more often if circumstances indicate, until he leaves the center; and
4. The details of the illness and action taken shall be documented in the participant's record.

D. When a participant at the center has been exposed to a communicable disease, the family or personal representative shall be informed unless forbidden by law.

E. If a participant requires emergency care or leaves the center with a communicable disease, a written statement of health status from the participant's health care provider may be required before the participant can return to the center.

F. The center shall have a plan to implement the procedures of standard precautions.

G. Staff and participants shall wash their hands before eating, after toileting or assisting with toileting, and after contact with any body fluids.

22 VAC 40-60-698. Medication management.

A. The center shall have a written policy for medication management. The center's medication policies shall address methods of administering medication and shall include:

1. Any general restrictions of the center;
2. Duration of the authorization for the medication;
3. Methods to prevent the use of outdated medication;
4. Methods to maintain an adequate supply of medication; and
5. A plan for proper disposal of medication.

B. Prescription and nonprescription medications, including physician's samples, shall be given to a participant according to the center's written medication policies and only with written or verbal authorization from the physician or prescriber, or the physician's authorized agent. For the purposes of this section, an "authorized agent" means an employee of the physician who is under his immediate and personal supervision. Verbal orders shall be reviewed and signed by the physician or prescriber within 10 working days.

C. The center shall maintain a list of all medications, including those taken at home and at the center, for each participant. The center shall attempt to verify and update the list of center-administered medications with the prescribing health care professional at least twice a year. Unsuccessful attempts to verify shall be documented.

D. The following standards shall apply when medications are administered to participants at the adult day care center:

1. All medication shall be in the original container with the prescription label or direction label attached and legible. Sample medications shall be in the original packaging and labeled with the name and strength of the medication.
2. All medication shall be labeled with the participant's name, the name of the medication, the strength and dosage amount, and the frequency of administration.
3. The medication shall be kept in a locked compartment or area, not accessible to participants. The locked compartment or area shall be free from direct sunlight and high temperatures, free from dampness, and shall remain darkened when closed.
4. The area in which the medication is prepared shall have sufficient light so that the labels can be read accurately and the correct dosage can be clearly determined.
5. Medication shall be refrigerated, if required. When medication is stored in a refrigerator used for food, the medications shall be stored together in a locked container in a clearly defined area. If a refrigerator is used for medication only, it is permissible to store dietary supplements and foods and liquids used for medication administration.

Proposed Regulations

6. Unless it is contrary to the day care center's policy, a participant may take his own medication provided that:

- a. A physician has deemed the participant capable of administering medication to himself;
- b. The physician has given written authorization for the participant to self-administer medication to himself; and
- c. Medications are stored in a locked area or compartment and provided to the participant by staff upon request.

7. When the center staff administers medications to participants, the following standards shall apply:

a. Each staff person who administers medication shall be authorized by § 43-542.65 of the Code of Virginia or by § 54.1-3408 A of the Virginia Drug Control Act. All staff responsible for medication administration shall successfully complete a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications. The certificate of the medication training program shall be renewed every three years.

b. All medications shall be removed from the pharmacy container and be administered by the same authorized person within one hour of the prescribed time. Once medications have been removed from the pharmacy container, the medication must be given within one-half hour and shall be kept in a locked area until given.

c. A copy of all physician's authorizations for administering medications shall be kept in the participant's record.

d. Documentation shall be maintained of all medications, including prescription, nonprescription, and sample medication, administered to the participants while at the day care center. This documentation shall become part of the participant's permanent record and shall include:

- (1) Name of participant;
- (2) Date medication prescribed;
- (3) Drug product name;
- (4) Dosage and strength of medication;
- (5) Route of administration;
- (6) Frequency of administration;
- (7) Date and time given and initials of staff administering the medication;
- (8) Date the medication is discontinued or changed;
- (9) Any medication errors or omissions;
- (10) Notation of any adverse effects or unusual reactions that occur; and

(11) The name, signature, and initials of all staff administering medications.

E. The use of PRN (as needed) medications is prohibited unless one or more of the following conditions exist:

1. A participant is capable of determining when medication is needed;
2. A licensed health care professional administers the medication;
3. The participant's physician has provided detailed written instructions, including symptoms that might indicate the need for the medication, exact dosage, the exact time frames the medication is to be given in a 24-hour period, and directions for what to do if symptoms persist; or
4. The center staff has telephoned the participant's physician prior to administering the medication and explained the symptoms and received a documented verbal order that includes the information in subdivision 3 of this subsection.

22 VAC 40-60-699. Assistance with activities of daily living.

If the center serves participants who need assistance with activities of daily living (ADLs), the following standards shall apply:

1. Assistance with eating/feeding.

a. Dining areas shall be supervised by staff whenever meals or snacks are served. There shall be at least one staff member who is trained in the procedures of "abdominal thrusts" in each area when participants are eating.

b. Additional staff shall be present in the dining areas to assist participants who cannot eat independently. These staff members shall be trained in eating assistance techniques.

c. Self-feeding skills of participants shall be continuously observed and evaluated so that meals and snacks are not missed because of a participant's inability to feed himself.

d. Appropriate adapted utensils, including adapted plates/bowls and cups with straws and handles, shall be provided for those participants who need them. Information about effective eating adaptations shall be shared with appropriate family care givers of those participants. Assistance shall be provided to those participants who need it with such activities as opening containers and cutting food.

e. Low-stimulus dining areas shall be provided for participants with head injuries or other conditions that impair concentration.

f. Changes in food and liquid intake shall be documented and changes made in the care plan to

ensure adequate intake. Families shall be notified of such changes.

2. Assistance with ambulation/transfer.

a. The ability of the participant to safely transfer and ambulate shall be continually monitored, changes documented, and the plan of care changed to maximize the participant's safety.

b. There shall be adequate staff to provide individualized assistance to get to activities, meals and the restroom if the center serves participants with transfer/ambulation deficits.

c. The center shall have at least one wheelchair available for emergency use, even if all participants are ambulatory or have their own wheelchairs.

d. All staff shall be trained in providing assistance with ambulation and transfer, safe use of ambulation/transfer equipment, and procedures for monitoring and reporting malfunctioning equipment.

e. Staff shall identify unmet needs equipment and repairs, document their recommendations and refer families to appropriate resources, even when participants or families are responsible for purchasing and maintaining equipment.

f. Participants who use wheelchairs shall be offered other seating options throughout the day, if appropriate.

g. There shall be a plan for ambulating those participants who cannot walk independently to maintain maximum mobility.

3. Assistance with toileting.

a. Participants shall be assessed to determine their individual toileting needs. These needs shall be reflected in the plan of care and shared with family care givers. Staff shall follow toileting procedures for each participant, such as transferring techniques.

b. Equipment to aid in toileting such as gait belts, elevated toilet seats, and grab bars shall be available and within easy reach of staff.

c. Participants who are at risk of falling, or who have other safety risks, shall not be left alone while toileting.

d. All supplies, such as incontinence products, extra clothing, and latex gloves, shall be available and prepared prior to toileting a participant so that the participant is not left unattended while necessary items are being retrieved.

e. Staff and participants shall wash their hands after each toileting procedure.

f. Privacy, confidentiality and dignity shall be maintained for participants during toileting, including closing doors and not discussing needs in front of others.

g. Staff shall arrange for coverage of program responsibilities when they must leave the group to assist with toileting a participant.

4. Assistance with bathing.

a. The center shall ensure the privacy and dignity of a participant who is assisted with bathing/showering.

b. A shower chair, bench or other seating, safety equipment such as grab bars, and nonslip surfaces shall be provided.

c. Adequate supplies to complete the bathing process shall be provided such as, but not limited to, towels, soap, wash cloths and shampoo, unless the participant brings these items from home.

d. The participant shall never be left unattended in the shower or bath. If the bathing area is not in sight or sound of other occupied parts of the building, there shall be an emergency call system to summon additional assistance.

5. Assistance with dressing.

a. Extra clothing shall be available for participants who need to change during the day. Each participant can keep a change of clothing at the center or the center can keep a supply to use as needed.

b. Participants' clothing, equipment and supplies kept at the center shall be properly labeled and stored to prevent loss.

c. If the center serves participants who cannot dress themselves, there shall be staff available to assist with coats, hats, and gloves as participants arrive and depart. Assistance with dressing shall be available for those who need it for rest periods and toileting.

d. Special attention shall be given to footwear of participants who are at risk of falling. Staff shall encourage family members to provide appropriate shoes and shall document those recommendations.

22 VAC 40-60-700. Planning the activities and services.

A. Activities ~~and services~~ shall be planned to support the plans of care for the participants, and shall be consistent with the program statement and the admission policies.

B. Activities ~~and services~~ shall be planned under the supervision of the director who shall encourage involvement of participants and staff in the planning.

~~C. Schedule of activities.~~

~~1. There shall be planned activities and programs whenever the center is in operation.~~

~~2. A written schedule of activities shall be developed at least monthly.~~

~~3. The schedule shall include:~~

Proposed Regulations

~~a. Group activities for all participants or small groups of participants,~~

~~b. Personalized options for individuals with varying interests, and~~

~~c. The name or type, date and hour of the activity.~~

~~4. If one activity is substituted for another, the change shall be noted on the schedule.~~

~~5. The current month's schedule of activities shall be posted in a conspicuous place or otherwise made available to participants and their families.~~

~~6. The schedule of activities for the past six months shall be kept at the center.~~

~~7. If a participant requires an individual schedule of activities, that schedule shall be a part of the plan of care and shall be kept in the participant's record.~~

~~D. The activities shall be varied to appeal to the different interests, abilities, and needs of the participants.~~

C. The activities shall take into consideration individual differences in age, health status, sensory deficits, life-style, ethnicity, religious affiliation, values, experiences, needs, interests, abilities, and skills by providing opportunities for a variety of types and levels of involvement.

~~E. D. All activities shall:~~

~~1. Support the physical, ~~social~~, mental, and emotional abilities and skills of participants;~~

~~2. Promote or maintain the participant's highest level of independence or functioning; and~~

~~3. Be within the economic capabilities of the participants and their families.~~

~~F. E. Physical activities shall be encouraged to the extent recommended by each participant's physician.~~

~~F. Schedule of activities.~~

~~1. There shall be planned activities and programs whenever the center is in operation.~~

~~2. A written schedule of activities shall be developed at least monthly.~~

~~3. The schedule shall include:~~

~~a. Group activities for all participants or small groups of participants; and~~

~~b. The name, type, date and hour of the activity.~~

~~4. If one activity is substituted for another, the change shall be noted on the schedule.~~

~~5. The current month's schedule shall be posted in a readily accessible location in the center or otherwise be made available to participants and their families.~~

~~6. The schedule of activities for the past six months shall be kept at the center.~~

7. If a participant requires an individual schedule of activities, that schedule shall be a part of the plan of care and shall be kept in the participant's record.

G. Adequate supplies and equipment appropriate for the program activities shall be available in the center.

22 VAC 40-6-705. Implementing the activities.

A. During a programmed activity, there shall be an adequate number of staff to lead the activity, to assist the participants with the activity, to supervise the general area, and to re-direct any individuals who require different activities.

B. During the activity, each participant shall be encouraged to join in at his level, to include observing.

C. All equipment and supplies used shall be accounted for at the end of the activity so that a safe environment can be maintained.

D. The staff leading the activity shall have a general understanding of the following:

1. Attention spans and functional levels of the participants in the group;

2. Methods to adapt the activity to meet the needs and abilities of the participants;

3. Various methods of engaging and motivating individuals to participate; and

4. The importance of providing appropriate instruction, education, and guidance throughout the activity.

~~Article 5.~~

~~Rights of Participants.~~

22 VAC 40-60-710. Independence. (Repealed.)

~~The participant shall be encouraged and supported in maintaining his highest level of independence.~~

22 VAC 40-60-720. Participation in planning. (Repealed.)

~~The participant shall be encouraged to participate in planning for his care.~~

22 VAC 40-60-730. Treatment of participant. (Repealed.)

~~The participant shall be accorded dignity and treated with courtesy and respect at all times.~~

22 VAC 40-60-740. Privacy. (Repealed.)

~~The privacy of participants shall be fully respected.~~

22 VAC 40-60-750. Restriction on treatment. (Repealed.)

~~The participant shall not be abused, exploited, punished, coerced, or threatened in any way.~~

22 VAC 40-60-760. Protection. (Repealed.)

~~The participant shall be protected from solicitation, harassment and unwanted visitors.~~

~~Article 6.
Nutrition and Food Services.~~

22 VAC 40-60-770. General nutrition and food service.

Meals and snacks shall be provided by the center. The center shall either prepare the food or have it catered.

NOTE: *The center is expected to encourage, but not require, participants to eat the meals and snacks provided by the center.* If a participant brings food from home, the center is not required to confiscate the food or to prevent the participant from eating the food. The fact that the participant brought food does not relieve the center of its responsibility to provide meals and snacks. ~~The center is expected to encourage participants to eat the meals and snacks provided by the center.~~

22 VAC 40-60-780. Serving of meals and snacks.

A. Centers shall serve appropriate meals and snacks, depending on the hours of operation; i.e., a center open during the hours of 7 a.m. to 1 p.m. must serve a morning snack and a mid-day meal; a center open during the hours of 8 a.m. to 5 p.m. must serve a morning snack, a mid-day meal, and an afternoon snack; a center open during the hours of 2 p.m. to 6 p.m. must serve an afternoon snack; a center open after 6 p.m. ~~to 9 p.m.~~ must serve an evening meal, etc.

~~B. Participants who have not eaten an evening meal before they are admitted to the center for evening or night care, or both, shall be served one.~~

~~C.~~ Centers open after 9 p.m. shall serve an evening snack.

~~D. B.~~ Participants shall be served all meals and snacks scheduled for the period during which they are present.

C. There shall be at least two hours between snacks and meals.

22 VAC 40-60-790. Timing between meals and snacks. (Repealed.)

~~There shall be at least two hours between snacks and meals.~~

22 VAC 40-60-800. Nutritional requirements.

~~Each meal, including the mid-day meal, and the evening meal, shall provide at least 1/4 of an adult's daily recommended dietary allowance (RDA) or any one meal and any one snack combined shall provide at least 1/3 of the RDA.~~

A. Unless otherwise ordered in writing by the participant's physician, the daily menu, including snacks, for each participant shall follow the most recent nutritional requirements of a recognized authority such as the Child and Adult Care Food Program of the United States Department of Agriculture (USDA).

B. Other foods may be added and additional servings may be served to enhance the meals or meet individual needs.

C. The center shall provide a variety of fruits and vegetables for meals and snacks to include at least one good source of Vitamin C daily and a good source of Vitamin A at least three times a week.

D. If a participant needs to follow a special or modified diet recommended by a physician, the day care center shall ensure that the diet is provided in accordance with the physician's orders while the participant is in the day care center.

22 VAC 40-60-810. Meal patterns. (Repealed.)

~~Meals and snacks served to the participants shall be attractive in appearance, consist of a variety of foods, and conform to the following meal patterns:~~

~~NOTE: Meals or snacks catered or provided by Hospital Kitchens, licensed by the Department of Health; Nursing Home Kitchens, licensed by the Department of Health; and the Congregate Meal Program through the Area Agencies on Aging will meet or exceed the requirements of a specific meal or snack. However, the center shall be responsible for monitoring continuing compliance.~~

~~Pattern Minimum Amounts~~

~~BREAKFAST (If Served)~~

~~Milk, fluid* 1/2 cup
Juice** or fruit or vegetable 1/2 cup
Bread or bread alternate*** 1 slice
(including cereal) 1/2 cup cooked or 3/4 cup dry~~

~~SNACKS~~

~~(Select at least two of these four components)~~

~~Milk, fluid* 1/2 cup
Juice** or fruit or vegetable 1/2 cup
Bread or bread alternate*** 1 slice
(including cereal) 1/2 cup cooked or 3/4 cup dry
Meat, poultry, fish or
seafood, or meat
alternate**** 1 oz.~~

~~MID-DAY AND EVENING MEALS~~

~~Milk, fluid* 1/2 cup
Meat, poultry, fish or
seafood, or meat
alternate**** 2 oz.
Vegetables and/or fruits
(two or more) 1/2 cup each
Bread or bread alternate*** 1 slice~~

~~NOTE: Other foods and additional servings may be served to enhance the meals or meet energy needs.~~

~~*Milk, fluid: Includes whole milk, lowfat milk, skim milk or cultured buttermilk which meet state and local standards. It does not include milk mixed from a powder, evaporated milk, or condensed milk.~~

~~**Juice: Full strength juices made from fruits or vegetables or frozen concentrate according to directions for full strength juice.~~

Proposed Regulations

~~***Bread Alternates: ¼ cup rice, grits, or pasta; cereal; 4 crackers, etc.~~

~~***Meat alternates: 1 egg, 1 oz. cheese, ½ cup cooked dry beans or dry peas, or 2 tablespoons peanut butter.~~

~~A. At least one good source of Vitamin C must be served per day. Good Vitamin C sources are: cantaloupe, grapefruit, honeydew melon, mango, oranges, papaya, strawberries, tangerines, broccoli, brussels sprouts, cabbage, cauliflower, dark leafy greens, sweet red or green pepper, tomatoes and juices made from these fruits and vegetables.~~

~~B. At least one good source of Vitamin A shall be served three times a week. Good Vitamin A sources are: liver, dark leafy green vegetables, broccoli, carrots, sweet red or hot pepper, pumpkin, sweet potatoes or yams, tomatoes, winter squash (deep orange flesh) apricots, cantaloupe, mango, papaya, and juices made from these fruits and vegetables.~~

22 VAC 40-60-820. Planning factors. (Repealed.)

~~Meals and snacks shall be planned in accordance with the needs of the age group in care (i.e. energy needs are less and nutritional needs are higher, special diets may be necessary, participants might have poorly fitting dentures, etc.).~~

22 VAC 40-60-830. Special diets. (Repealed.)

~~If a participant needs to follow a special or modified diet recommended by a physician, the day care center shall ensure that the diet is provided in accordance with the physician's orders while the participant is in the day care center.~~

22 VAC 40-60-840. Eating assistance. (Repealed.)

~~When necessary, assistance in eating shall be provided for participants, e.g. to open containers, in cutting foods, etc.~~

22 VAC 40-60-850. Food service.

If catering or contract food service is used, the service shall be approved by the local health department. *The center shall be responsible for monitoring continued compliance.*

22 VAC 40-60-860. Menus.

A. A menu listing all meals and snacks to be served by the center during the current one-week period shall be dated and posted in a location conspicuous to participants and responsible persons.

EXCEPTION: When meals and/or snacks are catered or provided by facilities described in the note under 22 VAC 40-60-840 contract food service and the caterer refuses to provide menus in advance, the menus shall be retained by the center as records and made available to participants, legal guardians, responsible persons personal representatives, and family members as requested.

B. Menus shall indicate substitutions.

C. Menus shall be kept at the center for ~~one month~~ *three months*.

Article 7.

Assistance with Personal Care.

22 VAC 40-60-870. Assistance with personal care. (Repealed.)

~~Staff shall provide special attention, additional supervision, and assistance in activities of daily living, such as feeding and toileting, to participants who require it.~~

Article 8.

Transportation Services.

22 VAC 40-60-880. Applicability Transportation services.

~~NOTE: If transportation is not provided by the day care center, the following standards do not apply.~~

~~A. If the adult day care center does not provide transportation directly or by contract for participants, the standards in this section do not apply.~~

~~B. Centers that provide participant transportation directly or by contract shall ensure that the following requirements are met:~~

- ~~1. The vehicle shall be accessible and appropriate for the participants being transported. Participants who use wheelchairs shall be transported in a vehicle that is equipped with a ramp or hydraulic lift to allow entry and exit.~~
- ~~2. The vehicle's seats shall be attached to the floor and wheelchairs shall be secured when the vehicle is in motion.~~
- ~~3. Arrangement of wheelchairs and other equipment in the vehicle shall not impede access to exits.~~
- ~~4. The vehicle shall be insured with at least the minimum limits established by Virginia state statutes.~~
- ~~5. If the vehicle does not have air conditioning, it shall have windows that can be opened.~~
- ~~6. The vehicle shall meet the safety standards set by the Department of Motor Vehicles and shall be kept in satisfactory condition to ensure the safety of participants.~~
- ~~7. If volunteers supply personal vehicles, the center shall be responsible for ensuring that the requirements of this subsection are met.~~

~~C. Centers that provide participant transportation directly or by contract shall ensure that during transportation the following requirements are met:~~

- ~~1. Virginia statutes about safety belts are followed.~~
- ~~2. Every person remains seated while the vehicle is in motion.~~
- ~~3. Doors are properly closed and locked while the vehicle is in motion.~~
- ~~4. Consideration is given to the supervision and safety needs of participants.~~

5. The following information is in vehicles used for transportation:

- a. The center's name, address and phone number;
- b. A list of the names of the participants being transported; and
- c. A list of the names, addresses and telephone numbers of participants' emergency contact persons.

22 VAC 40-60-885. Field trips.

A. Each center that takes participants on field trips shall develop and implement a written policy regarding field trips. The policy shall address the following:

- 1. A communication plan between center staff and staff who are accompanying participants on a field trip;
- 2. Maintenance of staff-to-participant ratio at the center and on the field trip as required by 22 VAC 40-60-380;
- 3. Provision of adequate food and water for participants of field trips; and
- 4. Cold storage of food taken on field trips.

B. Before leaving on a field trip, a list of participants taking the trip, and a schedule of the trip's events and locations shall be left at the center and shall be accessible to staff.

C. A wheelchair that is available for emergency use shall be taken on field trips.

D. The requirements of 22 VAC 40-60-880 B and C apply when participants are transported on field trips.

E. At least one staff person on each vehicle on the field trip shall have current certification in first aid and CPR as required by 22 VAC 40-60-960.

F. A first aid kit and the names and emergency contacts of participants shall be taken on all field trips.

22 VAC 40-60-890. Appropriateness of vehicle. (Repealed.)

~~The vehicle shall be accessible and appropriate for the people using it, considering any physical handicaps and impairments they might have.~~

22 VAC 40-60-900. Seat requirement. (Repealed.)

~~Every person must have a seat in the vehicle, except those people who remain in their wheelchairs.~~

22 VAC 40-60-910. Wheelchairs. (Repealed.)

~~Wheelchairs shall be secured when the vehicle is in motion.~~

22 VAC 40-60-920. Persons seated. (Repealed.)

~~Every person shall be seated while the vehicle is in motion.~~

22 VAC 40-60-930. Seat belts. (Repealed.)

~~Every seat shall be equipped with a seat belt or shoulder harness. Every person shall be directed to use them.~~

22 VAC 40-60-940. Supervision. (Repealed.)

~~Participants shall not be left unattended or unsupervised, or both, while in a vehicle.~~

22 VAC 40-60-950. Liability insurance. (Repealed.)

~~Liability insurance coverage with a minimum limit of at least \$500,000 each occurrence or \$500,000 aggregate shall be maintained according to the size of the vehicle and the number of participants being transported.~~

~~In order to protect the facility in the event of an accident with another vehicle operated by an uninsured motorist, licensees may not reject uninsured motorists limits equal to liability limits.~~

~~NOTE: Language of specific policies may vary provided that the minimum amount of coverage is met.~~

PART VII. VIII.

EMERGENCIES EMERGENCY PREPAREDNESS.

Article 1.

Specialized Staff Training.

22 VAC 40-60-960. First aid certification, cardiopulmonary resuscitation (CPR) and rescue breathing.

~~At least one staff person on the premises at all times during the hours of operation shall have certification in first aid (Multi-Media, Personal Safety, or Standard First Aid Modular) issued within the past three years from a source approved by the American Red Cross.~~

~~NOTE: Adult day care centers that have licenses in effect on April 1, 1987, shall comply with this standard six months after the standards become effective for that facility.~~

~~There shall be at least one staff member trained in first aid, cardiopulmonary resuscitation, and rescue breathing on the premises during the center's hours of operation and also one person on field trips and whenever participants are in care. This person shall be available to participants and shall:~~

- 1. Have current certification in first aid, cardiopulmonary resuscitation and rescue breathing by the American Red Cross, American Heart Association, National Safety Council, or other designated program approved by the Department of Social Services; or
- 2. Be an R.N. or L.P.N. with a current license from the Board of Nursing.

22 VAC 40-60-970. CPR certification. (Repealed.)

~~At least one employee or staff member on the premises at all times during the hours of operation shall have certification in cardio-pulmonary resuscitation (CPR) issued through the American Red Cross or the American Heart Association~~

Proposed Regulations

~~within the current year. The CPR certificate must be renewed annually.~~

~~NOTE: Adult day care centers that have licenses in effect on April 1, 1987, shall comply with this standard six months after the standards become effective for that facility.~~

~~Article 2.
Buildings and Equipment.~~

22 VAC 40-60-980. First aid kit and emergency supplies.

A. Each building of the center and all vehicles shall contain a first aid kit which shall include but not be limited to:

1. Scissors;
2. Tweezers;
3. Gauze pads;
4. Adhesive tape;
5. Band-aids, assorted sizes;
6. Triangular bandages;
7. Flexible gauze;
8. An antiseptic cleansing solution;
9. An anti-bacterial ointment;
10. Bee sting swabs or preparation;
11. Ice pack or ice bag;
12. Thermometer; ~~and~~
13. Small flash light;
14. *Single use gloves, such as surgical or examining gloves;*
15. *Syrup of ipecac;*
16. *Activated charcoal preparation; and*
17. *The first aid instructional manual.*

~~B. The first aid kit shall be stored so that it is easily accessible to staff but not accessible to participants.~~

~~C. The first aid kit shall be checked annually for expiration dates and items shall be replaced as necessary.~~

22 VAC 40-60-990. Accessibility to staff. (Repealed.)

~~The first aid kit shall be stored so that it is not accessible to participants but is easily accessible to staff.~~

22 VAC 40-60-1000. First aid instruction manual. (Repealed.)

~~A first aid instructional manual shall be kept with each first aid kit at all times.~~

22 VAC 40-60-1010. Emergency heating units.

A. Gas stoves, coal stoves, wood stoves, oil stoves, portable electric heaters, kerosene heaters, and portable heating units of a similar nature shall not be used in areas

used by participants, except in an emergency such as a power outage in cold weather.

B. When any of the above heating sources are used, care shall be taken to protect participants from injuries.

C. Any heating units used in an emergency shall have been previously inspected and approved by the appropriate fire safety official.

~~Article 3.
Plans and Procedures.~~

22 VAC 40-60-1020. Plan for medical emergencies.

~~A. The plan shall include written instructions for handling medical emergencies such as: (i) calling the rescue squad, (ii) ambulance service, or participant's physician, and (iii) providing first aid and CPR, when appropriate.~~

~~B. A licensed physician, registered nurse, licensed practical nurse, or other health professional shall be consulted in preparing the plans.~~

~~C. In medical emergencies, pertinent medical information and history shall be made available to rescue staff or sent with the participant if hospitalized, or both.~~

~~A. A written plan shall be developed for each of the following situations: (i) medical and mental health emergencies, (ii) wandering and missing participants, (iii) building evacuations, (iv) severe weather and loss of utilities, and (v) transportation emergencies. Professionals in the appropriate fields shall be consulted in preparing these plans.~~

~~B. Plan for medical and mental health emergencies.~~

~~1. There shall be instructions for handling medical emergencies such as (i) calling the rescue squad, ambulance service, or participant's physician, and (ii) providing first aid and CPR, if appropriate.~~

~~2. A specific plan shall be developed for handling mental health emergencies such as, but not limited to, catastrophic reaction or the need for a temporary detention order.~~

~~3. Pertinent medical information and history shall be made available to the rescue squad or sent with the participant if hospitalized, or both. This should include any advance directive information.~~

~~4. The participant's family or personal representative and physician shall be notified as soon as possible.~~

~~C. Plan for wandering and missing participants.~~

~~1. If the center serves participants who wander, a door bell or alarm shall be installed or attached to alert staff to wandering participants.~~

~~2. A plan shall be developed that outlines the procedures to be followed in the event of a missing participant. The procedure shall include, but not be limited to:~~

~~a. Notification of internal staff;~~

- b. Areas to be searched;
- c. Notification of emergency personnel;
- d. Notification of family or personal representative; and
- e. Expectations upon locating the participant, such as medical attention and documentation requirements.

D. Plan for building evacuation.

1. There shall be a written plan for emergency evacuations. The plan shall include procedures to be followed in the event of a fire or other emergency.
2. A drawing, showing exits, telephones, fire extinguishers and fire alarm boxes, if any, shall be posted.
3. A copy of the emergency plan shall be posted in a conspicuous place on each floor of each building.
4. Evacuation drills shall be held in accordance with the requirements of the Virginia Statewide Fire Prevention Code.
5. A record of the required evacuation drills shall be kept at the center for one year. The record shall include:
 - a. The date of the drill;
 - b. The time required to evacuate;
 - c. The total number of staff and participants involved;
 - d. Problems encountered, if any; and
 - e. The names of any participants who were present in the center and who did not take part in the drill, and the reasons.

E. Plan for severe weather and loss of utilities.

1. A written plan shall be developed that shall include general procedures to be followed during loss of utilities or during severe weather, including plans for relocating participants if necessary.
2. Emergency equipment shall be available for use in the event of loss of utilities such as, but not limited to, a working flashlight, extra batteries, a portable radio, and a telephone.
3. A plan shall be in place to provide an emergency meal and a supply of water to all participants in the event that meals are not able to be prepared.

F. Plan for transportation emergencies.

1. For centers that are responsible for transporting participants, a plan shall be developed that outlines the procedures to be followed in the event of a vehicle emergency. This plan shall be readily accessible in the vehicle and shall include:
 - a. A method to communicate with the center;
 - b. A list of participants' names;

- c. Telephone numbers for vehicle repair; and
- d. Options for alternate transportation.

2. For centers that contract transportation, the center shall ensure that emergency procedures are in place.
3. A plan shall be developed that outlines the procedures to be followed in the event that a participant's scheduled transportation does not arrive or the participant is stranded at the center.

G. A generic number such as 911 shall be posted in a conspicuous place near each telephone. If a generic number is not available, the following numbers shall be posted near each phone:

1. A physician or hospital;
2. An ambulance or rescue squad service;
3. The local fire department; and
4. The local police department.

H. A written record shall be made and kept on file of all emergencies. This record shall include:

1. Date;
2. Type of emergency;
3. Names of any participants requiring medical treatment;
4. Description of the outcome of the emergency; and
5. Date and time other persons or agencies were contacted, utilized, and notified.

I. The Department of Social Services, Division of Licensing Programs, shall be notified within 24 hours following the incident any time the police or fire department must be called because of an emergency.

22 VAC 40-60-1030. Plan for emergency evacuation. (Repealed.)

~~A. There shall be a written plan for fire and emergency evacuations. The plan shall include:~~

- ~~1. Written procedures to be followed in the event of fire or other emergency. The local fire department or fire prevention bureau shall be consulted in preparing the fire plan, if possible; and~~
- ~~2. A drawing showing exits, telephones, fire extinguishers, and fire alarm boxes, if any, in large numbers and letters so that participants can read.~~

~~B. A copy of the fire and emergency plan shall be posted in a conspicuous place on each floor of each building used by participants.~~

22 VAC 40-60-1040. Emergency evacuation drills. (Repealed.)

~~A. Evacuation drills shall be held at least quarterly.~~

Proposed Regulations

~~B. A record of the required evacuation drills shall be kept in the center for one year. The record shall include:~~

- ~~1. The date;~~
- ~~2. The amount of time required to evacuate;~~
- ~~3. The total number of staff and participants involved;~~
- ~~4. Problems encountered, if any; and~~
- ~~5. The names of all participants who were present in the center who did not take part in the drill, and the reasons.~~

22 VAC 40-60-1050. ~~Other emergency plans. (Repealed.)~~

~~There shall be written plans and procedures to meet other emergencies, including severe weather, loss of utilities, and missing persons.~~

22 VAC 40-60-1060. ~~Procedures to meet emergencies. (Repealed.)~~

~~A. The telephone numbers of the fire department, the rescue squad or ambulance service, the police, and the regional poison control center shall be located in a conspicuous place near each telephone. They shall be written in large enough numbers so that participants can use them.~~

~~B. A written record shall be made and kept on file of all emergencies such as, but not limited to, fires, severe weather emergencies, injuries or sudden illnesses requiring medical treatment. The record shall include:~~

- ~~1. Date;~~
- ~~2. Kind of emergency;~~
- ~~3. Names of any participants requiring medical treatment;~~
- ~~4. Description of the results of the emergency; and~~
- ~~5. Date and time other persons or agencies were contacted, utilized and notified.~~

NOTICE: The forms used in administering 22 VAC 40-60-10 et seq., Standards and Regulations for Licensed Adult Day Care Centers, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

New Application for a License to Operate an Adult Day-Care Center.

Renewal of a License to Operate an Adult Day-Care Center.

Report of Tuberculosis Screening Evaluation.

Meal Pattern for Adults.

REPORT OF TUBERCULOSIS SCREENING EVALUATION

Patient's Name: _____

1. Date and result of most recent Mantoux tuberculin skin test:

Date		mm of induration	
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2. Check here if previously tested positive and above information is unknown.
3. Check here if exhibiting TB-like symptoms.
4. If TB skin test result is 10 mm or greater (5 mm in the HIV infected), previously positive or if TB-like symptoms exist, *respond to the following:*

A.

Date of last chest x-ray evaluation	
-------------------------------------	--

B.

Is chest x-ray suggestive of active TB?	Yes	No

C.

Were sputum smears collected and analyzed for the presence of acid fast bacilli (AFB)?	Yes	No

D.

If 4C is YES, were three consecutive smears negative for AFB?	Yes	No

5. Based on the above information, is this individual free of communicable TB?

Yes		No	
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6. Name of licensed physician, physician's designee or local health department official completing the evaluation:

Print Name

Phone Number

7. Signature of licensed physician, physician's designee or local health department official completing the evaluation:

Signature

Date

Meal Pattern for Adults

Food Components	Breakfast	Lunch	Supper	Supplement *
Milk				
Milk, Fluid	1 cup	1 cup	None	1 cup
Vegetables and/or Fruits				
Vegetable(s) and/or Fruit(s) or Full-strength vegetable or fruit juice or an equivalent combination of vegetables(s), fruit(s), and juice	1/4 cup 1/4 cup	1 cup total (two or more servings)	1 cup total (two or more servings)	1/4 cup 1/4 cup
Bread and Bread Alternates				
Bread or Cornbread, biscuits, rolls, muffins, etc. or Cold dry cereal or Cooked cereal or Cooked pasta or noodle product or Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate	2 slices 2 servings 1 1/4 cups or 2 oz. 1 cup 1 cup 1 cup	2 slices 2 servings 1 cup 1 cup 1 cup	2 slices 2 servings 1 cup 1 cup 1 cup	1 slice 1 serving 3/4 cup or 1 oz. 1/2 cup 1/4 cup 1/4 cup
Meat and Meat Alternates	None			
Lean meat or poultry or fish or Cheese or Eggs or Cooked dry beans or peas or Peanut butter or soynut butter or other nut or seed butters or Peanuts or soynuts or tree nuts or seeds or Yogurt, plain or sweetened and flavored or An equivalent quantity of any combination of the above meat/meat alternates		2 oz. 2 oz. 1 egg 1/4 cup 4 tbsp. 1 oz. = 50%	2 oz. 2 oz. 1 egg 1/4 cup 4 tbsp. 1 oz. = 50%	1 oz. 1 oz. 1 egg 1/4 cup 2 tbsp. 1 oz. 4 oz. or 1/2 cup

* For a Supplement (snack) choose only two of the four food components.

Title of Regulation: 22 VAC 40-710-10 et seq. Child Protective Services Client Appeals (REPEALING).

Statutory Authority: §§ 63.1-25 and 63.1-248.6:1 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until September 17, 1999.
(See Calendar of Events section for additional information)

Basis: Section 63.1-25 of the Code of Virginia provides the statutory authority for the State Board of Social Services to promulgate regulations to carry out "the true purpose and intent" of Title 63.1 of the Code of Virginia. Section 63.1-248.6:1 of the Code of Virginia provides the statutory authority for the State Board of Social Services to promulgate regulations concerning appeals and hearings. The department proposes to repeal the original appeal regulation, 22 VAC 40-710-10 et seq., because it is part of a broader and more recent regulation, 22 VAC 40-705-10 et seq., which combines both programmatic and appeals regulations.

Purpose: The purpose of repealing the regulation is to eliminate a redundant regulation. Streamlining state government benefits the public.

Substance: The appeal process has been incorporated into 22 VAC 40-705-10 et seq. The benefits of the appeal process remain available to appellants.

Issues: By repealing the Child Protective Services Client Appeals regulation that is now provided for in another regulation, an unnecessary regulation will be eliminated. There are no disadvantages to the public or the agency because the regulation has been incorporated into another chapter.

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 25 (98). 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 impacts.

Summary of the proposed regulation. The Department of Social Services proposes to repeal its Child Protective Services Client Appeals regulation, as the policy has since been incorporated into the department's Child Protective Services regulations (22 VAC 40-705-10 et seq.) which include both programmatic and appeals policies.

Estimated economic impact. This action will not have any economic effects since the policy has been incorporated into another regulation and the benefits of the policy are still available to all appellants.

Businesses and entities affected. No businesses or entities will be affected by the repeal of this regulation.

Localities particularly affected. No localities will be particularly affected by the repeal of this regulation.

Projected impact on employment. The repeal of this regulation will not have any impact on employment in Virginia.

Effects on the use and value of private property. The repeal of this regulation will not have any effect on the use and value of private property in Virginia.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Social Services concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

This chapter provides an appeal process in child protective services matters. The provision for this appeal process is currently available to appellants through 22 VAC 40-705-10 et seq., Child Protective Services, which combines both programmatic and appeals regulations.

VA.R. Doc. No. R98-162; Filed June 28, 1999, 1:23 p.m.

Title of Regulation: 22 VAC 40-820-10 et seq. Policy Regarding Purchased Services (REPEALING).

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

Public Hearing Date: N/A -- Public comments may be submitted until September 17, 1999.
(See Calendar of Events section for additional information)

Basis: Section 63.1-25 of the Code of Virginia provides the statutory authority to promulgate this regulation in order to carry out the purposes of Title 63.1 of the Code of Virginia. The need for uniform procedures for the purchase of services originated under the federal Title XX program. In 1981, Public Law 97-35 amending Title XX established the Social Services Block Grant (SSBG) and gave states the option of continuing the mandate.

Purpose: This chapter establishes uniform policies and procedures for the purchase of services within local departments of social services in order to protect the public's welfare. It includes standards and contracting procedures for providers of purchased services and guidelines for local departments of social services on the services available for purchase. Since the implementation of this regulation, programs have come under many and varied funding sources so that one uniform regulation for purchase of

Proposed Regulations

services is no longer feasible. It is proposed that this regulation be repealed as the regulation is no longer essential to protect the health, safety, and welfare of citizens or for the efficient and economical performance of an important governmental function.

Substance: This action is requested as the result of an approved periodic review of agency regulations. The State Board of Social Services has recommended that this regulation be repealed. In doing so, duplicative regulations regarding the purchase of services by local departments of social services will be eliminated.

Issues: This chapter affects local departments of social services in the way that services are purchased. This regulation has no effect on family formation, stability, and autonomy. There are no disadvantages to the public or the agency because local departments of social services will follow existing regulations, including state contract and procurement regulations, and policies as set forth in the Social Services Policy Manual, Volume VII, for each program area in purchasing services for their customers.

Economic Impact: There is no financial impact on local agencies or the department.

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 25 (98). 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 impacts.

Summary of the proposed regulation. The Department of Social Services (DSS) proposes to repeal 22 VAC 40-820-10 et seq., Policy Regarding Purchased Services. It was established in 1981 to provide uniform policies and procedures under which local departments of social services could purchase services for eligible clients. At that time, all DSS services were governed and funded by the federal Title XX Social Services Block Grant. Since that time, however, funding for social services has shifted from the Title XX block grant to various federal and state sources. Social services are now provided through different programs that each have their own policies (e.g., Adult Services, Child Protective Services, Day Care, Foster Care/Adoption). Each of these different programs has unique rules and guidelines that govern how services are purchased.

Estimated economic impact. The repeal of this regulation will not have any significant economic effects as the regulation no longer applies to the current funding situation and is duplicated by guidance from other sources. There is

not expected to be any change in the way providers are reimbursed nor in the range or type of services available for DSS clients.

Businesses and entities affected. The repeal of this regulation will not affect any particular businesses or entities since there will be no change to current practices and policies governing the purchase of services for DSS clients.

Localities particularly affected. The repeal of this regulation will not affect any particular locality as it applies statewide.

Projected impact on employment. The repeal of this regulation will not have any impact on employment in Virginia.

Effects on the use and value of private property. The repeal of this regulation will not have any effect on the use and value of private property in Virginia.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The department concurs with the Economic Impact Analysis prepared by the Virginia Department of Planning and Budget on February 5, 1999.

Summary:

The original intent of this regulation was to establish uniform policies and procedures for the purchase of services within local departments of social services. Since the implementation of the regulation, programs have come under many and varied funding sources so that one uniform regulation for purchase of services is no longer feasible. The State Board of Social Services recommends repeal of this chapter so that duplicative regulations regarding purchase of services by local departments of social services will be eliminated. By this action, local departments of social services will follow existing regulations, including state contract and procurement regulations, and policies as set forth in the Social Services Policy Manual, Volume VII, for each program area in purchasing services for their customers.

VA.R. Doc. No. R99-21; Filed June 28, 1999, 1:23 p.m.

BOARDS OF EDUCATION; JUVENILE JUSTICE; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; AND SOCIAL SERVICES

Title of Regulation: **22 VAC 42-10-10 et seq. Standards for Interagency Regulation of Children's Residential Facilities.**

Statutory Authority: §§ 16.1-309.9, 22.1-321, 22.1-323, 22.1-323.2, 37.1-182, 37.1-189.1, 63.1-25, 63.1-217, 66-10 and 66-24 of the Code of Virginia.

Public Hearing Date: August 20, 1999.

Public comments may be submitted until September 17, 1999.

(See Calendar of Events section for additional information)

Basis: Sections 16.1-309.9, 22.1-321, 22.1-323, 22.1-323.2, 37.1-182, 37.1-183.1, 37.1-189.1, 63.1-25, 63.1-196, 63.1-196.4, 63.1-217, 66-10, and 66-24 of the Code of Virginia, respectively, authorize and require the Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services to promulgate standards regulating children's residential facilities. The boards are also required to cooperate with each other in the promulgation of such regulations. The boards have jointly developed the proposed Standards for Interagency Regulation of Children's Residential Facilities and have approved them for a 60-day period of public comment.

Purpose: The regulation is intended to: (i) protect the vulnerable children who are separated from their families and reside in children's residential facilities and (ii) ensure that a minimally acceptable level of care, treatment, and education are provided by the regulants. The regulation replaces the current Standards for Interdepartmental Regulation of Residential Facilities for Children (8 VAC 20-50-10 et seq., 6 VAC 35-50-10 et seq., 12 VAC 35-30-10 et seq., and 22 VAC 40-150-10 et seq.). The agencies intend to repeal the current regulations.

Substance: The proposed regulation: (i) reorganizes and simplifies the existing regulations, (ii) assures that the regulation addresses only the generic elements of care related to all children, (iii) increases regulants' flexibility to provide care based on the facility's program and the population served, (iv) increases regulants' and regulators' opportunities for use of professional judgment, and (v) deletes requirements which restate law or outline the departments' policies or procedures and which are better incorporated in the departments' guidance materials. Major substantive changes include: (i) eliminating requirements addressed by the Virginia Statewide Fire Prevention Code, (ii) updating requirements governing tuberculosis screening as recommended by the Department of Health, (iii) eliminating exceptions to the number of successive work days for staff attending training or supervising excursions, (iv) increasing the number of staff members who must be certified in first aid or cardiopulmonary resuscitation, (v) requiring that all staff responsible for medication administration successfully complete a medication training program approved by the Board of Nursing or be licensed by the Commonwealth to administer medications, and (vi) requiring that personnel records be maintained for volunteers and contractual service providers for whom background investigations are required. A number of requirements have been eliminated or liberalized.

Issues: Children in residential care have a multitude of problems and disabilities. The regulants provide a variety of programs to meet the needs of their customers. As a result, many facilities are subject to regulation by more than one department. The Standards for Interagency Regulation of Children's Residential Facilities provide advantages to the public by establishing consistency among the departments and to the agencies by eliminating duplicative and conflicting expectations among them. Consistent expectations facilitate

implementation of the regulatory process for both regulants and regulators.

Estimated Impact: The departments currently regulate approximately 185 children's residential facilities which are subject to the regulation. The regulants are presently subject to substantially similar requirements. It is projected that regulants will experience some cost shifting due to eliminating some existing requirements and adding new requirements. The regulants may experience some additional costs. The proposed regulation was developed by an ad hoc standards development committee which included representatives of provider associations that actively involved their constituents during the drafting process. They support the proposed regulation as consistent with standard practice in the field or as necessary to ensure that a minimally acceptable level of care, treatment, and education are provided by children's residential facilities. The departments currently employ professional regulators to monitor children's residential facilities; there will not be a fiscal impact on the departments.

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 25 (98). 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 impacts.

Summary of the proposed regulation. Pursuant to Executive Order Fifteen (94), which called for a comprehensive review of all existing regulations, the Office of Interdepartmental Regulation identified the need for extensive revisions to the current regulations governing children's residential facilities. This proposed regulation replaces the current Standards for Interdepartmental Regulation of Residential Facilities for Children (6 VAC 35-50-10 et seq., 8 VAC 20-50-10 et seq., 12 VAC 35-30-10 et seq. and 22 VAC 40-150-10 et seq.) which is being repealed.

The regulation is intended to provide consistent standards for facilities operating under the regulatory authority of the Departments of Education (DOE), Social Services (DSS), Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS), and Juvenile Justice (DJJ). The proposed replacement reorganizes and makes a number of changes to the existing regulation. A large number of these changes are expected to have a minimal economic effect and, therefore, will not be directly addressed. The significant changes include additions, expansions, and deletions to the administrative and reporting requirements; revisions to

Proposed Regulations

several health and safety requirements; and increases in a variety of minimum staff-to-children ratios.

Estimated Economic Impact

Administrative and Reporting Requirements

This proposal expands the requirements for facilities to have and implement written policies and procedures for a number of issues (e.g., confinement procedures, assessing the immunization status of residents). These additions will require one-time costs associated with the initial drafting of the written policies. Other additions will require annual reports (annual self-review of facility effectiveness in meeting its objectives) and individual write-ups for each resident. For example, the proposal requires an Initial Objective and Strategies plan be written within the first 72 hours of a resident's arrival to be in effect while the initial service plan (currently required within 30 days) is being developed.

These additions and expansions will potentially serve two functions. Some may provide perspective clients with increased information about the services provided by the facility, while others may ensure that staff have immediate access to the policies and procedures to follow in a variety of situations. Conversations with facility administrators indicate that these requirements are reasonable and can be expected to have some beneficial impact on facilities, first, by providing accountability and written references for staff to avoid any potential confusion and second by helping maintain consistent levels of service. In order to estimate the benefits derived from these additional requirements, one would need to know (i) the extent that perspective clients act on such provided information and (ii) the increase in quality of care provided to residents resulting from the additional reference resources available to staff. While it is not possible to measure these potential benefits at this time, it can be expected that the costs of drafting these policies would not outweigh the expected benefits to perspective clients and residents.

Personnel Records

Section 63.1-248.7:2 of the Code of Virginia mandates that criminal background checks be conducted for all employees of juvenile residential facilities and for all volunteers and contractual employees who come into regular contact alone with one or more children. The cost of a background check is \$47 for an employee and \$41 for a volunteer. The employer normally covers these costs, though the rules do not specify who must pay them. Background checks have been required since 1994.

The proposed regulation includes new requirements that separate up-to-date personnel records be maintained for each volunteer and contractual service provider for whom background investigations are required. The records of each employee must include documentation of compliance with Virginia laws regarding child protective services and criminal history background checks. The retention period for personnel records is increased from two to three years. This is to coincide with the regulator's licensing/certification visits.

A clarification is included that records may be either written or automated.

These additional rules are partly intended to increase facilities' awareness of the state requirement for background checks. The costs associated with these additional requirements (an extra year of personnel record storage and keeping written information confirming compliance with statutory requirements to obtain background checks on employees and volunteers) are expected to be small, and it seems reasonable to conclude that the costs would not outweigh the potential benefits of increased safety for the children in these facilities.

Tuberculosis Screening

The replacement regulation revises the requirements concerning the initial and subsequent screening of staff for tuberculosis to (i) specify that the Mantoux test be used, (ii) require individuals who develop chronic respiratory symptoms be evaluated after three weeks instead of four weeks, (iii) require that any individual not reacting significantly to a Mantoux tuberculin skin test be retested annually, (iv) prohibit any individual suspected of having infectious tuberculosis from working or having contact with staff or residents until a physician has determined that individual is free of infectious tuberculosis, and (v) require facilities to report all active cases of tuberculosis developed by staff to the local health department. These revisions were based on recommendations from the Virginia Department of Health.

Tuberculosis (TB) is a highly communicable and very dangerous disease. The World Health Organization reports that TB is the leading infectious killer of youth and adults. Approximately two million people die each year from TB and almost a billion people are infected with the mycobacterium that causes the disease.¹

According to the Virginia State Pharmacy, the cost for a single Tine test² is \$0.90 compared to \$1.40 for an individual Mantoux test³. These prices only represent the cost of the drug used and do not include the cost of administration. While the Mantoux test is more expensive it is also considered more accurate than the Tine test since it controls the amount of antigen injected under the skin and is not as difficult to administer properly. In Virginia, any positive reaction to a Tine test must be verified with a Mantoux test.⁴

¹ New Jersey Medical School National Tuberculosis Center, 1998; The Johns Hopkins University Division of Infectious Diseases, 1997.

² The Tine test is also referred to as a multiple puncture test.

³ Per conversation with Jim Thompson. The Mantoux test also requires the use of a syringe that raises its cost compared to the Tine test, which is delivered in a ready-to-use package.

⁴ Per conversation with Lex Gibson at the Tuberculosis Control office of the Virginia Department of Health. According to Mr. Gibson, the National Center for Disease Control and the American Thoracic Society also recommend the Mantoux over the Tine test.

The revisions to the TB screening requirements can be expected to increase compliance costs for all regulated facilities. While it would not be possible to measure the exact increase at this time, the benefits received from the expected reduction in morbidity and mortality, even if only one life is saved over the next five years, would overwhelm any additional disease prevention and reporting costs.

Therapy Services

The current standards have no regulation on therapy services. The proposed rule requires that only therapists perform therapy services, although the Office of Interdepartmental Regulation was not able to provide any evidence of problems resulting from the use of nonlicensed therapists. The intention of this rule is to clarify the difference between counseling, which is guidance oriented, and therapy, which is treatment oriented. The Department of Health Professions licenses individuals to practice mental health therapy in Virginia, since it is generally accepted that their services require a certain level of education and skill above that required for counseling.⁵ By making this distinction clear, it is expected that users of these services will benefit by understanding exactly which type of service they are receiving and being assured of the qualifications of the provider. There will likely be some increase in costs associated with this new requirement although it is not possible to measure the exact magnitude since fees range widely across providers and services offered.

Medication Administration

The proposal requires that all staff responsible for medication administration successfully complete a medication management training course approved by the Board of Nursing. Those facilities licensed under the Departments of Juvenile Justice (DJJ) and Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS) are already subject to this requirement. Approximately 55 of the 185 facilities currently licensed will be affected by this new requirement.

The Virginia Geriatric Education Center (VGEC) at Virginia Commonwealth University is currently contracted by the Department of Social Services to maintain a database of certified master trainers and facility trainers. The medication management training class is a 24-hour course and can be taught in three eight-hour days or otherwise (e.g., two-hour increments over a four-week period) to accommodate schedules. VGEC provides two-day trainer courses (only open to licensed health professionals) annually at a cost of \$45 for DSS facilities and \$80 for non-DSS facilities. Facility trainers are then certified to return to their organization and train the remaining staff as medication aides. DSS requires that DSS licensed staff be trained only by facility trainers registered with the VGEC database and that staff themselves register as medication aides. There is a \$15 fee for facility

trainers to register and \$4.00 for medication aides. There are currently 30 to 35 master trainers in the Commonwealth of Virginia. These individuals often provide training through community colleges and pharmaceutical chains.

The Office of Interdepartmental Regulation reports that from July 1, 1995, to June 30, 1998, regulators cited 83 violations of medication administration regulations.⁶ The standards violated are all topics included in the medication management training course. There is no evidence available of the magnitude of the benefits staff will receive from attending these medication management training classes but it is reasonable to expect that the effect will be positive. The increase in compliance costs (staff time and trainer fees) will differ across facilities, but if even one potentially serious or fatal mistake in administering medication is avoided, the benefits would exceed any increase in compliance costs.

Building Code and Fire Prevention

The replacement regulation eliminates requirements addressed by the Virginia Statewide Fire Prevention Code and Uniform Statewide Building Code pursuant to an opinion by the Attorney General's office that the requirements were unenforceable. While many of the current requirements mirror those in the fire and building codes, there are some exceptions. According to DSS, facilities that fall under the residential use group, for example, would be subject to far less stringent standards than they currently are. The regulating agencies (DSS, DOE, DMHMRSAS, and DJJ) have contacted the Department of Housing and Community Development (DHCD) and are in the process of negotiating the amendment of DHCD's regulations to address these issues. It would, therefore, be premature to assess the economic impact of these changes at this time.

Staff Ratios

The proposed regulation increases the staff-to-children ratio in several areas. The CPR and standard first aid-certified staff ratios are increased from at least one CPR- and first aid-trained staff member on the premises to one for every 16 children present. The American Red Cross offers 6½-hour courses in CPR and standard first aid that range from \$39 to \$43 per person. Many facilities already train all their staff in CPR and first aid. While there is no statistical evidence available on the increase in safety resulting from more CPR/first aid-trained individuals, it seems reasonable to assume that the effect of this requirement will be positive, especially since some of the facilities are located on large properties. Given that the increase in costs is relatively small, it can be expected that the costs would probably not outweigh the potential benefits.

A staff ratio of 1:6 is set for programs that accept mothers and their offspring (counting both mothers and children). Although there are currently no programs of this type in Virginia, previous programs had experienced some difficulty

⁵ According to the Department of Health Professions, those individuals authorized to practice mental health therapy in Virginia are licensed clinical social workers, licensed professional counselors, licensed clinical psychologists, licensed marriage and family therapists, and psychiatrists.

⁶ These statistics do not include citations for facilities regulated under the Department of Juvenile Justice.

Proposed Regulations

applying the current requirements which set staff ratios of 1:3 for children under four years of age and 1:10 otherwise.

The staff ratio for programs providing treatment services for children with diagnosed mental illness or diagnosed severe emotional or behavioral problems where close supervision is indicated is raised from 1:10 to 1:8. Of the 64 facilities that provide programs of this type, only 41 have more than eight residents. DMHMRSAS estimates that half of the 41 facilities already meet or exceed the proposed 1:8 ratio.⁷ The current staff ratio of 1:10 does not differentiate between programs geared toward different populations. While there is no actual data, it is widely acknowledged in the industry that children in these types of programs exhibit more aggressive behavior and these programs have a higher likelihood of serious incidents. The fact that over half of the programs serving these children voluntarily meet or exceed this staff ratio supports this theory. The additional staff required to comply with the proposed requirement will result in significant cost increases for the affected facilities. While there is reason to believe that the proposed ratio represents the adequate minimal standard of care required for these children, there is not enough information available to determine whether the increased quality of care will outweigh the increased costs.

The proposal requires that there be at least one child care staff member awake and on duty in each building where 16 or more children are sleeping. The current standards require one awake staff member for 30 or more children. According to the Office of Interdepartmental Regulation, approximately 6 to 10 of the 185 regulated facilities will be affected by this proposed change. There is no evidence available that this change will result in any increase in the quality of care provided residents although that potential does exist. Compliance costs for those facilities affected can be expected to increase significantly since they will now be required to have an awake staff member on duty during the night.

Miscellaneous

The regulating agencies have determined that several issues in the current standards do not require oversight and therefore propose to delete those requirements. Specific deletions include requirements for facilities to provide opportunities for coeducational activities, for residents' clothing to be inventoried and reviewed at regular intervals, and for pre-placement visits to be made when a resident is transferred between facilities operated by the same sponsor. Many of these requirements are time-consuming and there is no evidence that their deletion would result in a decrease in the level of care provided residents of these facilities, given other safeguards included in the regulation including site visits by inspectors. It can be expected then, that the deletion of these requirements would reduce compliance costs for the facilities without sacrificing any quality in the care provided the residents.

The proposed regulation adds the requirement that an evening snack be offered. According the Virginia Department of Health, there is strong evidence of the nutritional benefits of an evening snack, which can be expected to outweigh the modest increase in costs for the facilities.

Businesses and entities affected. There are currently approximately 185 children's residential facilities subject to regulation.

Localities particularly affected. The proposed regulation is not expected to disproportionately affect any particular localities.

Projected impact on employment. The proposed regulation is expected to increase compliance costs for children's residential facilities and therefore could have an effect on employment but without more information it would not be possible to provide a meaningful estimate of that effect at this time.

Effects on the use and value of private property. The proposed regulation is not expected to have any significant effect on the use and value of private property.

Summary of analysis. It is reasonable to conclude that, overall, this regulation will significantly increase compliance costs for those facilities that do not already meet or exceed the proposed requirements. However, most of the proposed changes can be expected to result in a net economic benefit. While it would not be possible to provide an exact estimate of the net economic effect of this proposal, the design of the regulation seems appropriate to achieve its desired purpose.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services concur with the economic impact statement prepared by the Department of Planning and Budget.

Summary:

The proposed regulation is intended to ensure that a minimally acceptable level of care, treatment, and education are provided by children's residential facilities. The regulation replaces the current Standards for Interdepartmental Regulation of Residential Facilities for Children (6 VAC 35-50-10 et seq., 8 VAC 20-50-10 et seq., 12 VAC 35-30-10 et seq., and 22 VAC 40-150-10 et seq.), which will be repealed in a separate regulatory action.

The proposed regulation: (i) reorganizes and simplifies the current regulations, (ii) ensures the regulation addresses only the generic elements of care related to children, (iii) increases regulants' flexibility to provide care based on their facility's programs and the populations served, (iv) increases regulants' and regulators' opportunities to use professional judgment, and (v) deletes requirements which restate law or outline the departments' policies or procedures and which are better incorporated in the departments' guidance materials.

⁷ Per conversation with Lynne Helmick in the licensure office of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Major substantive changes include: (i) eliminating requirements addressed by the Virginia Statewide Fire Prevention Code, (ii) updating requirements governing tuberculosis screening as recommended by the Department of Health, (iii) eliminating exceptions to the number of successive work days for staff attending training or supervising excursions, (iv) increasing the number of staff members who must be certified in first aid or cardiopulmonary resuscitation, (v) requiring that all staff responsible for medication administration successfully complete a medication training program approved by the Board of Nursing or be licensed by the Commonwealth to administer medications, and (vi) requiring that personnel records be maintained for volunteers and contractual service providers for whom background investigations are statutorily required. A number of requirements have been eliminated or liberalized.

CHAPTER 10.
STANDARDS FOR INTERAGENCY REGULATION OF
CHILDREN'S RESIDENTIAL FACILITIES.

PART I.
GENERAL.

22 VAC 42-10-10. Definitions.

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

"Adaptive behavior" means the effectiveness or degree with which individuals with diagnosed mental disabilities meet the standards of personal independence and social responsibility expected of their age and cultural group.

"Allegation" means an accusation that a facility is operating without a license or receiving public funds for services it is not certified to provide.

"Applicable state regulation" means any regulation which the promulgating state agency determines applies to the facility. The term includes, but is not necessarily limited to, modules, standards, and other regulations promulgated by the Departments of Education; Health; Housing and Community Development; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; or other state agency.

"Applicant" means the person, corporation, partnership, association or public agency which has applied for a license or certificate.

"Application" means a document completed by the facility to furnish the regulatory authority details about the facility's operations and includes certifications that the facility understands and intends to comply with regulatory requirements. An application includes inspection reports necessary to verify compliance with applicable requirements of other state agencies. An application is complete when all required information is provided and the application is signed

and dated by the individual legally responsible for operation of the facility.

"Aversive stimuli" means physical forces (e.g., sound, electricity, heat, cold, light, water, or noise) or substance (e.g., hot pepper, pepper sauce, or pepper spray) measurable in duration and intensity which when applied to a client are noxious or painful to the client, but in no case shall the term "aversive stimuli" include striking or hitting the client with any part of the body or with an implement or pinching, pulling, or shaking the client.

"Body cavity search" means any examination of a resident's rectal or vaginal cavities except the performance of medical procedures by medical personnel.

"Boot camp" means a facility specifically approved to operate with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline and no less than six months of intensive aftercare.

"Case record" or "record" means up-to-date written or automated information relating to one resident. This information includes social and medical data, agreements, all correspondence relating to care of the resident, service plan with periodic revisions, aftercare plans and discharge summary, and any other data related to the resident.

"Chemical restraint" means use of any pharmacological substance for the sole purpose of controlling a resident's behavior in the absence of a diagnosed medical or psychiatric condition. Chemical restraint does not include the appropriate use of medications ordered by a licensed physician for treating medical or psychiatric conditions.

"Child" means any person legally defined as a child under state law. The term includes residents and other children coming in contact with the resident or facility (e.g., visitors). When the term is used, the requirement applies to every child at the facility regardless of whether the child has been admitted to the facility for care (e.g., staff/child ratios apply to all children present even though some may not be residents).

"Child-placing agency" means any person licensed to place children in foster homes or adoptive homes or a local board of public welfare or social services authorized to place children in foster homes or adoptive homes.

"Child with special needs" means a child in need of particular services because he is mentally retarded, developmentally disabled, mentally ill, emotionally disturbed, a substance abuser, in need of special educational services for the handicapped, or requires security services.

"Client" means a person receiving treatment or other services from a program, facility, institution or other entity regulated under these standards whether that person is referred to as a patient, resident, student, consumer, recipient, family member, relative, or other term. When the term is used, the requirement applies to every client of the facility. Some facilities operate programs in addition to the children's residential facility; the requirement applies only to

Proposed Regulations

the clients of the children's residential facility and not to clients participating in other programs.

"Complaint" means an accusation against a licensed or certified facility regarding an alleged violation of standards or law.

"Confinement" means staff directed temporary removal of a resident from contact with people through placing the resident alone in his bedroom or other normally furnished rooms. Confinement does not include timeout or seclusion.

"Contraband" means any item prohibited by law or by the rules and regulations of the agency, or any item which conflicts with the program or safety and security of the facility or individual residents.

"Corporal punishment" means the inflicting of pain or discomfort to the body through (i) actions such as, but not limited to, striking or hitting with any part of the body or with an implement; (ii) through pinching, pulling, or shaking; or (iii) through any similar action which normally inflicts pain or discomfort.

"Day" means calendar day unless the context clearly indicates otherwise.

"DJJ" means the Department of Juvenile Justice.

"DMHMRSAS" means the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"Documented violation" means a noncompliance which requires corrective action by the facility and is recorded on a compliance plan by a reviewer.

"DOE" means the Department of Education.

"DSS" means the Department of Social Services.

"Emergency" means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action. Emergency does not include regularly scheduled time off of permanent staff or other situations which should reasonably be anticipated.

"Emergency admission" means the sudden, unplanned, unexpected admittance of a child who needs immediate care except self-admittance to a temporary care facility.

"Human research" means any systematic investigation utilizing human subjects which may expose such human subjects to physical or psychological injury as a consequence of participation as subjects and which departs from the application of established and accepted therapeutic methods appropriate to meet the subjects' needs.

"Independent living program" means a program that is specifically approved to provide the opportunity for the residents to develop the skills necessary to live successfully on their own following completion of the program.

"Individual behavior management plan" means the planned, individualized, and systematic use of specific treatment techniques implemented by, or under the supervision of, personnel who have been trained in behavior management.

The plan is designed and implemented to: (i) increase an individual's appropriate behaviors and (ii) modify his inappropriate or problem behaviors by replacing them with behaviors that are appropriate and socially acceptable.

"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the needs of a specific resident. It specifies short and long-term goals, the methods and time frames for reaching the goals and the individuals responsible for carrying out a plan.

"Interagency standards" means the standards for residential care which are common to the departments and which must be met by a children's residential facility in order to qualify for a license or certificate.

"Intrusive aversive therapy" means a formal behavior management technique designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior through the application of aversive stimuli contingent upon the exhibition of such behavior. Intrusive aversive therapy does not include verbal therapies, seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to the Code of Virginia, or psychiatric medications which are used for purposes other than intrusive aversive therapy.

"Legal guardian" means the natural or adoptive parents or other person, agency, or institution who has legal custody of a child.

"License or certificate" means a document verifying approval to operate a residential facility for children and which indicates the status of the facility regarding compliance with applicable state regulations.

"Live-in staff" means staff who are required to be on duty for a period of 24 consecutive hours or more during each work week.

"Living unit" means the space in which a particular group of children in care of a residential facility reside. A living unit contains sleeping areas, bath and toilet facilities, and a living room or its equivalent for use by the residents of the unit. Depending upon its design, a building may contain one living unit or several separate living units.

"Management of resident behavior" means use of various practices, implemented according to group and individual differences, which are designed to teach situationally appropriate behavior and to reduce or eliminate undesirable behavior. The practices include, but are not limited to, individual behavioral contracting, point systems, rules of conduct, token economies, and individual behavior management plans.

"Mechanical restraint" means use of devices to restrict the movement of an individual or the movement or normal function of a portion of the individual's body, but does not include the appropriate use of those devices used to provide support for the achievement of functional body position or proper balance and those devices used for specific medical

and surgical treatment or treatment for self-injurious behavior.

"On duty" means that period of time during which a staff person is responsible for the supervision of one or more children.

"Parent" means a natural or adoptive parent or a surrogate parent appointed pursuant to DOE's regulations governing special education programs for students with disabilities. "Parent" means either parent unless the facility has been provided evidence that there is a legally binding instrument, a state law or a court order governing such matters as divorce, separation, or custody, which provides to the contrary.

"Pat down" means a thorough external body search of a clothed resident.

"Physical restraint" means the restraint of a resident's body movements by means of physical contact by staff members. Physical restraint does not include physical prompts or guidance used with individuals with diagnosed mental disabilities in the education or training of adaptive behaviors. (See definition of "adaptive behavior.")

"Placement" means an activity by any person which provides assistance to a parent or legal guardian in locating and effecting the movement of a child to a foster home, adoptive home, or to a residential facility for children.

"Premises" means the tracts of land on which any part of a residential facility for children is located and any buildings on such tracts of land.

"Professional child and family service worker" means an individual providing social services to a resident and his family.

"Program" means a combination of procedures or activities carried out in order to meet a specific goal or objective.

"Public funding" means funds paid by, on behalf of, or with the financial participation of the state Departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; or Social Services.

"Regulant" means the person, corporation, partnership, association, or public agency to whom a license or certificate is issued and who is legally responsible for compliance with the standards and statutory requirements relating to the facility.

"Regulatory authority" means the department or state board that is responsible under the Code of Virginia for the licensure or certification of a residential facility for children.

"Resident" means a person admitted to a children's residential facility for supervision, care, training or treatment on a 24-hour per day basis. Resident includes children making preplacement visits to the facility. When the term is used, the requirement applies only to individuals who have been admitted to the facility and those making preplacement visits.

"Residential facility for children" or "facility" means a publicly or privately operated facility, other than a private family home, where 24-hour per day care is provided to children separated from their legal guardians and which is required to be licensed or certified by the Code of Virginia except:

1. Any facility licensed by the Department of Social Services as a child-caring institution as of January 1, 1987, and which receives no public funds; and
2. Private psychiatric hospitals serving children.

"Respite care facility" means a facility that is specifically approved to provide short-term, periodic residential care to children accepted into its program in order to give the legal guardians temporary relief from responsibility for their direct care.

"Responsible adult" means an adult, who may or may not be a staff member, who has been delegated authority and responsibility to make decisions and to take actions to manage the safety and well-being of children assigned to his care. The term implies that the facility has reasonable grounds to believe that the responsible adult has sufficient knowledge, judgment and maturity to handle the situation for which he has authority and responsibility.

"Rest day" means a period of not less than 32 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Two successive rest days means a period of not less than 48 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Each successive rest day immediately following the second shall consist of not less than 24 additional consecutive hours.

"Review" means an evaluation of a residential facility to determine its degree of compliance with the interagency standards and applicable state regulations and includes all activities conducted by reviewers.

"Reviewer" means an individual designated to conduct reviews. Reviewer includes individuals who also may be known as auditors, certification specialists, compliance monitors, licensing specialists, or other similar terms.

"Right" is something to which one has a natural, legal or moral claim.

"Routine admission" means the admittance of a child following evaluation of an application for admission, completion of preplacement activities, and execution of a written placement agreement.

"Rules of conduct" means a listing of rules or regulations which is maintained to inform residents and others about behaviors which are not permitted and the consequences applied when the behaviors occur.

"Sanitize" means to wash or rinse with water containing a laundry bleach with an active ingredient of 5.25% sodium hypo-chlorite. The amount of bleach used may be in

Proposed Regulations

accordance with manufacturer's recommendation on the package.

"Seclusion" means placing a resident in a room with the door secured in any manner that prevents the resident from opening it.

"Secure custody facility" means a facility designed to provide secure environmental restrictions and appropriate treatment or services for children who must be detained and controlled on a 24-hour per day basis.

"Self-admission" means the admittance of a child who seeks admission to a temporary care facility as permitted by Virginia statutory law without completing the requirements for "routine admission."

"Severe weather" means extreme environment or climate conditions which pose a threat to the health, safety or welfare of residents.

"Shall" means an obligation to act is imposed.

"Shall not" means an obligation not to act is imposed.

"Standard" means a statement which describes in measurable terms a required minimum performance level.

"Strip search" means a visual inspection of the body of a resident when that resident's clothing is removed and an inspection of the removed clothing including wigs, dentures, etc., except the performance of medical procedures by medical personnel.

"Student/intern" means an individual who simultaneously is affiliated with an educational institution and a residential facility. Every student/intern who is not an employee is either a volunteer or contractual service provider depending upon the relationship among the student/intern, educational institution, and facility.

"Substantial compliance" means a facility has demonstrated full compliance with sufficient applicable standards to clearly demonstrate that its program and physical plant can provide reasonably safe and adequate care while approved plans of action to correct findings of noncompliance are being implemented, and there are no noncompliances which pose an immediate and direct danger to residents.

"Systemic" means the overall operation of the facility or one or more of its components. (See definition of "systemic deficiency.")

"Systemic deficiency" means violations documented by a reviewer which demonstrate defects in the overall operation of the facility. (See definitions of "documented violation" and "systemic.")

"Target population" means individuals with a similar, specified characteristic or disability.

"Team" means one or more representatives of the regulatory authorities responsible for reviewing a facility to

determine its compliance with applicable standards and state regulations.

"Temporary care facility" means a facility specifically approved to provide a range of services, as needed, on an individual basis for a period not to exceed 60 days except that this term does not include secure detention facilities.

"Therapist" means an individual (i) licensed as a therapist by the Department of Health Professions or (ii) who is eligible for licensure and working under the supervision of a licensed therapist.

"Therapy" means provision of direct diagnostic, preventive and treatment services where functioning is threatened or affected by social and psychological stress or health impairment.

"Timeout" means temporarily removing a resident and placing the resident alone in a special timeout room that is unfurnished or sparsely furnished and which contains few reinforcing environmental stimuli.

"Treatment" means any action which helps a person in the reduction of disability or discomfort, the amelioration of symptoms, undesirable conditions or changes in specific physical, mental, behavioral or social functioning.

"Variance" means temporary or permanent waiver of compliance with a standard or portion of a standard, or permission to meet the intent of the standard by a method other than that specified in the standard, when the regulatory authority, in its sole discretion, determines: (i) enforcement will create an undue hardship; (ii) the standard is not specifically required by statute or by the regulations of another government agency; and (iii) resident care will not be adversely affected. The denial of a request for a variance is appealable when it leads to the denial or revocation of a license or certificate.

"Visually impaired child" means one whose vision, after best correction, limits his ability to profit from a normal or unmodified educational or daily living setting.

"Wilderness camp" means a facility specifically approved to provide a primitive camping program with a nonpunitive environment and an experience curriculum for residents nine years of age and older who cannot presently function in home, school and community. In lieu of or in addition to dormitories, cabins or barracks for housing residents, primitive campsites are used to integrate learning and therapy with real living needs and problems for which the resident can develop a sense of social responsibility and self-worth.

22 VAC 42-10-20. Applications.

A. Initial applications.

1. A completed application shall be submitted at least 60 days in advance of the planned opening date.
2. The applicant shall document funds or a line of credit sufficient to cover at least 90 days of operating

expenses unless the facility is operated by a state or local government agency, board or commission.

3. A corporation, an unincorporated organization or association, an individual, or a partnership proposing to operate a facility shall submit with the initial application evidence of financial responsibility. This shall include:

- a. A working budget showing projected revenue and expenses for the first year of operation; and
- b. A balance sheet showing assets and liabilities.

4. Facilities operated by state or local government agencies, boards and commissions shall submit evidence of sufficient funds to operate including a working budget showing appropriated revenue and projected expenses for the coming year.

B. *Renewal applications.* A completed application for renewal of a facility's license or certificate shall be submitted within 30 days after being notified to submit a renewal application.

22 VAC 42-10-30. General requirements.

A. The facility shall demonstrate substantial compliance with these interagency standards and other applicable state regulations and shall submit an action plan acceptable to the regulatory authority to correct any noncompliance within a specified time.

B. Corporations sponsoring residential facilities for children shall maintain their corporate status in accordance with Virginia law. Corporations not organized and empowered solely to operate residential facilities for children shall provide for such operations in their charters.

C. The facility shall comply with the terms of its license or certificate.

D. A license or certificate is not transferable and automatically expires when there is a change of ownership or sponsorship.

E. The current license or certificate shall be posted at all times in a place conspicuous to the public.

F. A license or certificate shall not be issued to a facility when noncompliance poses an immediate and direct danger to the residents.

G. Intermediate sanctions authorized by statute may be imposed at the discretion of the regulatory authorities in addition to the sanctions specified in this chapter.

22 VAC 42-10-40. Licenses/certificates.

A. A facility operating under certification by the Department of Juvenile Justice may be issued a license or certificate indicating the facility's status regarding compliance with the interagency standards and other applicable regulations and statutes. Such license or certificate shall be effective for the period specified by the Board of Juvenile Justice, unless it is revoked or surrendered sooner.

B. *Facilities regulated by DOE, DMHMRSAS, or DSS.*

1. A triennial license or certificate shall be issued when the facility (i) applies for renewal while holding an annual or triennial license or certificate and (ii) substantially meets or exceeds the requirements of the interagency standards and other applicable regulations and statutes.

2. *Annual licenses/certificates.*

a. An annual license or certificate shall be issued when the facility:

(1) Applies for renewal while holding a conditional or provisional license or certificate and substantially meets or exceeds the requirements of the interagency standards and other applicable regulations and statutes; or

(2) Applies for renewal while holding an annual or triennial license or certificate and one systemic deficiency has been identified during the licensure or certification period without the facility taking acceptable, documented corrective action.

b. An annual license or certificate may be issued to a facility whose sponsor requests establishment of a new facility to serve the same target population as that currently being served by the sponsor in facilities regulated through the Interdepartmental Regulatory Program.

c. An annual license or certificate may be renewed, but an annual license or certificate and any renewals thereof shall not exceed a period of 36 successive months.

3. *Provisional licenses/certificates.*

a. A provisional license or certificate shall be issued when the facility:

(1) Applies for renewal while holding an annual or triennial license or certificate, and during the licensure or certification period there have been two or more occasions when systemic deficiencies have been identified without the facility taking acceptable, documented corrective action; or

(2) Applies for renewal while holding a conditional license or certificate and, during the licensure or certification period, has demonstrated that its programs and services do not substantially comply with the interagency standards or other applicable regulations or statutes.

b. A provisional license or certificate may be renewed, but a provisional license or certificate and any renewals thereof shall not exceed a period of six successive months.

c. A facility holding a provisional license or certificate shall demonstrate progress toward compliance.

4. *Conditional licenses/certificates.*

Proposed Regulations

a. A conditional license or certificate shall be issued to a facility which demonstrates an acceptable level of compliance and is:

(1) Beginning initial operation and whose sponsor is not operating one or more additional facilities regulated through the Interdepartmental Regulatory Program; or

(2) Sponsored by a currently established Interdepartmental Regulatory Program sponsor who is beginning operation, at a new or currently regulated site, of a program serving a different target population than that being served by the sponsor.

b. A facility holding a conditional license or certificate shall demonstrate progress toward compliance.

c. A conditional license or certificate may be renewed, but a conditional license or certificate and any renewals thereof shall not exceed a period of six successive months.

22 VAC 42-10-50. Application fee.

There shall be no fee to the regulant for licensure or certification.

22 VAC 42-10-60. Modification.

A. The conditions of a license or certificate may be modified during the term of the license or certificate with respect to the capacity, residents' age range, facility location, or changes in the services.

B. The regulant shall submit a written report of any contemplated changes in operation which would affect the terms of the license or certificate or the continuing eligibility for licensure or certification.

C. A change shall not be implemented prior to approval by the regulatory authority. A determination will be made as to whether changes will be approved and the license or certificate modified accordingly or whether an application for a new license or certificate must be filed. The regulant will be notified in writing within 30 days following receipt of the request as to whether the modification is approved or a new license or certificate is required.

22 VAC 42-10-70. Denial.

If denial of a license or certificate is recommended, the facility will be notified in writing of the deficiencies and the proposed action.

22 VAC 42-10-80. Revocation.

A. The license or certificate may be revoked when the regulant:

1. Violates any provision of applicable laws or applicable regulations made pursuant to such laws;
2. Permits, aids or abets the commission of any illegal act in the regulated facility;

3. Engages in conduct or practices which are in violation of statutes related to abuse or neglect of children;

4. Deviates significantly from the program or services for which a license or certificate was issued without obtaining prior written approval from the regulatory authority or fails to correct such deviations within the specified time; or

5. Engages in a willful action or gross negligence which jeopardizes the care or protection of residents.

B. If revocation of a license or certificate is recommended, the facility will be notified in writing of the deficiencies and the proposed action.

22 VAC 42-10-90. Variances.

A. Any request for a variance shall be submitted in writing to the regulatory authority.

B. A variance shall not be effected prior to approval of the regulatory authority.

PART II. ADMINISTRATION.

22 VAC 42-10-100. Governing body.

A. The facility shall clearly identify the corporation, association, partnership, individual, or public agency that is the regulant.

B. The regulant shall clearly identify any governing board, body, entity or person to whom it delegates the legal responsibilities and duties of the regulant.

22 VAC 42-10-110. Responsibilities of the regulant.

A. The regulant shall appoint a qualified chief administrative officer to whom it delegates in writing the authority and responsibility for administrative direction of the facility.

B. A qualified staff member shall be designated to assume responsibility for operation of the facility in the absence of the chief administrative officer.

C. The regulant shall develop a written statement of the philosophy and the objectives of the facility including a description of the target population and the program to be offered.

D. The regulant shall, at least annually, prepare a written report on the facility's effectiveness in meeting its objectives and shall make, as needed, appropriate changes to the facility's programs.

22 VAC 42-10-120. Fiscal accountability.

A. Facilities operated by corporations, unincorporated organizations or associations, individuals or partnerships shall prepare at the end of each fiscal year:

1. An operating statement showing revenue and expenses for the fiscal year just ended;

2. A working budget showing projected revenue and expenses for the current fiscal year; and

3. A balance sheet showing assets and liabilities for the fiscal year just ended.

B. All funds shall be spent for the purpose for which they were collected.

C. There shall be a system of financial recordkeeping that shows a separation of the facility's accounts from all other records.

22 VAC 42-10-130. Insurance.

A. The facility shall maintain liability insurance covering the premises and the facility's operations.

B. The facility shall maintain liability insurance on vehicles operated by the facility.

C. The members of the governing body and staff who have been authorized to handle the facility's funds shall be bonded or otherwise indemnified.

22 VAC 42-10-140. Fund raising.

A. The facility shall not use residents in its fund-raising activities without written permission of legal guardian.

B. The facility shall not use residents 14 years of age or older in its fund-raising activities without the residents' permission.

22 VAC 42-10-150. Weapons.

The facility shall have and implement a written policy governing the possession and use of firearms, pellet guns, air rifles, and other weapons on the facility's premises. The policy shall provide that no firearms, pellet guns, air rifles, or other weapons shall be permitted on the premises unless the weapons are:

1. In the possession of licensed security personnel;
2. Kept under lock and key; or
3. Used under the supervision of a responsible adult in accord with policies and procedures developed by the facility for the weapons' lawful and safe use.

22 VAC 42-10-160. Relationship to regulatory authority.

A. The facility shall submit or make available to the regulatory authority such reports and information as the regulatory authority may require to establish compliance with these interagency standards and other applicable regulations and statutes.

B. The governing body or its official representative shall notify the regulatory authorities within five working days of:

1. Any change in administrative structure or newly hired chief administrative officer; and
2. Any pending changes in the program including, but not necessarily limited to, the setting where services are

performed, the services provided, staff qualifications, organizational structure, target population, or capacity.

22 VAC 42-10-170. Facilities serving persons over the age of 17 years.

Facilities which are approved to serve persons over the age of 17 years shall comply with these interagency standards for all occupants regardless of age, except when it is determined by the regulatory authorities that housing programs, services, and supervision for such persons are provided separately from those for the residents.

22 VAC 42-10-180. Health information.

A. Health information required by this chapter shall be maintained for each staff member and for each individual who resides in a building occupied by residents, including each person who is not a staff member or resident of the facility.

B. Initial screening for tuberculosis.

1. Each individual shall obtain an evaluation documenting the absence of tuberculosis in a communicable form no earlier than 30 days before or no later than seven days after employment or contact with residents.

2. Each individual shall submit the results of a Mantoux tuberculin skin test, chest x-ray or bacteriological examination, as deemed appropriate by the examining physician, documenting that the individual is free of tuberculosis in a communicable form.

3. The documentation shall include all information contained on a "Report of Tuberculosis Screening" form recommended by the Virginia Department of Health.

4. An evaluation shall not be required for an individual who (i) has separated from employment with a facility licensed or certified by the Commonwealth of Virginia, (ii) has a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening to his new employer.

C. Subsequent evaluations for tuberculosis.

1. An individual who comes in contact with a known case of infectious tuberculosis shall be screened as determined appropriate based on consultation with the local health department.

2. An individual who develops chronic respiratory symptoms of three weeks' duration shall be evaluated immediately for the presence of infectious tuberculosis.

3. Any individual not previously reacting significantly to a Mantoux tuberculin skin test shall be retested annually. Annual chest x-rays are not required in the absence of symptoms.

D. An individual suspected of having infectious tuberculosis shall not be permitted to return to work or have contact with staff or residents until a physician has

Proposed Regulations

determined that the individual is free of infectious tuberculosis.

E. The facility shall report any active case of tuberculosis developed by a staff member to the local health department.

22 VAC 42-10-190. Physical or mental health of personnel.

A. The regulant or the regulatory authority may require a report of examination by a licensed physician or mental health professional when there are indications that an individual's physical, mental or emotional health may jeopardize the care of residents.

B. An individual who, upon examination by a licensed physician or mental health professional, shows indication of a physical or mental condition which may jeopardize the safety of residents or which would prevent the performance of duties shall be removed immediately from contact with residents and food served to residents until the condition is cleared as evidenced by a signed statement from the physician or mental health professional.

22 VAC 42-10-200. Qualifications.

A. Standards establishing minimum position qualifications shall be applicable to all facilities. In lieu of the minimum position qualifications contained in this chapter, facilities subject to (i) the rules and regulations of the Virginia Department of Personnel and Training or (ii) the rules and regulations of a local government personnel office may develop written minimum entry level qualifications in accord with the rules and regulations of the supervising personnel authority.

B. A person who assumes or is designated to assume the responsibilities of a position or any combination of positions described in these interagency standards shall:

1. Meet the qualifications of the position or positions;
2. Fully comply with all applicable standards for each function; and
3. Demonstrate a working knowledge of the policies and procedures that are applicable to the specific position or positions.

C. When services or consultations are obtained on a contractual basis, they shall be provided by professionally qualified personnel.

22 VAC 42-10-210. Job descriptions.

A. There shall be a written job description for each position which, at a minimum, includes the:

1. Job title;
2. Duties and responsibilities of the incumbent;
3. Job title of the immediate supervisor; and
4. Minimum knowledge, skills and abilities required for entry level performance of the job.

B. A copy of the job description shall be given to each person assigned to a position at the time of employment or assignment.

22 VAC 42-10-220. Written personnel policies and procedures.

A. The regulant shall approve written personnel policies and make its written personnel policies readily accessible to each staff member.

B. The facility shall develop and implement written policies and procedures to assure that persons employed in or designated to assume the responsibilities of each position possess the knowledge, skills and abilities specified in the job description for the position.

C. Written policies and procedures related to child abuse and neglect shall be distributed to all staff members. These shall include procedures for:

1. Handling accusations against staff;
2. Promptly referring, consistent with requirements of the Code of Virginia, suspected cases of child abuse and neglect to the local child protective services unit; and
3. Cooperating with the unit during any investigation.

22 VAC 42-10-230. Personnel records.

A. Separate up-to-date written or automated personnel records shall be maintained for each employee and for each volunteer and contractual service provider for whom background investigations are required by Virginia statute. Content of personnel records of volunteers and contractual service providers may be limited to documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations.

B. The records of each employee shall include:

1. A completed employment application form or other written material providing the individual's name, address, phone number, and social security number;
2. Educational background and employment history;
3. Written references or notations of oral references;
4. Reports of required health examinations;
5. Annual performance evaluations;
6. Date of employment and separation; and
7. Documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations.

C. Personnel records shall be retained in their entirety for three years after separation from employment, contractual service, or volunteer service.

22 VAC 42-10-240. Staff development.

A. New employees, relief staff, volunteers and students/interns shall within one calendar month of employment be given orientation and training regarding the objectives and philosophy of the facility, practices of confidentiality, other policies and procedures that are applicable to their positions, and their duties and responsibilities.

B. All personnel shall receive documented training and other staff development activities as necessary to enable them to adequately perform their job responsibilities.

22 VAC 42-10-250. Supervision.

Regular supervision of staff, volunteers, and students/interns shall be provided.

22 VAC 42-10-260. Chief administrative officer.

A chief administrative officer appointed after [the effective date of this chapter] shall have at least:

1. A baccalaureate degree from an accredited college or university in the field of human services, institutional management, social work, education or other allied discipline; or
2. A baccalaureate degree from an accredited college or university with two years of successful work experience with children in the field of institutional management, social work, education or other allied profession.

22 VAC 42-10-270. Program direction.

A. The facility shall have at least one person qualified to direct the program.

B. Persons directing programs shall be responsible for the development and implementation of the programs and services offered by the facility.

C. Persons directing programs of a facility licensed or certified to care for 13 or more residents shall be full-time, qualified staff members.

D. Any qualified person may serve as the program director.

E. A person appointed after July 1, 1981, to direct programs shall have:

1. A baccalaureate degree from an accredited college or university with two years of successful work experience with children in the field of institutional management, social work, education or other allied discipline;
2. A graduate degree from an accredited college or university in a profession related to child care and development; or
3. A license or certificate issued by the Commonwealth of Virginia as a drug or alcoholism counselor/worker if the facility's purpose is to treat drug abuse or alcoholism.

22 VAC 42-10-280. Child care staff.

A. A designated staff member shall have responsibility for the development of the daily living program within each child care unit.

B. A designated staff member shall be responsible for the coordination of all services offered to each resident.

C. A designated staff member shall have responsibility for the orientation, training and supervision of child care workers.

D. An individual supervising child care staff shall have:

1. A baccalaureate degree from an accredited college or university and two years experience in the human services field, at least one of which shall have been in a residential facility for children; or
2. A high school diploma or a General Education Development Certificate (G.E.D.) and a minimum of five years experience in the human services field with at least two years in a residential facility for children.

E. The child care worker shall have direct responsibility for guidance and supervision of the children to whom he is assigned including:

1. Overseeing physical care;
2. Development of acceptable habits and attitudes;
3. Management of resident behavior; and
4. Helping to meet the goals and objectives of any required service plan.

F. A child care worker shall:

1. Be a high school graduate or have a General Education Development Certificate (G.E.D.); and
2. Have demonstrated, through previous life and work experiences, an ability to maintain a stable environment and to provide guidance to children in the age range for which the child care worker will be responsible.

G. An individual hired, promoted, demoted, or transferred to a child care worker's position after [the effective date of this chapter] shall be at least 18 years old.

22 VAC 42-10-290. Relief staff.

Sufficient qualified relief staff shall be employed to maintain required staff/child ratios at all times.

22 VAC 42-10-300. Medical staff.

A. Services of a licensed physician shall be available for treatment of residents as needed.

B. Each nurse shall hold a current nursing license issued by the Commonwealth of Virginia.

C. At all times that children are present there shall be at least one responsible adult on the premises who has received within the past three years a basic certificate in standard first aid issued by the American Red Cross or other

Proposed Regulations

recognized authority for each 16 children, or portion thereof, on the premises. Each nurse on the premises who holds a current nursing license issued by the Commonwealth of Virginia may be considered to hold a current certificate in first aid.

D. At all times that children are present there shall be at least one responsible adult on the premises who has a current certificate in cardiopulmonary resuscitation issued by the American Red Cross or other recognized authority for each 16 children, or portion thereof, on the premises.

22 VAC 42-10-310. Volunteers and students/interns.

A. A facility that uses volunteers or students/interns shall develop and implement written policies and procedures governing their selection and use.

B. The facility shall not be dependent upon use of volunteers or students/interns to provide basic services.

C. Responsibilities of volunteers and students/interns shall be clearly defined in writing.

D. Volunteers and students/interns shall have qualifications appropriate to the services they render.

E. Volunteers and students/interns shall comply with all regulations governing confidential treatment of personal information.

F. Volunteers and students/interns shall be informed of liability protection, if any, provided by the facility.

22 VAC 42-10-320. Support functions.

A. Child care workers and other staff responsible for child care may assume the duties of nonchild care personnel only when these duties do not interfere with their child care responsibilities.

B. Residents shall not be solely responsible for support functions including, but not necessarily limited to, food service, maintenance of building and grounds, and housekeeping.

PART III. RESIDENTIAL ENVIRONMENT.

22 VAC 42-10-330. Buildings, inspections and building plans.

A. All buildings and building-related equipment shall be inspected and approved by the local building official. Approval shall be documented by a certificate of occupancy indicating that the building is classified for its proposed use.

B. The facility shall document at the time of its original application and annually thereafter that buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code (13 VAC 5-51-10 et seq.).

C. At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by state or local health authorities, whose inspection and approval shall include:

1. General sanitation;
2. The sewage disposal system;
3. The water supply;
4. Food service operations; and
5. Swimming pools.

D. The buildings shall be suitable to house the programs and services provided.

E. Building plans and specifications for new construction, change in use of existing buildings, and any structural modifications or additions to existing buildings shall be submitted to and approved by the licensure or certification authority and by other appropriate regulatory authorities.

22 VAC 42-10-340. Lighting.

A. Artificial lighting shall be by electricity.

B. All areas within buildings shall be lighted for safety.

C. Lighting in halls and bathrooms shall be adequate and shall be continuous at night.

D. Lighting shall be sufficient for the activities being performed.

E. Operable flashlights or battery-powered lanterns shall be available for each staff member on the premises to use in emergencies.

F. Outside entrances and parking areas shall be lighted for protection against injuries and intruders.

22 VAC 42-10-350. Plumbing.

A. Plumbing shall be maintained in good operational condition.

B. An adequate supply of hot and cold running water shall be available at all times.

C. Precautions shall be taken to prevent scalding from running water.

D. Mixing faucets shall be installed in all newly constructed buildings and when making structural modifications or additions to existing buildings.

22 VAC 42-10-360. Toilet facilities.

A. There shall be at least one toilet, one hand basin and one shower or bathtub in each living unit.

B. There shall be at least one bathroom equipped with a bathtub in each facility.

C. There shall be at least one toilet, one hand basin and one shower or tub for every eight residents.

D. There shall be one toilet, one hand basin and one shower or tub for every four residents in any building constructed or structurally modified after July 1, 1981, except secure detention facilities.

E. The maximum number of staff members on duty in the living unit shall be counted in determining the required number of toilets and hand basins when a separate bathroom is not provided for staff.

F. There shall be at least one mirror securely fastened to the wall at a height appropriate for use in each room where hand basins are located except in security rooms in hospitals and secure custody facilities.

22 VAC 42-10-370. Personal necessities.

A. An adequate supply of personal necessities shall be available to the residents at all times for purposes of personal hygiene and grooming. Personal necessities include, but are not necessarily limited to, soap, toilet tissue, toothpaste, individual tooth brushes, individual combs and shaving equipment.

B. Clean, individual washcloths and towels shall be available once each week and more often if needed.

C. When residents are incontinent or not toilet trained:

1. Provision shall be made for sponging, diapering or other similar care on a nonabsorbent changing surface which shall be cleaned with warm soapy water after each use.

2. A covered diaper pail, or its equivalent, with leak-proof disposable liners shall be available. If both cloth and disposable diapers are used, there shall be a diaper pail for each.

3. Adapter seats and toilet chairs shall be cleaned immediately after each use with warm soapy water.

4. Staff shall thoroughly wash their hands with warm soapy water immediately after assisting a child or themselves with toileting.

22 VAC 42-10-380. Sleeping areas.

A. When residents are four years of age or older, boys and girls shall have separate sleeping areas.

B. No more than four children may share a bedroom or sleeping area except as provided by other applicable state regulations governing juvenile correctional centers and boot camps.

C. Children who are dependent upon wheelchairs, crutches, canes or other mechanical devices for assistance in walking shall be provided with a planned, personalized means of effective egress for use in emergencies.

D. Beds shall be at least three feet apart at the head, foot and sides and double-decker beds shall be at least five feet apart at the head, foot and sides.

E. Sleeping quarters in facilities licensed by the DSS prior to July 1, 1981, and facilities established, constructed or structurally modified after July 1, 1981, shall have:

1. At least 80 square feet of floor area in a bedroom accommodating one person;

2. At least 60 square feet of floor area per person in rooms accommodating two or more persons; and

3. Ceilings at least 7½ feet in height.

F. Each child shall have a separate, clean, comfortable bed equipped with mattress, pillow, blankets, bed linens, and, if needed, a waterproof mattress cover.

G. Bed linens shall be changed at least every seven days and more often, if needed.

H. Mattresses and pillows shall be clean.

I. Mattresses shall be fire retardant as evidenced by documentation from the manufacturer.

J. Cribs shall be provided for residents under two years of age.

K. Each resident shall be assigned drawer space and closet space, or their equivalent, which is accessible to the sleeping area for storage of clothing and personal belongings except in secure custody facilities.

L. The sleeping areas' environment shall be conducive to sleep and rest.

M. Smoking shall be prohibited in sleeping areas.

22 VAC 42-10-390. Residents' privacy.

A. When bathrooms are not designated for individual use, except in secure custody facilities:

1. Each toilet shall be enclosed for privacy; and

2. Bathtubs and showers shall provide visual privacy for bathing by use of enclosures, curtains or other appropriate means.

B. Windows in bathrooms, sleeping areas, and dressing areas shall provide for privacy.

C. Every sleeping area shall have a door that may be closed for privacy or quiet, and this door shall be readily opened in case of fire or other emergency.

22 VAC 42-10-400. Living rooms and indoor recreation space.

A. Each living unit shall have a living room, or other area for informal use, for relaxation and entertainment. The furnishings shall provide a comfortable, home-like environment that is appropriate to the ages of the residents.

B. Facilities licensed or certified to care for 13 or more residents shall have indoor recreation space that contains recreation equipment appropriate to the ages and interests of the residents. The indoor recreation space shall be distinct from the living room, but recreation space is not required in every living unit.

22 VAC 42-10-410. Study space.

A. Facilities serving a school-age population shall provide study space. Study space may be assigned in areas used interchangeably for other purposes.

Proposed Regulations

B. Study space shall be well-lighted, quiet and equipped with tables or desks and chairs.

22 VAC 42-10-420. Kitchen and dining areas.

A. Meals shall be served in areas equipped with sturdy tables and benches or chairs which are size and age appropriate for the residents.

B. Adequate kitchen facilities and equipment shall be provided for preparation and serving of meals.

C. Walk-in refrigerators, freezers, and other enclosures shall be equipped to permit emergency exits.

22 VAC 42-10-430. Laundry areas.

Appropriate space and equipment in good repair shall be provided if laundry is done at the facility.

22 VAC 42-10-440. Storage.

Space shall be provided for safe storage of items such as first-aid equipment, household supplies, recreational equipment, luggage, out-of-season clothing, and other materials.

22 VAC 42-10-450. Staff quarters.

A. A separate, private bathroom and bedroom shall be provided for staff and their families when a staff member is on duty for 24 consecutive hours or more. A private bathroom is not required for staff when there are no more than four persons, including staff and family of staff, residing in, or on duty, in the living unit.

B. Staff and members of their families shall not share bedrooms with residents.

C. When 13 or more residents reside in a living unit, a separate, private living room shall be provided for child care staff who are required to be in the living unit for 24 hours or more.

D. When child care staff are on duty for less than 24 hours, a bed shall be provided for use of each staff member on duty during night hours unless the staff member is required to stay awake.

22 VAC 42-10-460. Office space.

Space shall be provided for administrative activities including, as appropriate to the program, confidential conversations and provision for storage of records and materials.

22 VAC 42-10-470. Buildings and grounds.

A. The facility's grounds shall be safe, properly maintained, and free of clutter and rubbish. The grounds include, but are not limited to, all areas where residents, staff, and visitors may reasonably be expected to have access, including roads, pavements, parking lots, open areas, stairways, railings, and potentially hazardous or dangerous areas.

B. The interior and exterior of all buildings shall be safe, properly maintained, clean and in good working order. This includes, but is not limited to, required locks, mechanical devices, indoor and outdoor equipment, and furnishings.

C. Outdoor recreation space shall be available and appropriately equipped for the residents' use.

22 VAC 42-10-480. Equipment and furnishings.

A. All furnishings and equipment shall be safe, clean, and suitable to the ages and number of residents.

B. There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which children sleep or participate in programs.

22 VAC 42-10-490. Housekeeping and maintenance.

A. All buildings shall be well-ventilated and free of stale, musty or foul odors.

B. Adequate provision shall be made for the collection and legal disposal of garbage and waste materials.

C. Buildings shall be kept free of flies, roaches, rats and other vermin.

D. All linens shall be kept clean and in good repair.

E. A sanitizing agent shall be used in the laundering of bed, bath, table and kitchen linens.

22 VAC 42-10-500. Farm and domestic animals.

A. Horses and other animals maintained on the premises shall be quartered at a reasonable distance from sleeping, living, eating and food preparation areas.

B. Stables and corrals shall be located so as to prevent contamination of water supplies.

C. Manure shall be removed from stalls and corrals as often as necessary to prevent fly problems.

D. Animals maintained on the premises shall be tested, inoculated and licensed as required by law.

E. The premises shall be kept free of stray domestic animals.

F. Pets shall be provided with clean quarters and adequate food and water.

22 VAC 42-10-510. Campsites.

A. This section is applicable exclusively to the residential environment and equipment at wilderness camps. Permanent buildings and other aspects of the residential environment at a wilderness camp shall comply with all other standards in this part.

B. Campsites shall be well-drained and free from depressions in which water may stand.

C. Natural sink-holes and other surface collectors of water shall be either drained or filled to prevent the breeding of mosquitoes.

D. Campsites shall not be located in proximity to conditions that create or are likely to create offensive odors, flies, noise, traffic, or other hazards.

E. Campsites shall be free from debris, noxious plants, and uncontrolled weeds or brush.

F. Drinking water used at campsites and during activities away from permanent campsites shall be from a source known to be free of coliform organisms or shall be treated before use in a manner approved by the Virginia Department of Health.

G. An adequate supply of water, under pressure where possible, shall be provided at the cooking area for hand washing, dish washing, food preparation and drinking.

H. Food shall be obtained from approved sources and shall be properly identified.

I. Milk products shall be pasteurized.

J. Food and drink shall be maintained and stored using methods that prevent contamination.

K. Utensils shall be used to minimize the handling of food.

L. Fruits and vegetables shall be properly washed prior to use.

M. Food and food containers shall be covered and stored (i) off the ground and (ii) on clean surfaces. Refrigerated food shall be covered.

N. Sugar and other condiments shall be packaged or served in closed dispensers.

O. Poisonous and toxic materials shall be properly used, properly identified and stored separately from food.

P. Persons with wounds or communicable diseases shall be prohibited from handling food.

Q. Persons who handle food and eating utensils for the group shall maintain personal cleanliness, keep their hands clean at all times, and thoroughly wash their hands with soap and water after each visit to the toilet.

R. Food contact surfaces shall be kept clean.

S. All eating utensils and cookware shall be properly stored.

T. Disposable and single-use dishes, receptacles and utensils shall be properly stored, handled and used only once.

U. Eating utensils shall not be stored with food or other materials and substances.

V. Use of a common drinking cup shall be prohibited.

W. Only food which can be maintained in wholesome condition with the available equipment shall be used.

X. Ice which comes in contact with food or drink shall be obtained from an approved source and shall be made,

delivered, stored, handled and dispensed in a sanitary manner and shall be free from contamination.

Y. When ice and ice chests are used, meats and other perishable foods shall not be stored for more than 24 hours.

Z. Eating utensils and cookware shall be washed after each use.

AA. No dish, receptacle or utensil used in handling food for human consumption shall be used or kept for use if chipped, cracked, broken, damaged or constructed in a manner that prevents proper cleaning and sanitizing.

BB. Solid wastes which are generated shall be disposed of at an approved sanitary landfill or similar disposal facility. Where sanitary landfill facilities are not available, solid wastes shall be disposed of daily by burial under at least two feet of compacted earth cover in a location which is not subject to flooding.

CC. Sanitary-type privies or portable toilets shall be provided where a water supply is not available. Such facilities shall be constructed as required by the Virginia Department of Health.

DD. All facilities provided for excreta and liquid waste disposal shall be maintained and operated in a sanitary manner to eliminate possible health or pollution hazards, to prevent access of flies and animals to their contents, and to prevent fly breeding.

EE. Privies shall be located at least 150 feet from streams, lakes, and wells and at least 75 feet from sleeping and housing facilities.

FF. Campsites which do not have approved permanent toilet facilities shall have a minimum ratio of one toilet seat for every 15 persons.

GG. If chemical control is used to supplement good sanitation practices, proper pesticides and other chemicals shall be used safely and in strict accordance with label instructions.

HH. Bedding shall be clean, dry and sanitary.

II. Bedding shall be adequate to ensure protection and comfort in cold weather.

JJ. Sleeping bags, if used, shall be fiberfill and rated for 0°F.

KK. Linens shall be changed as often as required for cleanliness and sanitation but not less frequently than once a week.

LL. Bed wetters shall have their bedding changed or dried as often as it is wet.

MM. Mattresses, if used, shall be clean.

NN. Mattresses shall be fire retardant as evidenced by documentation from the manufacturer.

OO. A mattress cover shall be provided for each mattress.

Proposed Regulations

PP. Sleeping areas shall be protected by screening or other means to prevent admittance of flies and mosquitos.

QQ. A separate bed, bunk or cot shall be made available for each person.

RR. Each resident shall be provided with an adequate supply of clean clothing which is suitable for outdoor living and is appropriate to the geographic location and season.

SS. Sturdy, water-resistant outdoor footwear shall be provided for each resident.

TT. Each resident shall have an adequate personal storage area.

UU. Fire extinguishers of a 2A 10BC rating shall be maintained so that it is never necessary to travel more than 75 feet to a fire extinguisher from combustion-type heating devices, campfires or other source of combustion.

PART IV. PROGRAMS AND SERVICES.

22 VAC 42-10-520. Acceptance of children.

Children shall be accepted only by court order or by written placement agreement with legal guardians. This requirement does not apply to temporary care facilities when self-admission is made according to Virginia law.

22 VAC 42-10-530. Admission procedures.

A. The facility shall have written criteria for admission which shall include:

1. A description of the population to be served;
2. A description of the types of services offered; and
3. Intake and admission procedures.

B. The facility's criteria for admission shall be accessible to prospective residents, legal guardians, and placing agencies.

C. The facility shall accept and serve only those children whose needs are compatible with the services provided through the facility unless a child's admission is ordered by a court of competent jurisdiction.

D. Acceptance of a child as eligible for respite care by a facility approved to provide residential respite care is considered admission to the facility. Each individual period of respite care is not considered a separate admission.

22 VAC 42-10-540. Maintenance of residents' records.

A. A separate written or automated case record shall be maintained for each resident.

B. Each case record shall be kept up to date and in a uniform manner.

C. The facility shall make information available only to persons/organizations legally authorized to have access to the information under federal and state laws.

D. The facility shall have and implement written policies and procedures to protect the confidentiality of records. The policy shall address acquiring information, access, duplication, and dissemination of any portion of the records. The policy shall specify what information is available to the resident.

E. Records shall be kept in areas which are accessible to authorized staff and protected from unauthorized access, fire, and flood.

F. Active and inactive written records shall be stored in a metal file cabinet or other metal compartment.

G. Records not in use shall be kept in a locked compartment or in a locked room.

H. All portions of each resident's written records shall be consolidated prior to the resident's discharge.

I. Written and automated records shall be retained in their entirety for a minimum of three years after the date of discharge unless otherwise specified by state or federal requirements.

J. The face sheet and discharge information shall be retained permanently unless otherwise specified by state or federal requirements.

K. The facility shall have a written policy to provide for:

1. The preservation of records in the event the facility ceases operation;
2. Notifying the regulatory authority of the preservation plan; and
3. Retention of and access to automated records.

22 VAC 42-10-550. Interstate Compact on the Placement of Children.

A. Documentation of the prior approval of the administrator of the Interstate Compact on the Placement of Children, Virginia Department of Social Services, shall be retained in the record of each resident admitted from outside Virginia. The requirements of this section shall not apply to a facility providing documentation that the administrator of the interstate compact has determined the facility is statutorily exempt from the compact's provisions.

B. No later than 10 days after discharge the resident's record shall contain documentation that the administrator of the Interstate Compact on the Placement of Children was notified of the discharge.

22 VAC 42-10-560. Participation of residents in human research.

The facility shall:

1. Implement a written policy stating that residents will not be used as subjects of human research; or
2. Document appropriate approval, as required by the regulatory authorities, for each research project using residents as subjects of human research.

22 VAC 42-10-570. Emergency and self-admissions.

Facilities accepting emergency or self-admissions shall:

1. Have and implement written policies and procedures governing such admissions which shall include procedures to make and document prompt efforts to obtain (i) a written placement agreement signed by the legal guardian or (ii) the order of a court of competent jurisdiction;
2. Place in each resident's record the order of a court of competent jurisdiction, a written request for care, or documentation of an oral request for care; and
3. Have and implement written policies and procedures for obtaining (i) a written placement agreement signed by the legal guardian or (ii) the order of a court of competent jurisdiction.

22 VAC 42-10-580. Application for admission.

A. Admission, other than an emergency or diagnostic admission, shall be based on evaluation of an application for admission. The requirements of this section do not apply to (i) temporary care facilities, (ii) court ordered placements, or (iii) transfer of a resident between residential facilities located in Virginia and operated by the same sponsor.

B. Facilities accepting routine admissions shall develop, and fully complete prior to acceptance for care, an application for admission which is designed to compile information necessary to determine:

1. The physical needs of the prospective resident;
2. The educational needs of the prospective resident;
3. The mental health, emotional and psychological needs of the prospective resident;
4. The physical health needs of the prospective resident;
5. The protection needs of the prospective resident;
6. The suitability of the prospective resident's admission;
7. Whether the prospective resident's admission would pose any significant risk to (i) the prospective resident or (ii) the facility's residents or staff; and
8. Information necessary to develop a service plan.

C. The resident's record shall contain a completed application for admission at the time of a routine admission or within 30 days after an emergency admission.

22 VAC 42-10-590. Preplacement activities documentation.

At the time of each routine admission, the facility shall document:

1. A preplacement visit by the resident accompanied by a family member, agency representative or other responsible adult;

2. Preparation through sharing information with the family or placing agency and with the resident about the facility, the staff, the population served, activities and criteria for admission; and

3. Written confirmation of the admission decision to the legal guardian and to the placing agency.

22 VAC 42-10-600. Written placement agreement.

A. The facility, except a facility which accepts admission only upon receipt of the order of a court of competent jurisdiction, shall develop a written placement agreement which:

1. Authorizes the resident's placement;
2. Addresses acquisition of and consent for any medical treatment needed by the resident;
3. Addresses the rights and responsibilities of each party involved;
4. Addresses financial responsibility for the placement;
5. Addresses resident absences from the facility; and
6. Addresses visitation with the resident.

B. Each resident's record shall contain, prior to a routine admission, a completed placement agreement signed by the legal guardian or placing agency.

C. The record of each person admitted based on a court order shall contain a copy of the court order.

22 VAC 42-10-610. Face sheet.

A. At the time of admission, each resident's record shall include a completed face sheet which contains (i) the resident's full name, last known residence, birth date, birthplace, gender, race, social security number, religious preference, and admission date; and (ii) names, addresses, and telephone numbers of the resident's legal guardians, placing agency, and emergency contacts.

B. Missing information shall be obtained promptly and information shall be updated when changes occur.

22 VAC 42-10-620. Initial objectives and strategies.

Within 72 hours following admission, objectives and strategies for the first 30 days shall be developed, distributed to affected staff and the resident, and placed in the resident's record. The objectives and strategies shall be based on the reasons for admitting the resident. The requirements of this section do not apply to secure detention facilities.

22 VAC 42-10-630. Service plan.

A. An individualized service plan shall be developed and placed in the resident's record within 30 days following admission, except the requirements of this section do not apply to secure detention facilities.

B. Individualized service plans shall describe the:

1. Strengths and needs of the resident;

Proposed Regulations

2. Resident's current level of functioning,
3. Goals and strategies established for the resident;
4. Projected family involvement;
5. Projected date for accomplishing each objective; and
6. Status of discharge planning except that this subdivision shall not apply to a facility which discharges only upon receipt of the order of a court of competent jurisdiction.

C. Each plan shall be updated quarterly, or more frequently if necessary, and shall report the:

1. Resident's progress toward meeting the plan's objectives;
2. Family's involvement;
3. Continuing needs of the resident;
4. Resident's progress towards discharge;
5. Status of discharge planning; and
6. Revisions, if any, to the plan.

D. Each plan and update shall include the date it was developed and the signature of the person who developed it.

E. Staff responsible for daily implementation of the resident's individualized service plan shall be able to describe the resident's behavior in terms of the objectives in the plan.

F. The following parties shall participate, unless clearly inappropriate, in developing the individualized service plan and in updating the plan quarterly, or more frequently if necessary:

1. The resident;
2. The resident's family, legal guardian, or legally authorized representative;
3. The placing agency; and
4. Facility staff.

G. The initial individualized service plan, each update, and all other revisions shall be distributed to the parties who participated in development of the plan. Documentation of distribution shall be included in the resident's record.

22 VAC 42-10-640. Resident transfer between residential facilities located in Virginia and operated by the same sponsor.

A. Except when transfer is ordered by a court of competent jurisdiction, the receiving facility shall document at the time of transfer:

1. Preparation through sharing information with the resident, the family and the placing agency about the facility, the staff, the population served, activities and criteria for admission;

2. Written confirmation of the admission decision to the legal guardian and to the placing agency;
3. Receipt from the sending facility of a written summary of the resident's progress while at the facility and the resident's current strengths and needs; and
4. Receipt of the resident's record.

B. The sending facility shall retain a copy of the face sheet and a written summary of the child's progress while at the facility and shall document the date of transfer.

22 VAC 42-10-650. Discharge.

A. The facility shall have written criteria for discharge that shall include:

1. Criteria for a resident's completing the program which are consistent with the facility's programs and services;
2. Conditions under which a resident may be discharged before completing the program; and
3. Procedures for assisting placing agencies in placing the residents should the facility cease operation.

B. The facility's criteria for discharge shall be accessible to prospective residents, legal guardians, and placing agencies.

C. The record of each resident discharged upon receipt of the order of a court of competent jurisdiction shall contain a copy of the court order.

D. Residents shall be discharged only to the legal guardian or legally authorized representative.

E. A facility approved to provide residential respite care shall discharge a resident when the legal guardian no longer intends to use the facility's services.

F. Information concerning current medications, need for continuing therapeutic interventions, educational status, and other items important to the resident's continuing care shall be made available to or provided to the legal guardian or legally authorized representative, as appropriate.

G. Unless discharge is ordered by a court of competent jurisdiction, prior to the planned discharge date each resident's record shall contain:

1. Documentation that discharge has been planned and discussed with the parent, legal guardian, child-placing agency, and resident; and
2. A written discharge plan.

H. Discharge summaries.

1. In lieu of a comprehensive discharge summary, the record of each resident discharged upon receipt of the order of a court of competent jurisdiction shall contain a copy of the court order.
2. No later than 30 days after discharge, a comprehensive discharge summary shall be placed in the resident's record and sent to the persons or agency

which made the placement. The discharge summary shall review:

- a. Services provided to the resident;
- b. The resident's progress toward meeting service plan objectives;
- c. The resident's continuing needs and recommendations, if any, for further services and care;
- d. Reasons for discharge and names of persons to whom resident was discharged;
- e. Dates of admission and discharge; and
- f. Date the discharge summary was prepared and the signature of the person preparing it.

22 VAC 42-10-660. Placement of residents outside the facility.

A resident shall not be placed outside the facility prior to the facility's obtaining a child-placing agency license from the Department of Social Services except as permitted by statute or by order of a court of competent jurisdiction.

22 VAC 42-10-670. Counseling and social services.

A. The program of the facility, except a secure detention facility, shall be designed to provide counseling and social services which address:

1. Helping the resident and the parents or legal guardian to understand the effects on the resident of separation from the family and the effect of group living;
2. Assisting the resident and the family or placing agency to maintain their relationships and prepare for the resident's future care;
3. Utilizing appropriate community resources to provide services and maintain contacts with such resources;
4. Helping the resident strengthen his capacity to function productively in interpersonal relationships; and
5. Conferring with the child care staff to help them understand the resident's needs in order to promote adjustment to group living.

B. The provision of counseling and social services shall be documented in each resident's record.

C. Counseling and social services consistent with the goals of the service plan shall be provided to meet the specific needs of each resident, except residents of secure detention facilities, in one of the following ways:

1. By or under the direct supervision of a staff member who (i) holds a bachelor's degree in psychology, counseling, social work, or other discipline specifically approved by the regulatory authority and (ii) has completed two years of successful experience in psychology, counseling, social work, or other field specifically approved by the regulatory authority (In lieu

of two years experience, the person may work under the direct supervision of a qualified supervisor for a period of two years);

2. By service staff of the agency that placed the resident provided such staff is available on an as-needed basis rather than on a limited basis (e.g., quarterly or semi-annually);

3. On a contract basis by a professional licensed to practice in the Commonwealth of Virginia, other state or the District of Columbia; or

4. On a contract basis by a professional child and family service worker who is working under the auspices of a public or private, nonprofit agency sponsored by a community-based group.

22 VAC 42-10-680. Therapy.

Therapy, if provided, shall be provided by a therapist.

22 VAC 42-10-690. Structured program of care.

A. There shall be evidence of a structured program of care designed to:

1. Meet the residents' physical and emotional needs;
2. Provide protection, guidance and supervision; and
3. Meet the objectives of any required service plan.

B. There shall be evidence of a structured daily routine designed to ensure the delivery of program services.

C. A daily activity log shall be maintained to inform staff of significant happenings or problems experienced by residents.

D. Health and dental complaints and injuries shall be recorded and shall include the (i) resident's name, complaint, and affected area and (ii) the time of the complaint.

E. The identity of the individual making each entry in the daily activity log shall be recorded.

F. Routines shall be planned to ensure that each resident receives the amount of sleep and rest appropriate for his age and physical condition.

G. Staff shall promote good personal hygiene of residents by monitoring and supervising hygiene practices each day and by providing instruction when needed.

22 VAC 42-10-700. Health care procedures.

A. The facility shall have and implement written procedures for promptly:

1. Assessing the immunization status and administering age-appropriate vaccines;
2. Providing medical and dental services for health problems identified at admission;
3. Providing routine ongoing and follow-up medical and dental services after admission;

Proposed Regulations

4. Providing emergency services for each resident as provided by statute or by the agreement with the resident's legal guardian; and

5. Providing emergency services for any resident experiencing or showing signs of suicidal or homicidal thoughts, symptoms of mood or thought disorders, or other mental health problems.

B. The following written information concerning each resident shall be readily accessible to staff who may have to respond to a medical or dental emergency:

1. Name, address, and telephone number of the physician and dentist to be notified;

2. Name, address, and telephone number of a relative or other person to be notified;

3. Medical insurance company name and policy number or Medicaid number except that this requirement does not apply to secure detention facilities;

4. Information concerning:

a. Use of medication;

b. Medication allergies;

c. Any history of substance abuse except that this requirement does not apply to secure detention facilities; and

d. Significant past or present medical problems; and

5. Written permission for emergency medical care, dental care, and obtaining immunizations or a procedure and contacts for obtaining consent except this requirement does not apply to secure detention facilities.

C. Facilities approved to provide respite care shall update the information required by subsection B of this section at the time of each stay at the facility.

22 VAC 42-10-710. Medical examinations and treatment.

A. Each child accepted for care shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the facility or no later than seven days following admission except (i) the report of an examination within the preceding 12 months shall be acceptable if a child transfers from one residential facility licensed or certified by a state agency to another, (ii) a physical examination shall be conducted within 30 days following an emergency admission if a report of physical examination is not available, and (iii) this requirement does not apply if a child is admitted to a secure detention facility or to a temporary care facility.

B. Each resident's record shall include written documentation of (i) the initial physical examination, (ii) an annual physical examination by a licensed physician, and (iii) follow-up medical care recommended by the physician or as indicated by the needs of the resident. This requirement does not apply to secure detention facilities or temporary care facilities.

C. Each physical examination report shall include:

1. Information necessary to determine the health and immunization needs of the resident;

2. Date of the physical examination; and

3. Signature of a licensed physician, the physician's designee, or an official of a local health department.

D. A child with a communicable disease shall not be admitted unless a licensed physician certifies that:

1. The facility is capable of providing care to the child without jeopardizing residents and staff; and

2. The facility is aware of the required treatment for the child and the procedures to protect residents and staff.

This subsection shall not apply to secure detention and temporary care facilities.

E. Each resident's record shall include written documentation of (i) an annual examination by a licensed dentist and (ii) follow-up dental care recommended by the dentist or as indicated by the needs of the resident. This requirement does not apply to secure detention facilities, temporary care facilities, and respite care facilities.

F. Each resident's record shall include notations of health and dental complaints and injuries and shall summarize symptoms and treatment given.

G. Each resident's record shall include, or document the facility's efforts to obtain, treatment summaries of ongoing psychiatric or other mental health treatment and reports, if applicable. This subsection does not apply to secure detention facilities.

H. Written policies and procedures, which include use of universal precautions, shall be developed and implemented to address communicable and contagious medical conditions.

I. A well stocked first-aid kit shall be maintained and readily accessible for minor injuries and medical emergencies.

22 VAC 42-10-720. Medication.

A. All medication shall be securely locked and properly labeled.

B. All staff responsible for medication administration shall have successfully completed a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications.

C. Medication shall be administered only by staff authorized to do so by the director.

D. Staff authorized to administer medication shall be informed of any known side effects of the medication and the symptoms of the effects.

E. A program of medication shall be initiated for a resident only when prescribed in writing by a licensed physician.

F. Medication prescribed by a licensed physician shall be delivered as prescribed.

G. A daily log shall be maintained of all medicines received by each resident and shall identify the individual who delivered the medication.

H. In the event of a medication error or an adverse drug reaction, first aid shall be administered if directed by a poison control center, pharmacist, nurse, or physician. The attending physician shall be notified as soon as possible and the actions taken by staff shall be documented.

I. The telephone number of a regional poison control center shall be posted on or next to at least one nonpay telephone in each building in which children sleep or participate in programs.

J. At least one 30 cc bottle of Syrup of Ipecac shall be available on the premises of the facility for use at the direction of the poison control center or physician.

22 VAC 42-10-730. Nutrition.

A. Each resident shall be provided a daily diet which (i) consists of at least three nutritionally balanced meals and an evening snack, (ii) includes an adequate variety and quantity of food for the age of the resident, and (iii) meets minimum nutritional requirements and the U.S. Dietary Guidelines.

B. Menus shall be kept on file for at least six months.

C. Special diets shall be provided when prescribed by a physician, and the established religious dietary practices of the resident shall be observed.

D. Staff who eat in the presence of the residents shall be served the same meals as the residents unless a special diet has been prescribed by a physician for the staff or residents or the staff or residents are observing established religious dietary practices.

E. There shall be no more than 15 hours between the evening meal and breakfast the following day except there shall be no more than 17 hours when the facility is operating on a weekend or holiday schedule.

22 VAC 42-10-740. Staff supervision of children.

A. No member of the child care staff shall be on duty more than six consecutive days between rest days except in an emergency.

B. Child care staff shall have an average at least two rest days per week in any four-week period. Rest days shall be in addition to vacation time and holidays.

C. Child care staff other than live-in staff shall not be on duty more than 16 consecutive hours except in an emergency.

D. There shall be at least one responsible adult on the premises, on duty and actively supervising children at all times that one or more children are present.

E. Supervision policies.

1. The facility shall develop and implement written policies and procedures which address staff supervision of children.

2. Written policies and procedures governing supervision of children shall be reviewed and approved by the regulatory authority prior to implementation.

3. The supervision policies or a summary of the policies shall be provided, upon request, to the placing agency or legal guardian prior to placement.

F. During the hours that children are scheduled to be awake there shall be at least one child care staff member awake, on duty and responsible for supervision of every 10 children, or portion thereof, on the premises or participating in off-campus, facility-sponsored activities except:

1. Independent living programs shall have at least one child care staff member awake, on duty and responsible for supervision of every 15 children on the premises or participating in off-campus, facility-sponsored activities;

2. For children under four years of age, there shall be at least one child care staff member awake, on duty and responsible for supervision of every three children who are on the premises or participating in off-campus, facility-sponsored activities except that this requirement does not apply to severely multihandicapped, nonambulatory children;

3. For severely multihandicapped, nonambulatory children, there shall be at least one child care staff member awake, on duty and responsible for supervision of every six children;

4. Programs that accept mothers and their offspring shall have at least one child care staff member awake, on duty and responsible for supervision of every six children (counting both mothers and their offspring); and

5. Programs that are licensed or certified to provide treatment services for children with diagnosed mental illness or diagnosed severe emotional or behavioral problems where close supervision is indicated shall have at least one child care staff member awake, on duty and responsible for supervision of every eight children.

G. During the hours that residents are scheduled to sleep, there shall be no less than one child care staff member on duty and responsible for supervision of every 16 children, or portion thereof, on the premises.

H. There shall be at least one child care staff member awake and on duty in each building where 16 or more children are sleeping. This requirement does not apply to approved independent living programs.

I. There shall be at least one child care staff member awake and on duty on each floor where 30 or more children are sleeping.

Proposed Regulations

J. There shall be at least one child care staff member awake and on duty on each major wing of each floor where 30 or more children are sleeping.

22 VAC 42-10-750. Emergency telephone numbers.

A. Residents who are away from the facility and the adults responsible for their care during the absence shall be furnished with a telephone number where a responsible facility staff member or other responsible adult may be reached at all times. This subsection does not apply to secure detention facilities.

B. When children are on the premises of the facility, the staff on duty shall be furnished with a telephone number where the administrator or his designee may be reached at all times.

22 VAC 42-10-760. Children's privacy.

Children shall be provided privacy from routine sight supervision by staff members of the opposite gender while bathing, dressing, or conducting toileting activities. This section does not apply to medical personnel performing medical procedures, to staff providing assistance to infants, or to staff providing assistance to children whose physical or mental disabilities dictate the need for assistance with these activities as justified in the client's record.

22 VAC 42-10-770. Searches.

A. Strip searches and body cavity searches are prohibited except:

1. As permitted by other applicable state regulations; or
2. As ordered by a court of competent jurisdiction.

B. A facility that does not conduct pat downs shall have a written policy prohibiting them.

C. A facility that conducts pat downs shall develop and implement written policies and procedures governing them which shall provide that:

1. Pat downs shall be limited to instances where they are necessary to prohibit contraband;
2. Pat downs shall be conducted only in the specific circumstances listed in the written policies and procedures;
3. Pat downs shall be conducted by personnel of the same gender as the client being searched;
4. Pat downs shall be conducted only by personnel who are specifically authorized to conduct searches by the written policies and procedures; and
5. The client's privacy shall be ensured.

22 VAC 42-10-780. Management of resident behavior.

A. The facility shall have and implement written policies and procedures for documenting and monitoring management of resident behavior. Rules of conduct, if any, shall be included in the written policies and procedures.

B. Written information concerning management of resident behavior shall be provided prior to admission to prospective residents, except those with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information, to legal guardians, and to referral agencies. For court ordered and emergency admissions, this information shall be provided to:

1. Residents, except those with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information, within 12 hours following admission;
2. Referral agencies within 72 hours following the resident's admission; and
3. Legal guardians within 72 hours following the resident's admission except that this requirement does not apply:
 - a. To secure detention facilities;
 - b. When a facility is providing temporary care of 30 days or less while conducting a diagnostic evaluation to identify the most appropriate long-term placement for a child who has been committed to the Department of Juvenile Justice; and
 - c. When a state mental hospital is evaluating a child's treatment needs as provided by the Code of Virginia.

C. When substantive revisions are made to policies governing management of resident behavior, written information concerning the revisions shall be provided to:

1. Residents prior to implementation, except for those residents with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information; and
2. Legal guardians and referral agencies except that this requirement does not apply:
 - a. To secure detention facilities;
 - b. When a facility is providing temporary care of 30 days or less while conducting a diagnostic evaluation to identify the most appropriate long-term placement for a child who has been committed to the Department of Juvenile Justice; and
 - c. When a state mental hospital is evaluating a child's treatment needs as provided by the Code of Virginia.

D. Only trained staff members may manage resident behavior.

22 VAC 42-10-790. Confinement.

A. The facility shall have and implement written policies and procedures governing the conditions under which a resident may be confined and the maximum period of confinement. The conditions and maximum period of confinement shall be based on the resident's chronological and developmental level.

B. The room in which a resident is confined shall not be locked nor the door secured in a manner that prevents the resident from opening it, except that this subsection does not apply to secure custody facilities.

C. A confined resident shall be able to communicate with staff.

D. Staff shall check on the room at least every 30 minutes.

E. Use of confinement shall be documented when confinement is used for managing resident behavior.

22 VAC 42-10-800. Prohibitions.

The following actions are prohibited:

1. Deprivation of drinking water or food necessary to meet a resident's daily nutritional needs except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;
2. Limitation on contacts and visits with the resident's attorney, a probation officer, regulators or a placing agency representative;
3. Bans on contacts and visits with family or legal guardians except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;
4. Delay or withholding of incoming or outgoing mail except as permitted by other applicable state and federal regulations or by order of a court of competent jurisdiction;
5. Any action which is humiliating, degrading, or abusive;
6. Corporal punishment;
7. Subjection to unsanitary living conditions;
8. Deprivation of opportunities for bathing or access to toilet facilities except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;
9. Deprivation of health care;
10. Deprivation of appropriate services and treatment;
11. Application of aversive stimuli except as permitted pursuant to other applicable state regulations (i) as part of an approved intrusive aversive therapy plan or (ii) as a means of controlling violent behavior in a secure custody facility;
12. Administration of laxatives, enemas, or emetics except as ordered by a licensed physician or poison control center for a legitimate medical purpose and documented in the resident's record;
13. Deprivation of opportunities for sleep or rest except as ordered by a licensed physician for a legitimate

medical purpose and documented in the resident's record; and

14. Limitation on contacts and visits with advocates employed by the Department of Mental Health, Mental Retardation and Substance Abuse Services or the Department for Rights of Virginians with Disabilities.

22 VAC 42-10-810. Mechanical or chemical restraints.

A. Use of mechanical restraints is prohibited except as permitted by other applicable state regulations or as ordered by a court of competent jurisdiction.

B. Use of chemical restraints is prohibited.

22 VAC 42-10-820. Physical restraint.

A. The facility shall have and implement written policies and procedures governing use of physical restraint.

B. The facility's procedures shall include methods to be followed should physical restraint, less intrusive interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the resident's behavior.

C. Use of physical restraint shall be limited to that which is minimally necessary to protect the resident or others.

D. Trained staff members may physically restrain a resident only after less intrusive interventions have failed or when failure to restrain would result in harm to the resident or others.

E. Each application of physical restraint shall be fully documented in the resident's record including:

1. Date;
2. Time;
3. Staff involved;
4. Circumstances;
5. Reasons for using physical restraint;
6. Duration;
7. Method or methods of physical restraint used; and
8. Less intrusive interventions which were unsuccessfully attempted prior to using physical restraint.

F. Each staff member responsible for supervision of children shall receive basic orientation to the facility's physical restraint procedures and techniques and to less intrusive interventions within seven days following employment and prior to working alone while supervising one or more residents.

22 VAC 42-10-830. Seclusion.

Seclusion is allowed only as permitted by other applicable state regulations.

Proposed Regulations

22 VAC 42-10-840. Timeout.

Timeout is allowed only as permitted by other applicable state regulations.

22 VAC 42-10-850. Education.

A. Each resident of compulsory school attendance age shall be enrolled in an appropriate educational program as provided in the Code of Virginia.

B. The facility shall ensure that educational guidance and counseling in selecting courses is provided for each resident and shall ensure that education is an integral part of the resident's total program.

C. Facilities operating educational programs for children with disabilities shall operate those programs in compliance with applicable state and federal statutes and regulations.

D. A facility which has an academic or vocational program that is not certified or approved by the Department of Education shall document that teachers meet the qualifications to teach the same subjects in the public schools.

22 VAC 42-10-860. Religion.

A. The facility shall have and implement written policies regarding opportunities for residents to participate in religious activities.

B. The facility's policies on religious participation shall be available to residents and any individual or agency considering placement of a child in the facility.

C. Residents shall not be coerced to participate in religious activities.

22 VAC 42-10-870. Recreation.

A. The facility shall have a written description of its recreation program which describes activities which are consistent (i) with the facility's total program and (ii) with the ages, developmental levels, interests, and needs of the residents.

B. The facility shall have and implement a recreation program which is consistent with the written description and which includes the following:

1. Opportunities for individual and group activities;
2. Free time for residents to pursue personal interests which shall be in addition to a formal recreation program except this subdivision does not apply to secure custody facilities;
3. Use of available community recreational resources and facilities except this subdivision does not apply to secure custody facilities;
4. Scheduling of activities so that they do not conflict with meals, religious services, educational programs or other regular events; and

5. Regularly scheduled indoor and outdoor recreational activities that are structured to develop skills and attitudes.

C. Recreational programs and field trips shall be directed and supervised by adults who are knowledgeable in the safeguards required for the activities.

22 VAC 42-10-880. Community relationships.

A. Opportunities shall be provided for the residents to participate in activities and to utilize resources in the community except this section does not apply to secure custody facilities.

B. The facility shall have and implement written procedures for evaluating community interest in residents and efforts on their behalf to determine whether participation would be in the residents' best interest.

22 VAC 42-10-890. Clothing.

A. Provision shall be made for each resident to have an adequate supply of clean, comfortable, well-fitting clothes and shoes for indoor and outdoor wear.

B. Clothes and shoes shall be similar in style to those generally worn by children of the same age in the community who are engaged in similar activities except this requirement does not apply to secure custody facilities.

C. Residents shall have the opportunity to participate in the selection of their clothing except this requirement does not apply to secure custody facilities.

D. Residents shall be allowed to take personal clothing when leaving the facility.

22 VAC 42-10-900. Allowances and spending money.

A. The facility shall provide opportunities appropriate to the ages and developmental levels of the residents for learning the value and use of money except this requirement does not apply to secure detention facilities.

B. There shall be a written policy regarding allowances which shall be made available to legal guardians at the time of admission except that this requirement does not apply to secure detention facilities.

C. The facility shall have and implement written policies for safekeeping and for recordkeeping of any money that belongs to residents.

D. A resident's funds, including any allowance or earnings, shall be used for the resident's benefit.

22 VAC 42-10-910. Work and employment.

A. Assignment of chores, which are paid or unpaid work assignments, shall be in accordance with the age, health, ability, and service plan of the resident.

B. Chores shall not interfere with school programs, study periods, meals or sleep.

C. Work assignments or employment outside the facility, including reasonable rates of pay, shall be approved by the program director with the knowledge and consent of the legal guardian except this requirement does not apply to secure detention facilities.

D. The facility shall have and implement written procedures to ensure that the work and pay of residents complies with applicable laws governing wages and hours and laws governing labor and employment of children. In both work assignments and employment, the program director shall evaluate the appropriateness of the work and the fairness of the pay.

22 VAC 42-10-920. Visitation at the facility and to the resident's home.

A. The facility shall have and implement written visitation policies and procedures which allow reasonable visiting privileges and flexible visiting hours except as permitted by other applicable state regulations.

B. Written visitation policies and procedures shall be provided upon request to parents, legal guardians, residents, and other interested persons important to the residents.

22 VAC 42-10-930. Vehicles and power equipment.

A. Transportation provided for or used by children shall comply with local, state, and federal laws relating to:

1. Vehicle safety and maintenance;
2. Licensure of vehicles;
3. Licensure of drivers; and
4. Child passenger safety, including requiring children to wear appropriate seat belts or restraints for the vehicle in which they are being transported.

B. There shall be written safety rules, which are appropriate to the population served, for transportation of children.

C. The facility shall have and implement written safety rules for use and maintenance of vehicles and power equipment.

22 VAC 42-10-940. Reports to court.

When the facility has received legal custody of a child pursuant to the Code of Virginia, copies of any foster care plans submitted to the court shall be placed in the resident's record.

22 VAC 42-10-950. Emergency reports.

A. Any serious incident, accident or injury to the resident; any overnight absence from the facility without permission; any runaway; and any other unexplained absence shall be reported within 24 hours: (i) to the placing agency, (ii) to either the parent or legal guardian, and (iii) noted in the resident's record.

B. The facility shall document the following:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name of the person who made the report to the placing agency and to either the parent or legal guardian; and
6. The name of the person to whom the report was made.

22 VAC 42-10-960. Suspected child abuse or neglect.

A. Any case of suspected child abuse or neglect shall be reported immediately to the local child protective services unit as required by the Code of Virginia.

B. Any case of suspected child abuse or neglect which is related to the facility shall be reported immediately (i) to the regulatory authority and placing agency and (ii) to either the parent or legal guardian.

C. When a case of suspected child abuse or neglect is reported to child protective services, the resident's record shall include:

1. The date and time the suspected abuse or neglect occurred;
2. A description of the incident;
3. Action taken as a result of the incident; and
4. The name of the person to whom the report was made at the local child protective services unit.

PART V.
DISASTER OR EMERGENCY PLANNING.

22 VAC 42-10-970. Emergency procedures.

A. Written procedures shall be developed and implemented for responding to emergencies, including but not necessarily limited to:

1. Severe weather;
2. Loss of utilities;
3. Missing persons;
4. Severe injury; and
5. Emergency evacuation, including alternate housing.

B. Written procedures shall address responsibilities of staff and residents regarding:

1. Sounding of an alarm;
2. Emergency evacuation including assembly points, head counts, primary and secondary means of egress, evacuation of children with special needs, and verifying complete evacuation of the buildings;
3. Alerting emergency authorities; and

Proposed Regulations

4. Use of emergency equipment.

C. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations where they can easily be seen by staff and residents.

D. The procedures and responsibilities reflected in the emergency procedures shall be communicated to all residents within seven days following admission or a substantive change in the procedures.

E. The telephone numbers of the authorities to be called in case of an emergency shall be prominently posted on or next to each telephone.

F. At least one emergency drill (the simulation of the facility's emergency procedures) shall be conducted each month in each building occupied by residents.

G. Emergency drills shall include, at a minimum:

1. Sounding of emergency alarms;
2. Practice in evacuating buildings;
3. Practice in alerting emergency authorities; and
4. Simulated use of emergency equipment.

H. During any three consecutive calendar months, at least one emergency drill shall be conducted during each shift.

I. The facility shall assign at least one staff member responsibility for conducting and documenting emergency drills.

J. A record shall be maintained for each emergency drill and shall include the following:

1. Buildings in which the drill was conducted;
2. The date and time of drill;
3. The amount of time to evacuate the buildings;
4. Specific problems encountered;
5. Staff tasks completed including:
 - a. Head count; and
 - b. Practice in notifying emergency authorities;
6. A summary; and
7. The name of the staff members responsible for conducting and documenting the drill and preparing the record.

K. The record for each emergency drill shall be retained for three years after the drill.

L. The facility shall assign one staff member responsibility for the emergency drill program at the facility who shall:

1. Ensure that emergency drills are conducted at the times and intervals required by these interagency standards and the facility's emergency procedures;

2. Review emergency drill reports to identify problems in conducting the drills and in implementing the requirements of the emergency procedures;

3. Consult with the local emergency authorities, as needed, and plan, implement and document training or other actions taken to remedy any problems found in implementing the procedures; and

4. Consult and cooperate with local emergency authorities to plan and implement an educational program for facility staff and residents on topics in safety.

M. Emergency procedures shall address the handling of residents with special needs.

N. Emergency procedures shall be communicated to each resident, as appropriate.

22 VAC 42-10-980. Notifications.

In the event of a disaster, fire, emergency or any other condition at the facility that may jeopardize the health, safety or well-being of the children, the facility shall:

1. Take appropriate action to protect the health, safety and well-being of the children;
2. Take appropriate actions to remedy the conditions as soon as possible, including reporting to and cooperating with local health, fire, police or other appropriate officials; and
3. Notify the regulatory authorities as soon as possible of the conditions at the facility and the status of the residents.

22 VAC 42-10-990. Written fire plan.

A. The facility shall develop a written plan to be implemented in case of a fire.

B. Procedures and responsibilities reflected in the written fire plan shall be communicated to all residents within seven days following admission or a substantive change in the plan.

C. The telephone number of the fire department to be called in case of fire shall be prominently posted on or next to each telephone.

22 VAC 42-10-1000. Staff training.

A. Each staff member shall be trained in fire procedures in accordance with the Virginia Statewide Fire Prevention Code (13 VAC 5-51-10 et seq.).

B. Each new staff member shall be trained in emergency procedures and their implementation prior to working alone while supervising one or more children and within seven days of employment.

<p>NOTICE: The forms used in administering 22 VAC 42-10-10 et seq., Standards for Interagency Regulation of Children's Residential Facilities, are listed below and are published following the listing.</p>

FORMS

Initial Application for a Virginia State License/Certificate to Operate a Residential Facility for Children, 032-05-553 5 [Effective same date as standards become effective].

Renewal Application for a Virginia State License/Certificate to Operate a Residential Facility for Children, 032-05-554 5 [Effective same date as standards become effective].

Renewal Application for a Facility Holding a Conditional License/Certificate, 032-05-588 (eff. 2/98).

INTERDEPARTMENTAL REGULATION OF CHILDREN'S RESIDENTIAL FACILITIES

Initial Application

Page

INITIAL APPLICATION FOR A VIRGINIA STATE LICENSE/CERTIFICATE TO OPERATE A RESIDENTIAL FACILITY FOR CHILDREN

FACILITY CATEGORY(IES)

(Check all applicable categories. "Child Caring Institution" includes all facilities regulated by the Department of Social Services.)

A completed application including any supplemental information required shall be submitted at least 60 days in advance of the planned opening date. (See § 20A1 of the *Interagency Standards*.) The licensure/certification study will begin after a complete application is received.

Application is hereby made to operate a residential facility for children pursuant to provisions of the *Code of Virginia*.

I. IDENTIFYING INFORMATION

Facility's Name _____
 Address Street _____
 City/State/Zip _____
 County _____ Telephone Number at Facility _____
 Mailing Address, if different from Street Address _____

Directions to Facility: _____

Sponsoring Organizations's Name _____
 Sponsor's Address _____ Sponsor's Telephone _____

Name and Title of Chief Administrative Officer: _____
 Name of Program Director(s): _____

Anticipated dates the facility will be closed and anticipated dates that residents will be off campus for extended trips and events during the next 24 months: _____

Child Caring Institution (CCI)	Independent Living Program (ILP)	Respite Care Facility (RC)
Emergency Shelter (ES)	Juvenile Correctional Facility (JCF)	School for Individuals with Disabilities (SH)
Facility for Mentally Ill/Emotionally Disturbed (MED)	Less Secure Detention (LSD)	Secure Detention (SDH)
Facility for Mentally Retarded (NIR)	Post-Dispositional Group Home (POS)	Temporary Care Facility (TC)
Facility for Substance Abusers (SA)	Pre-Dispositional Group Home (PRE)	Wilderness Program (SH)
	Boot Camp (BC)	

II. POPULATION

Capacity	Gender	Minimum Age	Maximum Age

III. ORGANIZATIONAL INFORMATION

1. The facility is operated by a(n):

Corporation	Public Agency	Unincorporated Organization or Association
Individual	Partnership	

2. The facility is operated:

For Profit	Not For Profit

IV. RESIDENTIAL ENVIRONMENT

A. List all buildings below. Attach additional pages if necessary. In addition, a sketch of the grounds may be included, if desired.

Name or Number of Building	Date of Construction	Date of Occupancy	Function	Number of Residents

B. Name and address of owner of physical plant.

Name	
Address	

V. RECORDS

Identify the location of the following records:

Financial Records	
Personnel Records	
Resident's Records	

VI. ATTACHMENTS

Attached	Name of Attachment
	Facility Floor Plans indicating the exact dimensions of rooms to be used, including room length, width, and ceiling heights; designating the function(s) of each room, and indicating the number of basins, tubs, commodes, and showers in the bathrooms.

Attached	Name of Attachment
	Supervision Plan - Staff Information Sheet: A list of staff members with designated positions, qualifications, etc., in the same format as the attached form (see attached Staff Information Sheet - Form # 032-05-552)
	Supervision Plan - Narrative describing planned deviations, if any, from established staff child ratios (see § 740)
	Job Descriptions corresponding to the positions listed on the staff information sheet (§ 210)
	Statement of Philosophy and Objectives of facility including a comprehensive description of the population to be served and the program to be offered. Please include any brochures/pamphlets distributed to the public and to agencies using your program (see § 110C).
	Criteria for Admission (see § 530)
	Documentation that buildings and Equipment are Maintained According to the VA Statewide Fire Prevention Code (see § 330B)
	Report of Sanitation Inspection (See attached form # 032-05-555 and § 330C.) Attach last completed inspection form or give date inspection is scheduled
	Certificate of Occupancy: Issued by the local building official no more than 90 days prior to the date of this application, indicating that the building is classified for its proposed licensed/certified purposes. (see § 330A) Note: Buildings owned and operated by the Department of Education; Department of Juvenile Justice; and the Department of Mental Health, Mental Retardation and Substance Abuse Services are not required to have a certificate of occupancy.
FINANCIAL INFORMATION - PRIVATE FACILITIES	
	Documentation of funds or line of credit sufficient for 90 days operating expenses. (see § 20A2)
	Balance sheet showing assets and liabilities. (see § 20A3b)
	Working budget showing projected revenue and expenses for the first year of operation. (see § 20A3a)

Attached	Name of Attachment
	Financial Information - State and Local Government Operated Facilities
	A working budget showing appropriated revenue and projected expenses for the coming year (see § 20A4)
	Facilities Operated by a Corporation
	For a facility operated by a Virginia corporation, submit a copy of the Articles of Incorporation, the By-laws, and the Certificate of Incorporation (or Certificate of Amendment) from the Virginia State Corporation Commission of the appropriate state office.
	For a facility located in Virginia that is operated by an out-of-state corporation, submit a copy of the Articles of Incorporation, the By-laws, and the Certificate of Authority issued by the Virginia State Corporation Commission.
	Facilities with a Governing Board
	A list of all members of the Board, the Executive Committee, or, for a public agency, all members of the legally accountable governing body. Each list should include the name, address and office/title of each individual.
	For Facilities Operated by a Corporation, an Unincorporated Organization or an Association
	References for three officers of the Board including the President, Secretary, Treasurer and a Member-at-Large. (See attached Reference Sheet for each Owner/Operator.)

VII. CERTIFICATIONS

In making this application, I certify that:

- I am in receipt of and have read a copy of the *Standards for Interagency Regulation of Children's Residential Facilities* and all applicable certification standards.
- It is my intent: (a) to comply with applicable statutes and the aforementioned *Interagency Standards* and certification standards, and (b) to maintain compliance with them.
- I understand that representatives of the Departments of Education, Juvenile Justice, Mental Health, Mental Retardation and Substance Abuse Services, and Social Services are authorized to investigate all aspects of facility operation, to inspect the facility, and to make any investigations necessary concerning the circumstances surrounding this application. I understand that if the facility is licensed/certified, the departments' representatives will make announced and unannounced visits to determine continuing compliance.
- I understand that sanitation inspections and documentation that building and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code are required on an annual basis, as applicable, and intend to obtain the required inspections and submit inspection reports.
- I understand that, in the event this application is denied, I have appeal rights as provided by the Administrative Process Act, § 9-6.14.1 et. Seq. of the *Code of Virginia*.
- To the best of my knowledge and belief, all information related to this application is accurate and complete. Additional information will be supplied as requested during investigation of this application and all subsequent investigations.

(Signature)

(Title)

(Name Printed)

(Date)

032005453 5/02/96 (Amplis) 2/98

¹This application shall be signed by the individual legally responsible for the operation of the residential facility for children or, if the facility is to be operated by a board/governing body, by an officer of the board/governing body, preferably the chair. If the facility is to be operated by a governmental entity, the person employed by that government to operate the facility may sign the application.

INTERDEPARTMENTAL REGULATION OF CHILDREN'S RESIDENTIAL FACILITIES

RENEWAL APPLICATION FOR A VIRGINIA STATE LICENSE/CERTIFICATE TO OPERATE A RESIDENTIAL FACILITY FOR CHILDREN

Renewal Application

Name of Program Director(s): _____

Anticipated dates the facility will be closed and anticipated dates that residents will be off campus for extended trips and events during the next 36 months: _____

A completed renewal application, including any supplemental information required, should be submitted within 30 days of receipt. (See § 20B of the Interagency Standards.) The licensure/certification study will begin after a complete application is received.

Application is hereby made to continue operation of a residential facility for children pursuant to provisions of the Code of Virginia

I. IDENTIFYING INFORMATION

Facility's Name _____

Address Street _____

City/State/Zip _____

County _____ Telephone Number at Facility: _____

Mailing Address, if different from Street Address: _____

Directions to Facility: _____

Sponsoring Organizations's Name _____

Sponsor's Address: _____

Sponsor's Telephone: _____

Name and Title of Chief Administrative Officer: _____

FACILITY CATEGORY(IES)

(Check all applicable categories. "Child Caring Institution" includes all facilities regulated by the Department of Social Services.)

Child Caring Institution (CCI)	Respite Care Facility (RC)
Emergency Shelter (ES)	School for Individuals with Disabilities (SH)
Facility for Mentally Ill/Emotionally Disturbed (MI/ED)	Secure Detention (SDH)
Facility for Mentally Retarded (MR)	Temporary Care Facility (TC)
Facility for Substance Abusers (SA)	Wilderness Program (SH)

Independent Living Program (ILP)	Less Secure Detention (LSD)
Juvenile Correctional Facility (JCF)	Post-Dispositional Group Home (POS)
Pre-Dispositional Group Home (PRE)	Boot Camp (BC)

II. POPULATION

Capacity	Gender	Minimum Age	Maximum Age

III. ORGANIZATIONAL INFORMATION

I. The facility is operated by (a/n):

Corporation	Public Agency	Unincorporated Organization or Association
Individual	Partnership	

VI. ATTACHMENTS

Attached	No Change Since Last Approved by Licensing	<p>Facility Floor Plans indicating the exact dimensions of rooms to be used, including room length, width, and ceiling heights; designating the function(s) of each room; and indicating the number of basins, tubs, commodes, and showers in the bathrooms.</p> <p>Certificate of Occupancy: Required for private sector facilities and facilities owned by local government if a new building has been constructed or if there has been a change of use or additions/alterations to buildings that have been previously licensed (see § 530A)</p> <p>Note: Buildings owned and operated by the Department of Education; Department of Juvenile Justice; and the Department of Mental Health, Mental Retardation and Substance Abuse Services are not required to have a certificate of occupancy.</p>
Facilities Operated by a Corporation		
		<p>For a facility operated by a Virginia corporation, submit a copy of the Articles of Incorporation, the By-laws, and the Certificate of Incorporation (or Certificate of Amendment) from the Virginia State Corporation Commission of the appropriate state office.</p> <p>For a facility located in Virginia that is operated by an out-of-state corporation, submit a copy of the Articles of Incorporation, the By-laws, and the Certificate of Authority issued by the Virginia State Corporation Commission.</p>
Attached		
		<p>Supervision Plan - Staff Information Sheet. A list of staff members with designated positions, qualifications, etc., in the same format as the attached form (see attached Staff Information Sheet - Form # 032-05-552)</p> <p>Supervision Plan - Narrative describing planned deviations, if any, from established staff-child ratios (see § 740)</p>

2. The facility is operated:

<input type="checkbox"/> For Profit	<input type="checkbox"/> Not For Profit
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IV. RESIDENTIAL ENVIRONMENT

A. List all buildings below. Attach additional pages if necessary. In addition, a sketch of the grounds may be included, if desired.

Name or Number of Building	Date of Construction	Date of Occupancy	Function	Number of Residents

B. Name and address of owner of physical plant.

Name
Address

V. RECORDS

Identify the location of the following records:

Financial Records	
Personnel Records	
Resident's Records	

Attached	
	Job Descriptions corresponding to the positions listed on the staff information sheet (§ 210)
	Statement of Philosophy and Objectives of facility including a comprehensive description of the population to be served and the program to be offered. Please include any brochures/pamphlets distributed to the public and to agencies using your program (see § 110C).
	Criteria for Admission (see § 530)
	Documentation that Buildings and Equipment are Maintained According to V.A. Statewide Fire Prevention Code (see § 330B)
	Report of Sanitation Inspection (See attached form # 032-05-555 and § 330C.) Attach last completed inspection form or give date inspection is scheduled
	Financial Information - Private Facilities
	Operating Statement showing revenue and expenses for the past year.
	Working Budget showing projected revenue and expenses for the coming year.
	Balance Sheet showing assets and liabilities
Financial Information - State and Local Government Operated Facilities	
	A working budget showing appropriated revenue and projected expenses for the coming year (See § 20A4)
	Facilities with a Governing Board
	A list of all members of the Board, the Executive Committee, or, for a public agency, all members of the legally accountable governing body. Each list should include the name, address and office/title of each individual.
	Facilities Scheduled for a Self-Certification Study
	A completed "Self-Certification Study Compliance Form: Part A" (See attached form #032-05-583.)
	If the program has a wilderness program, a completed "Self-Certification Compliance Form: Part A: Primitive Campsites Supplement" (See attached form #032-05-585.)

VII. CERTIFICATIONS

In making this application, I certify that:

- I am in receipt of and have read a copy of the *Standards for Interagency Regulation of Children's Residential Facilities* and all applicable certification standards
- It is my intent: (a) to comply with applicable statutes and the aforementioned *Interagency Standards* and certification standards, and (b) to maintain compliance with them.
- I understand that representatives of the Departments of Education, Juvenile Justice, Mental Health, Mental Retardation and Substance Abuse Services, and Social Services are authorized to investigate all aspects of facility operation, to inspect the facility, and to make any investigations necessary concerning the circumstances surrounding this application. I understand that if the facility is licensed/certified, the departments' representatives will make announced and unannounced visits to determine continuing compliance.
- I understand that sanitation inspections and documentation that buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code are required on an annual basis, as applicable, and intend to obtain the required inspections and submit inspection reports.
- I understand that, in the event this application is denied, I have appeal rights as provided by the Administrative Process Act, § 9-6.14.1 et. Seq. of the *Code of Virginia*.
- To the best of my knowledge and belief, all information related to this application is accurate and complete. Additional information will be supplied as requested during investigation of this application and all subsequent investigations.

(Signature)¹ _____ (Title)

(Name Printed) _____ (Date)

032-05-554, § 01-961, renewal 208

¹ A renewal application shall be signed by the facility's director, chief administrative officer, or Board President. A renewal application for a facility operated by a governmental organization may be signed by the person employed by the organization to manage the facility.

COMMONWEALTH OF VIRGINIA
INTERDEPARTMENTAL REGULATION OF
CHILDREN'S RESIDENTIAL FACILITIES
RENEWAL APPLICATION FOR A
FACILITY HOLDING A
CONDITIONAL LICENSE/CERTIFICATE

Renewal Application: Facility Holding
a Conditional License/Certificate
Page 2 of 2 pages

1. I am in receipt of and have read a copy of the *Standards for Interagency Regulation of Children's Residential Facilities* and all applicable certification standards.
2. It is my intent: (a) to comply with applicable statutes and the aforementioned *Interagency Standards* and certification standards, and (b) to maintain compliance with them.
3. I understand that representatives of the Departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services are authorized to investigate all aspects of facility operation, to inspect the facility, and to make any investigations necessary concerning the circumstances surrounding this application. I understand that if the facility is licensed/certified, the departments' representatives will make announced and unannounced visits to determine continuing compliance.

4. I understand that, in the event this application is denied, I have appeal rights as provided by the Administrative Process Act, § 9-6.14:1 et. seq. of the *Code of Virginia*.

5. To the best of my knowledge and belief, all information related to this application is accurate and complete. Additional information will be supplied as requested during investigation of this application and all subsequent investigations.

(Signature)² (Position)

(Name Printed) (Date)

032-05-588 (2/98) SPDFORMS/RENEWAPP.CON

² A renewal application shall be signed by the facility's director/chief administrative officer or board president. A renewal application for a facility operated by a governmental organization may be signed by the person employed by the organization to manage the facility.

Application is hereby made¹ to continue operation of a residential facility for children pursuant to provisions of the *Code of Virginia*.

I. IDENTIFYING DATA

Facility's Name: _____
Address: _____

II. OPERATIONAL STATUS

During the licensure/certification period, have there been any changes in the philosophy and objectives, target population, programs and services, policies and procedures, or other phase(s) of facility operation?	There have been no changes	A copy or description of all changes is attached.
	[]	[]

III. CERTIFICATIONS

In making this application, I certify that:

_____ ¹ A completed application for a renewal of conditional licensure/certification should be submitted 30 days prior to expiration of the conditional license/certificate.

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 change from the proposed text of the regulation.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

REGISTRAR'S NOTICE: The following regulation filed by the Marine Resources Commission is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 F of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: 4 VAC 20-80-10 et seq. Pertaining to the Setting of Fishing Devices Proximate to the Chesapeake Bay Bridge-Tunnel (amending 4 VAC 20-80-20 and 4 VAC 20-80-30).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: July 1, 1999.

Summary:

The amendments modify the description of the closed area for gill nets and fixed fishing devices adjacent to the Chesapeake Bay Bridge-Tunnel to include the area surrounding the newest portion of the bridge spans.

Agency Contact: Deborah R. Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, 2600 Washington Avenue, Newport News, VA 23607-0756, telephone (757) 247-2248.

4 VAC 20-80-20. Gill nets.

It shall be unlawful for any person to set, place, or fish a gill net of any type in an area extending ~~300~~ 250 yards in either direction, from either span of the Chesapeake Bay Bridge-Tunnel. For purposes of this section, the distance shall be measured perpendicular to the center line of the road bed, from the outer edges of each span and extending shall extend from the low water mark on Fishermans Island to the one-mile marker on the south end of the bridge-tunnel.

4 VAC 20-80-30. Fixed fishing devices.

It shall be unlawful for any person to set, place, or fish a fixed fishing device of any type within ~~300~~ in an area extending 250 yards in either direction from either span of the Chesapeake Bay Bridge-Tunnel. For purposes of this section, the distance shall be measured perpendicular to the center line of the road bed, from the outer edges of each span and shall apply anywhere along the bridge-tunnel and its causeways.

VA.R. Doc. No. R99-205; Filed June 28, 1999, 2:51 p.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Title of Regulation: 4 VAC 25-60-10 et seq. Requirements for the Installation and Use of Automated Temporary Roof Support (ATRS) Systems (amending 4 VAC 25-60-10, 4 VAC 25-60-20, 4 VAC 25-60-40 and 4 VAC 25-60-70).

Statutory Authority: §§ 45.1-161.3, 45.1-161.106 and 45.1-161.114 of the Code of Virginia.

Effective Date: August 18, 1999.

Summary:

The amendments update the regulation for changes in technology and mine safety law, and delete sections of the regulation that are duplicative of other regulations. In addition, approvals and waivers needed for automated temporary roof support systems (ATRS) and minimum requirements for ATRS machines are amended.

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

Agency Contact: Copies of the regulation may be obtained from Cindy Ashley, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8233.

4 VAC 25-60-10. Definitions.

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

"Adopted Approved roof control plan" means the roof control plan and revisions thereof suitable to the roof conditions and mining systems of each coal mine which has been approved by the Chief.

"Approved" means in strict compliance with mining law, or, in the absence of law, accepted by a recognized standardizing body or organization where approval is generally recognized as authoritative on the subject.

"Automated temporary roof support system" or "ATRS system" means the devices and mechanisms, including the ATRS, used, and methods followed by which the ATRS is activated and set to support the roof a device to provide temporary roof support from a location where the equipment operator is protected from roof falls.

"Automated temporary roof support" or "ATRS" means a mechanical device used to support the roof temporarily.

"Chief" means the Chief of the Division of Mines.

Final Regulations

~~"Rebuilt" means the performance of service work on any roof bolting machine or continuous mining machine with integral roof drills exceeding 60% of the new purchase price.~~

4 VAC 25-60-20. ~~Time~~ **General requirements.**

~~A. After September 1, 1983, all new Unless an exemption has been obtained in accordance with 4 VAC 25-60-40, roof bolting machines and continuous mining machines with integral roof drills used in a working face in a coal mine shall be provided with have an approved automated temporary roof support ATRS system; provided, other. Alternative methods of temporarily supporting the roof may be approved by the Chief in the adopted approved roof control plan.~~

~~B. After September 1, 1985, all rebuilt (as defined in 4 VAC 25-60-10) roof bolting machines and rebuilt continuous mining machines with integral roof drills used in a working face in a coal mine shall be provided with an approved automated temporary roof support system. Provided, that other methods of temporarily supporting the roof may be approved by the Chief in the adopted approved roof control plan.~~

4 VAC 25-60-40. **Approval and waivers.**

~~A. An automatic waiver will be granted for those active working sections where the average working height of the section is less than 42 inches.~~

~~B. Automated temporary roof support A. ATRS systems and all other methods of temporarily supporting the roof shall be approved on an individual mine basis by the Chief or his authorized representative and shall become part of the adopted approved roof control plan. Such approval of the ATRS system is not necessary if it has already been approved for the machine for which it was designed and meets the requirements in 4 VAC 25-60-70.~~

~~C. After the effective date of these rules and regulations, the operator shall, prior to any automated temporary roof support B. Before an ATRS system being is used underground, first the operator shall obtain approval from the Chief or an his authorized representative of the Chief, such approval to be in the manner and. Approval shall be in a form prescribed by the Chief and where conditions warrant shall address the need for and availability of ATRS mounted deflector pads or equivalent protective devices which promote safety for drill operators by reducing exposure to rock falling inby and deflecting back under the installed ATRS. Provided, that such approval shall not be unreasonably withheld and furthermore, any automated temporary roof support Any ATRS system that has been "approved" prior to the effective date of this chapter shall also be deemed approved by the Chief, or his authorized representative, if the automated temporary roof support provided such an ATRS system meets the minimum requirements stated in these rules and regulations set forth in this chapter.~~

~~D. A waiver may be granted, as to the use of C. The Chief may grant a waiver for an automated temporary roof support ATRS system, by the Chief, where it has been~~

~~demonstrated proposed and proven effective by the operator and the Chief has determined during an investigation by an authorized representative of the Chief, that:~~

~~1. The use of an automated temporary roof support ATRS system would create a condition which will cause a greater hazard to people working inby the area where permanent supports have been installed, than the method presently being employed or proposed by the operator for temporarily supporting the roof; or,~~

~~2. Where the technology of an automated temporary roof support ATRS system does not exist to allow compliance with the requirements set forth in these rules and regulations this chapter.~~

~~In granting a waiver as to the use of the automated temporary roof support system, the Chief may approve the use of temporary jacks and posts to be used in lieu thereof alternative methods of temporary roof support.~~

4 VAC 25-60-70. **Minimum requirements for machines using, or used as, automated temporary roof support systems.**

~~After the effective date of these rules and regulations, A. All machines using, or used as, an automated temporary roof support ATRS system shall comply with the following minimum requirements unless a waiver has been granted or another method of temporarily supporting the roof has been approved by the Chief under this chapter.~~

~~A. B. The necessary controls to position the machine and place the ATRS system against the roof shall be operated from under permanently supported roof, unless, the design of the system will provide adequate protection for the miner while setting such supports or the controls may be located in a compartment which includes a deck that provides the equipment operator with overhead and lateral protection, and has the structural capacity to elastically support a dead weight load of at least 18,000 pounds.~~

~~B. C. The ATRS system shall be placed firmly against the roof before any work is performed inby permanent roof supports and shall remain against the roof while work is being done.~~

~~C. D. All hydraulic jacks affecting the support capacity of an ATRS system shall have check valves or equivalent protection to prevent support failure in the event of a sudden loss of hydraulic pressure.~~

~~D. E. ATRS systems used in conjunction with single bolt installation are required to elastically support, at a minimum, a deadweight load of measured in pounds of at least 450 times each square foot of roof intended to be supported, but in no case less than 11,250 pounds for each five foot by five foot square area of the roof intended to be supported.~~

~~E. ATRS consisting of pads and/or crossbars used in single or multiple rows must elastically support, at a minimum, a deadweight load in pounds of $450 \times [(L+5) \times (W+5)]$; where L is the length of the support structure from tip to tip and W is the width taken at the centerline of a~~

~~support structure to the centerline of another support structure.~~

F. The actual capacity to *elastically* support ~~elastically~~ a deadweight load shall be certified by a registered professional engineer or the manufacturer of such product. *Documentation of the certification of the ATRS system shall be made available to the Chief or his authorized representative.*

G. The distance that the ATRS system may be set in by the last row of permanent supports shall be dependent on the spacing requirements of the permanent roof supports and must be approved by the Chief *or his authorized representative* in the ~~adopted~~ approved roof control plan.

H. No person shall work or travel beyond the ATRS system unless the distance between the coal face and the ATRS system is five feet or less;. In addition, no person shall work or travel left or right of the ATRS unless a coal rib, a permanent support, or a temporary support is within five feet of the ATRS; ~~provided,~~ system. *The only exception is that when such a five foot limit is being determined for measured from an ATRS system consisting of a ring, then said the five foot limit shall be determined from the outside of the ring.*

I. ~~The inch tram control speed of a roof bolting machine shall not exceed one-half of the maximum tram control speed; provided,~~ that In no case shall the inch tram control speed exceed 80 feet per minute when the roof bolting machine is being used to establish the ATRS system.

VA.R. Doc. No. R98-23; Filed June 25, 1999, 1:46 p.m.

* * * * *

Title of Regulation: 4 VAC 25-70-10. Regulations Governing Disruption of Communications in Mines (amending 4 VAC 25-70-10).

Statutory Authority: §§ 45.1-161.3, 45.1-161.106 and 45.1-161.191 of the Code of Virginia.

Effective Date: August 18, 1999.

Summary:

Amendments to the regulation consolidate and simplify current requirements. The requirement that the Chief of the Division of Mines be informed when communications are disrupted for more than one hour is eliminated.

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

Agency Contact: Copies of the regulation may be obtained from Cindy Ashley, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8233.

CHAPTER 70.
RULES AND REGULATIONS GOVERNING DISRUPTION OF COMMUNICATIONS IN MINES.

4 VAC 25-70-10. General requirements.

A. Section 45.1-161.191 of the Code of Virginia requires that telephone service or an equivalent two-way communication system be provided between the top and each landing of main shafts and slopes in the mines. ~~The following rules shall apply in the event a disruption of the required communication system occurs.~~

~~B. Mine foremen or their designee shall check the communication system to all sections or part of an underground mine where preparation for or mining is in progress at least once every hour to ascertain if the system is in operation.~~

~~C. In the event there is B. Corrective actions shall be taken when a disruption or failure in of the required communication system occurs to any section or part of an underground mine where preparation for mining is being made or mining is in progress;. Work is to restore communications shall begin immediately and continue until communications are restored.~~

~~D. If the required communication is not reestablished within one hour (60 minutes) the mine operator shall notify the District Mine Inspector that communication is down, state any circumstances or existing conditions at the mine and advise of estimated time needed to reestablish communication. Based on the information, the Chief shall take whatever action that is indicated which may include immediate inspection, ordering withdrawal of workers from the area, or both.~~

~~E. The owner/operator shall advise the Chief of the Division of Mines, or District Mine Inspector, when communication has been restored.~~

~~C. Any disruption in communication which is not restored within one hour shall be recorded by the mine foreman in the on-shift report. The record shall reflect the corrective actions taken and time the communication was restored.~~

~~F. D. Whenever a representative of the miners, or a miner where there is no such representative, has reason to believe that conditions are such that continuing to work on a section without communication would constitute an imminent danger to safety or health, such miner or representative shall have the right to notify the Chief of the Division of Mines or District mine inspector of his concern. Upon receipt of such notification, the Chief shall cause an inspection to be made as soon as possible. If the inspection determines that such danger exists, the ~~workmen~~ workers, excluding those needed to correct the problem, shall be withdrawn to a ~~point~~ place that has communication with the surface.~~

VA.R. Doc. No. R98-26; Filed June 25, 1999, 1:46 p.m.

Final Regulations

Title of Regulation: **4 VAC 25-80-10. Rules and Regulations Governing Advanced First Aid (REPEALED).**

Statutory Authority: §§ 45.1-161.3, 45.1-161.101, 45.1-161.106 and 45.1-161.254 of the Code of Virginia.

Effective Date: August 18, 1999.

Summary:

The Department of Mines, Minerals and Energy repealed the Rules and Regulations Governing Advanced First Aid because the essential elements in the regulation have been incorporated into the certification regulation for coal miners, in the rewrite of the Coal Mine Safety Act, or a mine's emergency response plan submitted by the operator to the Division of Mines.

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

Agency Contact: Cindy Ashley, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8233.

VA.R. Doc. No. R98-24; Filed June 25, 1999, 1:47 p.m.

Title of Regulation: **4 VAC 25-110-10 et seq. Regulations Governing Blasting in Surface Mining Operations (amending 4 VAC 25-110-10, 4 VAC 25-110-20, 4 VAC 25-110-200 and 4 VAC 25-110-210; repealing 4 VAC 25-110-60, 4 VAC 25-110-130, 4 VAC 25-110-170, 4 VAC 25-110-320, 4 VAC 25-110-330, 4 VAC 25-110-340, 4 VAC 25-110-350, 4 VAC 25-110-360, 4 VAC 25-110-370, 4 VAC 25-110-380 and 4 VAC 25-110-390).**

Statutory Authority: §§ 45.1-161.3, 45.1-161.254 and 45.1-161.286 of the Code of Virginia.

Effective Date: August 18, 1999.

Summary:

Amendments to the regulation address changes in technology and eliminate duplicative provisions.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from Cindy Ashley, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8233.

CHAPTER 110.

RULES AND REGULATIONS GOVERNING BLASTING IN SURFACE MINING OPERATIONS.

4 VAC 25-110-10. Definitions.

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

"Actual distance" means the distance in feet from the blast location to the nearest dwelling house, public building, school, church, or commercial or institutional building neither owned nor leased by the person conducting the blast.

"Approved" means ~~approved by the Division of Mines or other recognized agencies.~~

"Barricade" means ~~natural features of the ground such as hills, timber of sufficient density that surrounding exposures cannot be seen when the trees are bare of leaves, or an efficient artificial barricade consisting of an artificial mound or properly revetted wall of earth not less than three feet thick at the top.~~

"Charge weight" means ~~the weight in pounds of an explosive charge.~~

"Delay interval" means ~~the time interval in milliseconds between successive detonations of the delay devices used.~~

"Detonating cord" means ~~a flexible cord containing a center core of high explosives and used to initiate other explosives.~~

"Division" means the Division of Mines.

"DMLR" means the Division of Mined Land Reclamation.

"Establishment" means ~~any place within the Commonwealth of Virginia where work is done for compensation, to whomever payable, supervision over which has been given by statute to the Division of Mines.~~

"Fly rock" means ~~fly rock including blasted material traveling along the ground shall not be cast from the blasting vicinity more than half the distance to the nearest dwelling or other occupied structure and in no case beyond the line of property owned or leased by the operator uncontrolled material generated by the blast traveling along the ground and shall not be cast from the blasting vicinity more than half the distance to the nearest dwelling or other occupied structure and in no case beyond the Division of Mined Land Reclamation (DMLR) permit boundary.~~

"Highway" means ~~and includes any public street, public alley or public road.~~

"Inhabited building" means a building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosives.

~~"Magazine" means a building or structure, other than a factory building, designed to be used exclusively for the storage of explosives.~~

~~"Mudcapping," also known as bulldozing, adobe blasting or dobbing, means a method of blasting by placing a quantity of explosives in contact with a rock, boulder, or other object without confining the explosives in a drill hole.~~

~~"Person" means and includes individuals, firms, partnerships, associations, corporations, receivers, or any officer of the Commonwealth, or any agent or officer of the above-mentioned classes employing any person in this Commonwealth.~~

~~"Primer" means a package or cartridge of explosives which is specifically designed to transmit detonation to other explosives and blasting agents, and which contains a detonator or detonating cord.~~

~~"Railroad" means and includes any steam, electric or other motive-powered transportation systems operating on track which carries passengers for hire, or over which loaded or empty equipment is transported.~~

~~"Scaled distance (Ds)" means the actual distance (D) in feet divided by the square root of the maximum explosive weight (W) in pounds that is detonated per delay period for delay intervals of eight milliseconds or greater; or the total weight of explosive in pounds that is detonated within an interval less than eight milliseconds.~~

This means

that

$$\text{Scaled Distance} = \frac{\text{Actual Distance}}{\sqrt{\text{Charge Wt. Per Delay Period}}}$$

$$\text{Thus, } D_s = \frac{D}{\sqrt{W}}$$

~~"Stemming" means that inert material placed in a borehole after the explosive charge for the purpose of confining the explosion gases in the borehole or that inert material used to separate the explosive charges (decks) in decked holes.~~

~~"Subcharge" means a quantity of explosive or equivalent that is to be detonated within a period of less than one millisecond.~~

~~"Surface mine" means an open-pit excavation from which coal or other minerals are produced for sale, exchange, or commercial use; and includes all buildings and equipment above the surface of the ground used in connection with such mining.~~

~~"Vehicle" means any rolling stock or equipment, whether self-propelled or otherwise, and includes all trailers.~~

4 VAC 25-110-20. Certification.

~~A. By the authority provided in § 45.1-161.28 of the Code of Virginia, the Board of Coal Mining Examiners will require on and after June 30, 1975, that all blasters be certified by such board.~~

~~B. Between June 30, 1975, and December 31, 1975, all persons who have performed blasting at any surface mine in this Commonwealth for a period of one year, previous to June 30, 1975, may be certified without examination. The applicant must file an application and furnish proof of experience to the board.~~

~~C. After January 1, 1976, all blasters must pass a written examination, prescribed by the board, and have worked at least one year with or under the direction of a certified blaster.~~

~~D. The board may grant certificates to persons holding a certificate issued by another state, provided that the requirements for a certification in such state are substantially equivalent to those of Virginia.~~

~~A. All blasters performing blasting at Virginia surface coal mines and the surface at underground coal mines shall be certified by the Board of Coal Mining Examiners (BCME) and meet DMLR recertification requirements.~~

~~B. As stated in 4 VAC 25-20-40 of the BCME certification requirements, the board may grant certificates by reciprocity.~~

4 VAC 25-110-60. Blasting standards. (Repealed.)

~~A. Ground vibration. In all blasting operations, except as otherwise authorized herein, the maximum ground vibration shall not exceed the values listed in Table 3-A. The maximum ground vibration adjacent to the location of any dwelling house, public building, school, church, or commercial or institutional building shall be established in accordance with either the maximum peak particle velocity limits of Table 3-A of this section, the scaled distance equation, the blasting level chart of Table 3-B, or by regulatory authority under 4 VAC 25-110-340.~~

TABLE 3-A MAXIMUM (ALLOWABLE) PEAK VELOCITY

Distance (D), from Blasting Site in Feet	Maximum Allowable Peak Particle Velocity (Vmax) For Ground Vibration, in Inches/Second. ¹	Scaled Distance Factor to be Applied Without Seismic Monitoring. ²
0 to 300	1.25	50
301 to 5000	1.00	55
501 and beyond	0.75	65

¹ Ground vibration shall be measured as the particle velocity. Particle velocity shall be recorded in three mutually perpendicular directions. The maximum allowable peak particle velocity shall apply to each of the three measurements.

² Applicable to the scaled distance equation of 4 VAC 25-110-80.

Final Regulations

TABLE 3-B (ALTERNATE BLASTING LEVEL CRITERIA)

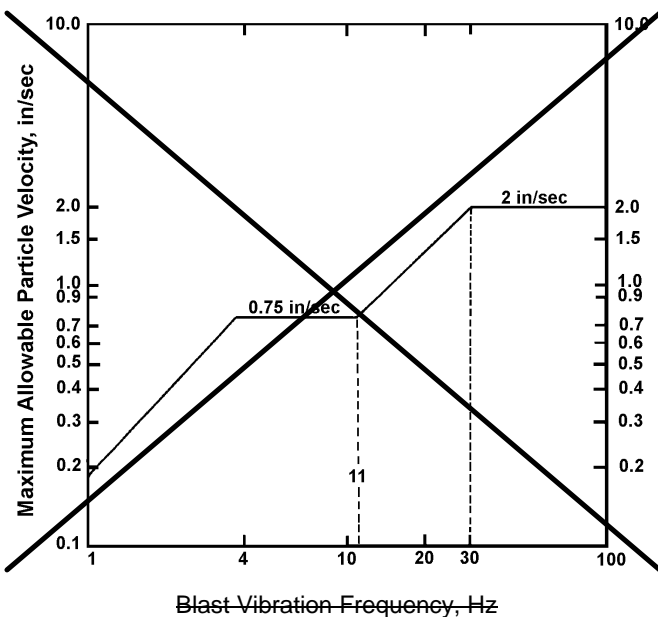


Figure 1 Alternative blasting level criteria

(Source modified from figure B-1. Bureau of Mines R18507)

If Table 3-B is used, a seismographic record including both particle velocity and vibration frequency levels shall be provided for each blast. The method for the analysis of the predominant frequency contained in the blasting records shall be approved by the regulatory authority before application of this alternative blasting criterion.

An operator may use the ground vibration limits in Table 3-B to determine the maximum allowable peak particle velocity.

B. This ground velocity limit does not apply to mean a property owned, leased, or contracted by the blaster or blaster's company or on property on which the owner gives a written waiver.

C. Where seismic instrumentation is not employed, the United States Bureau of Mines has recommended that the maximum charge per delay period (W) be determined by the formula:

$$W = \left(\frac{D}{D_s} \right)^2$$

where (W) is the weight of explosive in pounds per delay and (D) is the distance in feet to the nearest dwelling house, public building, school, church, or commercial or institutional building. On sites where the Division decides it necessary not to comply with the provision of the law this formula may be altered.

D. If on a particular site the peak ground particle velocity continuously exceeds one-half inch per second after a period of one second following the maximum ground particle velocity, the Division shall require the charge per delay to be

reduced so that this limit is complied with. This applies where short delays are being used.

E. Any deviation from the formula found in 4 VAC 25-110-60 C, a nationally accepted formula, shall be supported by seismic instrumentation according to an approved test plan. The test plan shall be designed to establish the scaled distance for a given operation which will not produce particle velocities greater than prescribed in Table 3-A and Table 3-B, at the nearest building as defined in 4 VAC 25-110-10. The plan shall be approved by the Chief of the Division of Mines prior to testing. When said tests have been completed, a qualified seismologist shall certify the seismic analyses to be submitted to the Chief of the Division of Mines.

EXAMPLE: Given an actual distance of 1,100 feet and a Charge Weight per delay period of 400 pounds, find the Scaled Distance:

$$[D = \left[\frac{1,100}{\sqrt{400}} = \frac{1,100}{20} \right] = 55]$$

Once the safe minimum Scaled Distance has been determined, the safe maximum Charge Weight per delay for any blast can be determined by use of the relationship:

$$W = \left(\frac{D}{D_s} \right)^2$$

$$\text{Thus, Charge Weight} = \left(\frac{\text{Actual Distance}}{\text{Scaled Distance}} \right)^2$$

EXAMPLE: Given an Actual Distance of 1,100 feet and a Scaled Distance of 55, find the Charge Weight.

$$\text{Charge Weight} = \left(\frac{1,100}{55} \right)^2 = (20)^2 = 400 \text{ lbs.}$$

F. In lieu of 4 VAC 25-110-60 E, the operator may choose to record every blast. The seismic data shall be available for inspection at any time by the Chief of the Division of Mines or his designated representative and shall be retained by the operator for a minimum of three years. As long as the seismographic records indicate particle velocities prescribed in Table 3-A and Table 3-B, the operator shall be considered to be in compliance with state law.

G. If explosive charges of greater than 40,000 pounds are necessary, a permit must be obtained from the Division of Mines. The Division shall consider each case on its own merits in making a determination as to whether or not to grant such a permit.

4 VAC 25-110-130. Seismograph—measurements. (Repealed.)

A. If a blaster considers the standard too conservative for his particular area, he may petition for a modified standard for blasting operation at that particular site but in no case shall the Division allow a standard that would permit velocities above the limits prescribed in Table 3-A and Table 3-B.

B. In making seismograph determination of the velocity at a particular position, the formula shall be used:

$$V = V_0 \left(\frac{D_0}{D} \right)^{1.5}$$

Where (V₀) is the maximum ground particle velocity at the seismograph, (D₀) is the distance of the seismograph from the blast and (D) is the distance from the blast to the position in question and in the same general direction. The distance (D₀) may not be greater than (D) and (D) cannot be more than five times (D₀). This determined velocity at the site dwelling house, public building, school, church, or commercial or institutional building shall not exceed the prescribed limits in Table 3-A and Table 3-B.

C. In seismic tests for compliance or petition, the analysis of seismic data shall be conducted and analysed by a qualified seismologist.

D. If there is reason to believe a blaster is operating illegally under the provisions of this chapter, the division may require a seismograph recording of any or all blasts.

4 VAC 25-110-170. Instrumentation. (Repealed.)

A. All three-component portable displacement seismographs currently in use will be approved until further notice by the Division of Mines.

B. A direct reading velocity instrument shall be approved by the Division of Mines, only if it has a frequency response of the instrument of five cycles per second to 150 cycles per second or greater, a velocity range from 0.0 to 2.0 in/sec. or greater, adheres to design criteria for portable seismographs as outlined in USBM R1 5708, USBM R1 6487, and meets such standards as are established from time to time by the Division of Mines.

C. Three-component instruments of both the direct reading velocity type having internal calibration capability and the displacement type will be approved by the Division of Mines for use as follows:

1. Particle velocity reading may be calculated from results obtained by a displacement instrument or obtained from an approved direct reading velocity instrument in any blasting operation where all of the following conditions exist:

- a. Recording distance is over 200 feet from the blast;
- b. Scaled distance is numerically greater than 25;
- c. The predominant frequency of the ground motion is 40 cycles per second or less.

2. A direct reading velocity instrument will be required in any blasting operation where all of the following conditions exist:

- a. Recording distance is less than 200 feet from the blast;
- b. Scaled distance is numerically less than 50.

3. A direct reading velocity instrument will be required in any blasting operation where all of the following conditions exist:

- a. Recording distance is more than 200 feet from the blast;
- b. Scaled distance is numerically less than 25.

4. A direct reading velocity instrument will be required in any blasting operation where all of the following conditions exist:

- a. Recording distance is more than 200 feet from the blast;
- b. The predominant frequency of the ground motion is in excess of 40 cycles per second. Scaled distance is defined as:

$$\text{Scaled Distance} = \frac{\text{Actual Distance}}{\sqrt{\text{Charge Wt. Per Delay Period}}}$$

$$\text{Thus, } D_s = \frac{D}{\sqrt{W}}$$

where (D) is the actual distance in feet and (W) is the maximum weight of explosives in pounds per delay period of eight milliseconds or greater.

4 VAC 25-110-200. Records.

A record of each blast shall be kept. All records including seismograph reports shall be retained at least three years and shall be available for inspection by the Division of Mines and shall contain the following minimum data required in DMLR regulations, 4 VAC 25-130-816.68:

1. Name of company or contractor the operator conducting the blast;
2. Location, date and time of blast;
3. Name, signature, social security number, and certification number of the blaster in charge conducting the blast;
4. Type of material blasted;
5. Sketches of the blast pattern, including number of holes, burden and , spacing, decks, and delay interval;
6. Diameter and depth of holes;
7. Types of explosives used;
8. Total amount weight of explosives used per hole;
9. Maximum amount weight of explosives per delay period of eight milliseconds or greater detonated in an eight-millisecond period;
10. Method of firing and type of circuit Initiation system;
11. Identification, direction and distance, in feet to, from the nearest blast hole to the nearest dwelling house, public building, school, church, or commercial community or institutional building neither owned nor

Final Regulations

~~leased by the person conducting the blasting outside the mine area, except those structures owned by the operator and not leased to another person, if a written waiver by the lessee is submitted to the division before blasting;~~

~~12. Weather conditions (including such factors as wind directions, etc.) those which may cause adverse blasting effects;~~

~~13. Height or Type and length of stemming;~~

~~14. Mats or other protections were used;~~

~~15. Type of detonators used and delay periods used;~~

~~16. The person taking the seismograph reading shall accurately indicate the exact location of seismograph, if used, and shall also show the distance of seismograph from blast;~~

~~17. Seismograph records, including seismograph readings, where required~~

~~15. Seismographic and airblast records, if required, which shall include:~~

~~a. Name and signature of person operating seismograph and firm taking the reading;~~

~~b. Name of person and firm analyzing the seismograph seismographic record;~~

~~c. Seismograph reading. Vibration or airblast level recorded;~~

~~d. Type of instrument, sensitivity, and calibration signal or certification of annual calibration; and~~

~~e. Exact location of instrument and the date, time and distance from the blast; and~~

~~16. Reasons and conditions for each unscheduled blast.~~

~~18. Maximum number of holes per delay period of eight milliseconds or greater.~~

4 VAC 25-110-210. Blasting safety.

~~A. When blasting operations, other than those conducted at a fixed site as a part of any industry or business operated at such site, are to be conducted within 200 feet of a pipe line, or high voltage transmission line, the blaster or person in charge of the blasting operations shall take due precautionary measures for the protection of the line, and shall notify the owner of the line or his agent that such blasting operations are intended.~~

~~B. Blasting operations near streams shall be prohibited in all cases where the effect of the blasting is liable to change the course or channel of any stream without first obtaining a permit from the division which has been approved by the Division of Mines.~~

~~C. Mudcapping in blasting operations shall be permitted only where the driller would be in a hazardous position in attempting to drill the rock or material to be blasted.~~

~~D. All trunk lines of detonating cord, having explosive loading exceeding three grains per foot, should be covered, except that trunk lines of detonating cord must be covered if located within 800 feet of any public highway, dwelling house, public building, school, church, or commercial or institutional building. When the use of detonating cord could cause severe air blast problems, the Division of Mines may require all trunk lines to be covered with a minimum of six inches of loose earth.~~

~~E. In blasting operations, fly rocks shall not be allowed to fall greater than one half the distance between the blast and a dwelling house, public building, school, church, commercial or institutional building, and in no case beyond the line of property owned or leased by the operator. For the purpose of this paragraph, fly rock shall be considered as any uncontrolled material generated by the effect of a blast and that would be potentially hazardous to personnel and/or property.~~

~~F. When operating near a highway, traffic must be stopped at a safe distance. Blasted material, if thrown on a public road, must be removed promptly. Regular blasting areas should be posted with warning signs.~~

~~G. Where a blasting operation is conducted in the vicinity of an active deep mine, the blaster shall observe all procedures necessary to secure the health and safety of the underground mine workers.~~

~~H. Blasting operations shall be conducted during daylight hours (one half hour before sunrise to one half hour after sunset) except by special permit issued by the Division of Mines. Said permit is to be issued on the basis of safety.~~

~~I. Misfires, hangfires, etc., shall be handled in accordance with § 45.1-161.285 of the Code of Virginia. In addition, all other sections of Title 45.1 of the Code of Virginia pertaining to blasting must be carried out.~~

~~J. Before a blast is fired, a loud warning signal shall be given by the blaster in charge, who has made certain that all surplus explosives are in a safe place and all employees, vehicles, and equipment are at a safe distance, or under sufficient cover.~~

~~A code of blasting signals shall be posted in one or more conspicuous places at the operation, and all employees shall be required to familiarize themselves with the code and conform to it.~~

EXAMPLE:

~~Warning Signal — a one minute series of long blasts five minutes prior to the blast signal.~~

~~Blast Signal — a series of short blasts one minute prior to the shot.~~

~~All Clear Signal — a prolonged blast following the inspection of the blast area.~~

~~K. These rules do not supersede or repeal any existing laws or regulations pertaining to blasting or blasting practices applicable to surface mining operations.~~

A. When operating within 1,000 horizontal feet of a highway, traffic must be stopped at a safe distance and the blasting area shall be posted with warning signs.

B. Where a blasting operation is conducted in the vicinity of an active deep mine, the blaster shall observe all procedures necessary to secure the health and safety of the deep mine workers. The operator of the affected deep mine shall be notified of planned blasting activities to coordinate necessary precautions for underground workers.

C. When blasting operations, other than those conducted at a fixed site as a part of any industry or business operated at such site, are to be conducted within 200 feet of a pipe line or high voltage transmission line, the blaster or person in charge of the blasting operations shall take due precautionary measures for the protection of the line, and shall notify the owner of the line or his agent at least 48 hours in advance that such blasting operations are intended.

D. When an operator applies for a mine license, he shall indicate on the application the actual distance to the nearest inhabited building.

E. Before a blast is fired, a loud warning signal, audible within a range of ½ mile, shall be given by the blaster in charge, who has made certain that all surplus explosives are in a safe place and all employees, vehicles, and equipment are at a safe distance or under sufficient cover.

F. Fly rock as defined in 4 VAC 25-110-10 shall not be allowed.

G. Blasting operations shall be conducted during daylight hours (sunrise to sunset) unless authorized by the Chief or his authorized representative.

H. Misfires, hangfires, etc., shall be handled in accordance with § 45.1-161.285 of the Code of Virginia.

I. Mudcapping in blasting operations shall be permitted only where the driller would be in a hazardous position in attempting to drill the rock or material to be blasted.

4 VAC 25-110-320. Evaluation of blast site. (Repealed.)

If the Chief of the Division of Mines concludes that blasting complaints are excessive from residents living in the vicinity of an operation over which it has control, the Division may impose more stringent limits on ground vibration than that specified in 4 VAC 25-110-60, 4 VAC 25-110-130 and 4 VAC 25-110-170 and limits may be imposed on blast noise levels. The Chief may order an evaluation of the blast site by a vibration consultant and a technical representative of the explosives manufacturer, if he deems it necessary, before imposing a more stringent limit. Blasting will be stopped until the results of the evaluation and recommendations are submitted to the Chief of the Division of Mines and permission granted to resume blasting. These requirements will remain in effect until rescinded by the Chief of the Division of Mines.

4 VAC 25-110-330. Monitoring and reporting. (Repealed.)

Monitoring and reporting of all blasts will be continued until the Chief of the Division of Mines is satisfied that vibration and blast noise standards are met.

4 VAC 25-110-340. Notification; inhabited buildings. (Repealed.)

When an operator applies for a mine license, he shall indicate on the application, the distance to the nearest inhabited building.

4 VAC 25-110-350. Notification to division when approaching inhabited buildings. (Repealed.)

During the course of mining, if an operator approaches within 2,000 feet of an inhabited building, he shall notify the Division of Mines 15 days prior to reaching the 2,000-foot limitation.

4 VAC 25-110-360. Authority to require instrumentation. (Repealed.)

If requested by the property owner registering a complaint, and deemed necessary by the Chief, peak particle velocity measurements using approved instrumentation shall be made for three consecutive blasts near the structure in question to ensure that the ground vibration limits in 4 VAC 25-110-60-C are not exceeded. All complaints will be verified by the Division of Mines before any action is taken.

4 VAC 25-110-370. Noise blast level. (Repealed.)

Airblast shall not exceed the maximum limits listed below at the location of any private dwelling, public building, school, church, or community or institutional building.

Table 13 Airblast Limits

Lower Frequency Limit of Measuring System, in Hz (±3db)	Measurement Level, in db
0.1 Hz or Lower — Flat Response [†]	134 Peak
2 Hz or Lower — Flat Response	133 Peak
6 Hz or Lower — Flat Response	129 Peak
C-weighted — Slow Response	105 Peak dbc

[†]Only when approved by the regulatory authority.

4 VAC 25-110-380. Chief may require continuing measurements. (Repealed.)

If requested by the property owner registering a complaint, and deemed necessary by the Chief, air blast measurements on three consecutive blasts using approved instrumentation shall be made near the structure in question to ensure that the maximum noise level limit is not exceeded. All complaints will be verified with the Division of Mines before any action is taken.

Final Regulations

~~4 VAC 25-110-390. Penalty for failing to modify blasting procedures when ordered. (Repealed.)~~

~~Surface mine operators shall make such modifications to their blasting procedures as are necessary to conform with the more stringent ground vibration limits and air blast limits when and if imposed by the Division of Mines. Failure to make such modifications will result in an order prohibiting the loading or firing of any explosive charge(s).~~

VA.R. Doc. No. R98-25; Filed June 25, 1999, 1:48 p.m.

* * * * *

Title of Regulation: **4 VAC 25-120-10 et seq. Requirements for Installation and Use of Cabs and Canopies (amending 4 VAC 25-120-10).**

Statutory Authority: §§ 45.1-161.3 and 45.1-161.106 of the Code of Virginia.

Effective Date: August 18, 1999.

Summary:

The amendments (i) require operators of self-propelled mobile face equipment to attach certification documentation to their equipment; (ii) remove the requirement that top plates be beveled; (iii) make changes to avoid conflicts with MSHA regulations and federal law; (iv) add requirements for load capacities and strengths; and (v) clarify existing regulations.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from Cindy Ashley, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8233.

CHAPTER 120. RULES AND REGULATIONS GOVERNING REQUIREMENTS FOR INSTALLATION AND USE OF CABS AND CANOPIES.

4 VAC 25-120-10. General requirements.

A. To provide the minimum protection, a registered engineer must certify ~~to the Chief~~ that the cab or canopy ~~proposed to be~~ *being used on all self-propelled mobile face equipment* meets the following minimum standards outlined ~~below:~~ *provided in this section.*

A. ~~It must be designed for the mine in which it will be used.~~

B. ~~So~~ *It shall be* installed so that the minimum structural capacities will support a dead load weight of 18,000 pounds. *The operator shall provide evidence of certification by attaching documentation to the cab or canopy or providing such information on a plate, or by keeping a letter of certification available for review by an authorized representative of the Chief.*

C. The deck plate or mounting ~~must~~ *shall* withstand the same load which the cab or canopy is designed to support. ~~Where possible the structure must be mounted on the main frame of the equipment.~~

D. Cabs or canopies ~~must~~ *shall* have overhead clearance below the lowest projection of the roof or roof supports to prevent striking of the roof or roof supports.

~~E. The visibility of the operator shall not be obstructed by the design of the cabs or canopy to the extent that the operator must "lean" out of the structure to see where he is going.~~

~~F. The structure shall be wide enough to protect the operator from side obstructions such as ribs, overhangs, timbers, etc.~~ *E. To protect the machine operator, the cab or canopy shall be designed to ensure that mine personnel can safely operate the machine and stay within the confines of the structure.*

~~G. Cabs or canopies that are adjustable must have minimum of clearance between segments. The bolt or pin used must~~ *F. When a bolt or pin is used as an integral part of the cab or canopy, the bolt or pin shall withstand more than the shear weight of the designated load capacity.*

~~H. The top plate must be "beveled" in the direction of travel to lessen the likelihood of dislodging or loosening roof supports.~~

~~I. G. Any other act or practice resulting from the installation and use of cabs and canopies considered by the Chief to be hazardous to the operator of the equipment or other mine personnel will result in an order requiring appropriate enforcement action to ensure corrective measures are taken by the operator.~~

~~J. H. Cabs or canopies for roof bolting machines will shall not be accepted used as the sole means of temporary roof support unless they have been approved by the Chief. They must be so designed as to be firmly positioned against the roof and mechanically held in place until permanent supports are installed. Unless the cab or canopy covers the entire area of unsupported roof to be bolted, safety jacks, or other adequate temporary supports, shall be installed in conjunction with the cab or canopy as prescribed in the roof support plan for the mine in which they are to be used. When other means of automated temporary support are employed, the cab or canopy does not have to be positioned against the roof as part of the automated temporary roof support system.~~

~~Any violations of the above discovered by the State Mine Inspector shall result in a closure order being issued stating what constitutes the unsafe condition observed and the order shall specify that the equipment in question is not to be operated until the unsafe condition is corrected.~~

VA.R. Doc. No. R98-29; Filed June 25, 1999, 1:47 p.m.

◆ _____ ◆

TITLE 13. HOUSING

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

REGISTRAR'S NOTICE: The agency is claiming an exclusion from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4 (a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Board of Housing and Community Development will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 13 VAC 5-61-10 et seq. Virginia Uniform Statewide Building Code (amending 13 VAC 5-61-40).

Statutory Authority: §§ 36-98, 36-105 and 36-105.01 of the Code of Virginia.

Effective Date: August 18, 1999.

Summary:

The amendment requires local governing bodies to inspect and enforce the building code for elevators, except in single and two-family homes, and is being made in response to action by the General Assembly in Chapter 341 of the 1999 Acts of Assembly.

Agency Contact: Copies of the regulation may be obtained from George W. Rickman, Jr., Department of Housing and Community Development, 501 North 2nd Street, Richmond, VA 23219, telephone (804) 371-7180.

13 VAC 5-61-40. BNBC Section 103.0 Validity.

A. Change section 103.0 title to "Enforcement."

B. Change subsection 103.1 to read:

103.1. Responsibility for enforcement: Enforcement of the provisions of this code governing construction is the responsibility of the department of building inspection. Whenever a county or a municipality does not have such a department, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the DHCD for such enforcement. Towns with a population of less than 3,500 may elect to administer and enforce this code; however, where the town does not elect to administer and enforce this code, the county in which the town is situated shall administer and enforce this code for the town. In the event such town is situated in two or more counties, those counties shall administer and enforce this code within their respective boundaries.

C. Change subsection 103.2 to read:

103.2. Authority to defray cost; fee levy: Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals pursuant to this code. The

department of building inspection shall collect a 1.0% levy of fees charged for building permits issued under this code and transmit it quarterly to the DHCD to support training programs of the Virginia Building Code Academy. Localities which maintain individual or regional training academies accredited by the DHCD shall retain such levy.

D. Change subsection 103.3 to read:

103.3. Existing structures: The local governing body may inspect and enforce the provisions of this code for the maintenance of existing structures, whether occupied or not, ~~including provisions for elevators.~~ *The local governing body shall inspect and enforce the provisions of this code for the maintenance of existing elevators except for elevators in single and two-family homes and townhouses.* Such inspection and enforcement shall be carried out by an agency or department designated by the local governing body. However, upon a finding by the local building department, following a complaint by a tenant of a residential rental unit which is the subject of such complaint, that the structure is unsafe, the local building department shall enforce the provisions of this code relating to unsafe structures.

VA.R. Doc. No. R99-206; Filed June 29, 1999, 11:41 a.m.

TITLE 21. SECURITIES AND RETAIL FRANCHISING

STATE CORPORATION COMMISSION

Division of Securities and Retail Franchising

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: Securities Act Regulations (SEC 990020).

21 VAC 5-10-10 et seq. General Administration-- Securities Act (amending [21 VAC 5-10-20 and] 21 VAC 5-10-40).

21 VAC 5-20-10 et seq. Broker Dealers, Broker-Dealer Agents and Agents of the Issuer: Registration, Expiration, Renewal, Updates and Amendments, Termination, Changing Connection, Merger or Consolidation, Examinations/Qualification, Financial Statements and Reports (amending [21 VAC 5-20-10,] 21 VAC 5-20-70, 21 VAC 5-20-90, 21 VAC 5-20-150, 21 VAC 5-20-160, 21 VAC 5-20-220, [and] 21 VAC 5-20-280 [and 21 VAC 5-20-300] ; adding [21 VAC 5-20-285 and] 21 VAC 5-20-330).

Final Regulations

21 VAC 5-30-10 et seq. Securities Registration (amending 21 VAC 5-30-40; adding 21 VAC 5-30-90).

21 VAC 5-40-10 et seq. Exempt Securities (amending 21 VAC 5-40-50 and 21 VAC 5-40-100; adding 21 VAC 5-40-130, 21 VAC 5-40-140, and 21 VAC 5-40-150).

21 VAC 5-80-10 et seq. Investment Advisors (amending 21 VAC 5-80-30, 21 VAC 5-80-60, 21 VAC 5-80-70, 21 VAC 5-80-90, 21 VAC 5-80-100, 21 VAC 5-80-110, 21 VAC 5-80-130, 21 VAC 5-80-160, [21 VAC 5-80-180,] 21 VAC 5-80-200, 21 VAC 5-80-210, and 21 VAC 5-80-220).

21 VAC 5-85-10. Forms--Securities Act [(Repealed).]

21 VAC 5-100-10 et seq. Disclosure of Information or Documents by Commission (amending 21 VAC 5-100-10).

[21 VAC 5-120-10 et seq. Virginia Trademark and Service Mark Act (amending 21 VAC 5-120-30; repealing 21 VAC 5-120-110).]

Statutory Authority: §§ 12.1-13 and 13.1-523 of the Code of Virginia.

Effective Date: July 1, 1999.

Summary:

The amendments to the Securities Act Regulations and Forms implement recent legislation, implement recommendations of the 1998 Securities Act Study, adopt versions of certain rules proposed by the North American Securities Administrators Association, and make minor and technical changes to the regulations and forms.

Areas of change include broker-dealer and investment advisor Y2K disclosure, continuing education requirements for agents, touting of securities, prohibited practices and required disclosures connected with sales of penny stocks, conduct of securities business on financial institution premises, marginability of foreign securities, conversion to an internal system for investment advisor representative filings, and investment advisor recordkeeping, unethical practices, dealings with institutional clients, performance-based fees, disclosure of information, general agent and investment advisor representative examination requirements, agent examination requirement for certain small offerings, amount which may be raised in a limited transaction exemption offering, calculation of the number of purchasers in an exempt offering, accredited investors, and eligible participants in employee benefit plans.

The major differences between the proposed regulations and those adopted by the State Corporation Commission are as follows:

- 1. Actions which constitute fraud or deceit are moved to the Prohibited Business Conduct section of the regulations.*
- 2. The burden of a broker-dealer agent's continuing education requirements is changed from the broker to the agent.*

3. *The chapter identifying adopted forms used to administer the Securities Act and the section of the trademark and service mark regulation identifying adopted forms are being repealed. A list of forms used to administer the Securities Act regulations will now be located at the end of 21 VAC 5-10-10 et seq., and a list of forms used to administer the Virginia Trademark and Service Mark Act regulations will be located at the end of 21 VAC 5-120-10 et seq.*

4. *A redundant paragraph is eliminated and technical clarifying amendments are made.*

Agency Contact: Copies of the regulations are available from the commission's Division of Securities and Retail Franchising, P.O. Box 1197, Richmond, VA 23218-1197, (804) 371-9187, FAX (804) 371-9911 and can be downloaded from the commission's web site at <http://www.state.va.us/division/srf>.

AT RICHMOND, JUNE 22, 1999

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. SEC990020

Ex Parte, In Re
Amendments to Securities
Act Rules

ORDER ADOPTING AMENDED RULES

On May 4, 1999, the Division of Securities and Retail Franchising ("Division") mailed notice of proposed amendments to the Commission's Securities Act Rules ("Rules") and forms to all issuer agents, broker dealers and investment advisors pending registration or registered under the Virginia Securities Act, § 13.1-501 et seq. of the Code of Virginia, and to other interested parties. Notice of the proposed amendments was also published in several newspapers in general circulation throughout Virginia, and in the "Virginia Register of Regulations" on May 10, 1999. The notices described the proposed amendments, and afforded interested parties an opportunity to file written comments or requests for a hearing.

Written comments were filed by the Securities Industry Association ("SIA"), the Investment Company Institute, American Express Financial Advisors, Inc., the Greater Richmond Chapter of the International Association for Financial Planning and DMR Investment Counsel. Only SIA requested a hearing. After considering the comments received, the Division modified the proposed amendments in various respects, and SIA withdrew its request for a hearing.

The Commission, upon consideration of the proposed amendments as modified, the written comments filed, the recommendations of the Division, and the record in this case, finds that the proposed modified amendments should be adopted. Accordingly,

IT IS ORDERED THAT:

(1) The evidences of mailing and publication of notice of the proposed Rules and forms amendments shall be filed in and made part of the record in this case.

(2) The proposed modified Rules and forms amendments are adopted effective July 1, 1999. A copy of the modified Rules and forms amendments is attached to and made part of this order.

(3) This matter is dismissed from the Commission's docket, and the papers herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent to each of the following by the Division of Securities and Retail Franchising: The Commission's Division of Information Resources; Securities Regulation and Law Report, c/o The Bureau of National Affairs, 1231 25th Street, N.W., Washington, D.C. 20037; Blue Sky Law Reporter, c/o Commerce Clearing House, Inc., 4025 West Peterson Avenue, Chicago, Illinois 60646; all persons who submitted written comments; and such other persons as the Division deems appropriate.

[21 VAC 5-10-20. Classification of regulatory standards.

Regulations are regulatory standards adopted and promulgated and shall be considered the highest level of policy applied by the commission.

Forms are ~~regulatory standards prescribed or~~ adopted for the purpose of implementing the Virginia Securities Act ~~by prescribing initial basic requirements for completing various applications and reports filed with the Commission. The forms required by the Commission are set forth in 21 VAC 5-85-10 and have the same force and effect as regulations~~ When so prescribed or adopted, use of the forms is mandatory.

Statements made orally or in writing by personnel of the Division of Securities and Retail Franchising in response to inquiries or otherwise, and not specifically identified and promulgated as regulations shall not be considered regulatory standards of the commission and shall not be considered binding upon the commission in connection with specific decisions undertaken by the commission thereafter. The commission may refuse to answer any question based upon a hypothetical situation.]

21 VAC 5-10-40. Definitions.

As used in the Securities Act, the following regulations and forms pertaining to securities, instructions and orders of the commission, the following meanings shall apply:

"Act" means the Securities Act contained in Chapter 5 (§ 13.1-501 et seq.) of Title 13.1 of the Code of Virginia.

"Applicant" means a person on whose behalf an application for registration or a registration statement is filed.

"Application" means all information required by the forms prescribed by the commission as well as any additional information required by the commission and any required fees.

"Bank Holding Company Act of 1956" (12 USC § 1841 et seq.) means the federal statute of that name as now or hereafter amended.

~~"Boiler room [tactics] " [means an enterprise in which two or more persons engage in communications with members of the public using telephones at one or more locations in a common scheme or enterprise to peddle securities of dubious or risky value mean operations or high pressure tactics utilized in connection with the promotion of speculative offerings by means of an intensive telephone campaign or unsolicited calls to persons not known by or having an account with the salesmen or broker-dealer represented by him, whereby the prospective purchaser is encouraged to make a hasty decision to invest, irrespective of his investment needs and objectives] .~~

"Commission" means State Corporation Commission.

"Federal covered advisor" means any person who is registered or required to be registered under § 203 of the Investment Advisers Act of 1940 as an "investment adviser."

"Investment Advisers Act of 1940" (15 USC § 80b-1 et seq.) means the federal statute of that name as now or hereafter amended.

Notwithstanding the definition in § 13.1-501 of the Act, "investment advisor representative" as applied to a federal covered advisor only includes an individual who has a "place of business" (as that term is defined in rules or regulations promulgated by the SEC) in this Commonwealth and who either:

1. Is an "investment advisor representative" as that term is defined in rules or regulations promulgated by the SEC; or
2. a. Is not a "supervised person" as that term is defined in the Investment Advisers Act of 1940 [7;] and
b. Solicits, offers or negotiates for the sale of or sells investment advisory services on behalf of a federal covered advisor.

"Investment Company Act of 1940" (15 USC § 80a-1 et seq.) means the federal statute of that name as now or hereafter amended.

"NASAA" means the North American Securities Administrators Association, Inc.

"NASD" means the National Association of Securities Dealers, Inc.

"Notice" or "notice filing" means, with respect to a federal covered advisor or federal covered security, all information required by the regulations and forms prescribed by the commission and any required fee.

"Registrant" means an applicant for whom a registration or registration statement has been granted or declared effective by the commission.

"SEC" means the United States Securities and Exchange Commission.

Final Regulations

"Securities Act of 1933" (15 USC § 77a et seq.) means the federal statute of that name as now or hereafter amended.

"Securities Exchange Act of 1934" (15 USC § 78a et seq.) means the federal statute of that name as now or hereafter amended.

[21 VAC 5-20-10. Application for registration as a broker-dealer.

A. Application for registration as a broker-dealer shall be filed with the commission at its Division of Securities and Retail Franchising and/or such other entity designated by the commission on and in full compliance with forms prescribed by the commission and shall include all information required by such forms.

B. An application shall be deemed incomplete for purposes of applying for registration as a broker-dealer unless the following executed forms, fee and information are submitted to the commission:

1. Form BD (~~see 21 VAC 5-85-10~~).
2. Statutory fee payable to the Treasurer of Virginia in the amount of \$200 pursuant to § 13.1-505 F of the Act.
3. A signed and executed Agreement for Inspection of Records form.
4. A copy of the firm's written supervisory procedures. Sole proprietorships are excluded.
5. Financial statements required by 21 VAC 5-20-80.
6. Evidence of exam requirements for principals required by 21 VAC 5-20-70.
7. Any other information the commission may require.

C. The commission shall either grant or deny each application for registration within 30 days after it is filed. However, if additional time is needed to obtain or verify information regarding the application, the commission may extend such period as much as 90 days by giving written notice to the applicant. No more than three such extensions may be made by the commission on any one application. An extension of the initial 30-day period, not to exceed 90 days, shall be granted upon written request of the applicant.]

21 VAC 5-20-70. Examinations/qualifications.

A. Broker-dealers registered pursuant to § 15 of the Securities Exchange Act of 1934 (15 USC § 78o).

1. All principals of an applicant for registration as a broker-dealer must provide the commission with evidence of a ~~minimum passing grade of 70% on~~: (i) the Uniform Securities Agent State Law Examination—, Series 63 (~~USASLE Series 63~~); (ii) the Uniform Combined State Law Examination—, Series 66 [,] and the *General Securities Representative Examination, Series 7*; or ~~or~~ (iii) a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates.

2. In lieu of meeting the examination requirement described in subdivision 1 of this subsection A, at least two principals of an applicant may provide evidence of having passed the General Securities Principal Qualification Exam (Series 24) or ~~or~~ a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates.

For the purposes of this subsection A, the term "principal" means any person associated with a broker-dealer who is engaged directly (i) in the management, direction or supervision on a regular or continuous basis on behalf of such broker-dealer of the following activities: sales, training, research, investment advice, underwriting, private placements, advertising, public relations, trading, maintenance of books or records, financial operations; or (ii) in the training of persons associated with such broker-dealer for the management, direction, or supervision on a regular or continuous basis of any such activities.

3. Subsection A of this section is applicable only to principals of broker-dealers that are, or intend to forthwith become, registered pursuant to § 15 of the federal Securities Exchange Act of 1934.

B. Broker-dealers not registered pursuant to § 15 of the federal Securities Exchange Act of 1934.

1. All principals of an applicant for registration as a broker-dealer must provide the commission with evidence of a ~~minimum passing grade of 70% on~~:

a. The Uniform Securities Agent State Law Examination—, Series 63 (~~USASLE Series 63~~); the Uniform Combined State Law Examination—, Series 66 [,] and the *General Securities Representative Examination, Series 7*; or ~~or~~ a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates—; and

b. Any additional securities-related examination(s) that the commission deems appropriate in light of the business in which the applicant proposes to engage.

2. [*This*] subsection [~~B of this section~~] is applicable only to principals of broker-dealers that are not, or do not intend to forthwith become, registered pursuant to § 15 of the federal Securities Exchange Act of 1934.

21 VAC 5-20-90. Application for registration as a broker-dealer agent.

A. Application for registration as a NASD member broker-dealer agent shall be filed on and in compliance with all requirements of the NASAA/NASD Central Registration Depository system and in full compliance with the regulations prescribed by the commission. The application shall include all information required by such forms.

An application shall be deemed incomplete for purposes of applying for registration as a broker-dealer agent unless the following executed forms, fee and information are submitted:

1. Form U-4 [~~(see 21 VAC 5-85-10)~~] .
2. The statutory fee in the amount of \$30. The check must be made payable to the NASD.
3. [Provide] Evidence in the form of a NASD exam report of ~~obtaining a minimum passing grade of 70% on:~~ (i) the Uniform Securities Agent State Law Exam Examination, "USASLE," Series 63 exam; (ii) the Uniform Combined State Law Exam Examination, Series 66 exam [,] and the General Securities Representative Examination, Series 7; or ~~or~~ (iii) a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates.
4. Any other information the commission may require.

B. Application for registration for all other broker-dealer agents shall be filed on and in compliance with all requirements and forms prescribed by the commission.

An application shall be deemed incomplete for purposes of applying for registration as a broker-dealer agent unless the following executed forms, fee and information are submitted:

1. Form U-4 [~~(see 21 VAC 5-85-10)~~] .
2. The statutory fee in the amount of \$30. The check must be made payable to the Treasurer of Virginia.
3. [Provide] Evidence in the form of a NASD exam report of ~~obtaining a minimum passing grade of 70% on:~~ (i) the Uniform Securities Agent State Law Exam Examination, "USASLE," Series 63 exam; (ii) the Uniform Combined State Law Exam Examination, Series 66 exam [,] and the General Securities Representative Examination, Series 7; or ~~or~~ (iii) a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates.
4. Any other information the commission may require.

C. The commission shall either grant or deny each application for registration within 30 days after it is filed. However, if additional time is needed to obtain or verify information regarding the application, the commission may extend such period as much as 90 days by giving written notice to the applicant. No more than three such extensions may be made by the commission on any one application. An extension of the initial 30-day period, not to exceed 90 days, shall be granted upon written request of the applicant.

21 VAC 5-20-150. Examination/qualification.

An individual applying for registration as a broker-dealer agent shall be required to show evidence of passing: (i) the Uniform Securities Agent State Law Examination (~~USASLE~~, Series 63); (ii) the Uniform Combined State Law

Examination, Series 66 exam [,] and the General Securities Representative Examination, Series 7; or (iii) a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates ~~with a minimum grade of 70%.~~

21 VAC 5-20-160. Application for registration as an agent of the issuer.

A. Application for registration as an agent of the issuer shall be filed on and in compliance with all requirements and forms prescribed by the commission.

B. An application shall be deemed incomplete for purposes of applying for registration as an agent of the issuer unless the following executed forms, fee and information are submitted:

1. Form U-4.
2. The statutory fee in the amount of \$30. The check must be made payable to the Treasurer of Virginia.
3. Completed Agreement for Inspection of Records Form.
4. [Provide] Evidence in the form of a NASD exam report of ~~obtaining a minimum passing grade of 70% on:~~ (i) the Uniform Securities Agent State Law Exam Examination, "USASLE," Series 63 exam; (ii) the Uniform Combined State Law Exam Examination, Series 66 exam [,] and the General Securities Representative Examination, Series 7; or ~~or~~ (iii) a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates.
5. Any other information the commission may require.

C. The commission shall either grant or deny each application for registration within 30 days after it is filed. However, if additional time is needed to obtain or verify information regarding the application, the commission may extend such period as much as 90 days by giving written notice to the applicant. No more than three such extensions may be made by the commission on any one application. An extension of the initial 30-day period, not to exceed 90 days, shall be granted upon written request of the applicant.

21 VAC 5-20-220. Examination/qualification; waiver of examination requirement.

A. Except as described in subsection B of this section, an individual applying for registration as an agent of the issuer shall be required to provide evidence in the form of a NASD exam report of passing: (i) the Uniform Securities Agent State Law Examination (~~USASLE~~, Series 63); (ii) the Uniform Combined State Law Examination, Series 66 exam [,] and the General Securities Representative Examination, Series 7; or (iii) a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the

Final Regulations

Division of Securities and Retail Franchising designates ~~with a minimum grade of 70%.~~

B. The commission may waive the examination requirement for an officer or director of an issuer that is a corporation, or a general partner of an issuer that is a limited partnership or a manager of an issuer that is a limited liability company who:

1. Will receive no commission or similar remuneration directly or indirectly in connection with the offer or sale of the issuer's securities; and

2. Agrees to deliver to each prospective purchaser of a security to be issued by such issuer, at or before the time the offering document is required to be delivered, a copy of "A Consumer's Guide to Small Business Investments" prepared by NASAA (see CCH NASAA Reports ¶3676).

21 VAC 5-20-280. Prohibited business conduct.

A. No broker-dealer shall:

1. Engage in a pattern of unreasonable and unjustifiable delays in the delivery of securities purchased by any of its customers and/or in the payment upon request of free credit balances reflecting completed transactions of any of its customers;

2. Induce trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account;

3. Recommend to a customer the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer;

4. Execute a transaction on behalf of a customer without authority to do so or, when securities are held in a customer's account, fail to execute a sell transaction involving those securities as instructed by a customer, without reasonable cause;

5. Exercise any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the execution of orders;

6. Execute any transaction in a margin account without securing from the customer a properly executed written margin agreement promptly after the initial transaction in the account;

7. Fail to segregate customers' free securities or securities held in safekeeping;

8. Hypothecate a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent promptly

after the initial transaction, except as permitted by Rules of the SEC;

9. Enter into a transaction with or for a customer at a price not reasonably related to the current market price of a security or receiving an unreasonable commission or profit;

10. Fail to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, either a final prospectus or a preliminary prospectus and an additional document, which together include all information set forth in the final prospectus;

11. Introduce customer transactions on a "fully disclosed" basis to another broker-dealer that is not exempt under § 13.1-514 B 6 of the Act;

12. a. Charge unreasonable and inequitable fees for services performed, including miscellaneous services such as collection of moneys due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, or custody of securities and other services related to its securities business;

b. Charge a fee based on the activity, value or contents (or lack thereof) of a customer account unless written disclosure pertaining to the fee, which shall include information about the amount of the fee, how imposition of the fee can be avoided and any consequence of late payment or nonpayment of the fee, was provided no later than the date the account was established or, with respect to an existing account, at least 60 days prior to the effective date of the fee [-;]

13. Offer to buy from or sell to any person any security at a stated price unless such broker-dealer is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell;

14. Represent that a security is being offered to a customer "at a market" or a price relevant to the market price unless such broker-dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created or controlled by such broker-dealer, or by any person for whom he is acting or with whom he is associated in such distribution, or any person controlled by, controlling or under common control with such broker-dealer;

15. Effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or fraudulent device, practice, plan, program, design or contrivance, which may include but not be limited to:

a. Effecting any transaction in a security which involves no change in the beneficial ownership thereof;

b. Entering an order or orders for the purchase or sale of any security with the knowledge that an order or

orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security; provided, however, nothing in this subsection shall prohibit a broker-dealer from entering bona fide agency cross transactions for its customers;

c. Effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others;

16. Guarantee a customer against loss in any securities account of such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer with or for such customer;

17. Publish or circulate, or cause to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation represents a bona fide bid for, or offer of, such security;

18. Use any advertising or sales presentation in such a fashion as to be deceptive or misleading. An example of such practice would be a distribution of any nonfactual data, material or presentation based on conjecture, unfounded or unrealistic claims or assertions in any brochure, flyer, or display by words, pictures, graphs or otherwise designed to supplement, detract from, supersede or defeat the purpose or effect of any prospectus or disclosure;

19. Fail to make reasonably available upon request to any person expressing an interest in a solicited transaction in a security, not listed on a registered securities exchange or quoted on an automated quotation system operated by a national securities association approved by regulation of the commission, a balance sheet of the issuer as of a date within 18 months of the offer and/or sale of the issuer's securities and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, the names of the issuer's proprietor, partners or officers, the nature of the enterprises of the issuer and any available information reasonably necessary for evaluating the desirability or lack of desirability of investing in the securities of an issuer. All transactions in securities described in this subsection shall comply with the provisions of § 13.1-507 of the Act;

20. Fail to disclose that the broker-dealer is controlled by, controlling, affiliated with or under common control with the issuer of any security before entering into any contract with or for a customer for the purchase or sale of such security, the existence of such control to such customer, and if such disclosure is not made in writing, it shall be supplemented by the giving or sending of written disclosure at or before the completion of the transaction;

21. Fail to make a bona fide public offering of all of the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter, a selling group member, or from a member participating in the distribution as an underwriter or selling group member; ~~or~~

22. Fail or refuse to furnish a customer, upon reasonable request, information to which such customer is entitled, or to respond to a formal written request or complaint; ~~or~~

23. ~~Fail to [disclose make a disclosure] in a timely manner [~~so that to~~] clients [and or] prospective clients [may take steps to protect their interests], broker-dealer services and relationships, or proposed broker-dealer services and relationships, which may be affected by that the broker-dealer has not substantially addressed] year 2000 computer or equipment problems [~~if the broker-dealer has not substantially addressed these problems,~~] or is [substantially] uncertain of its ability to resolve these problems.~~

B. No agent shall:

1. Engage in the practice of lending or borrowing money or securities from a customer, or acting as a custodian for money, securities or an executed stock power of a customer;

2. Effect any securities transaction not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transaction is authorized in writing by the broker-dealer prior to execution of the transaction;

3. Establish or maintain an account containing fictitious information in order to execute a transaction which would otherwise be unlawful or prohibited;

4. Share directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer which the agent represents;

5. Divide or otherwise split the agent's commissions, profits or other compensation from the purchase or sale of securities in this state with any person not also registered as an agent for the same broker-dealer, or for a broker-dealer under direct or indirect common control; ~~or~~

6. Engage in conduct specified in subdivisions A 2, 3, 4, 5, 6, 10, 15, 16, 17, or 18 of this section.

Final Regulations

C. Failure to comply with any of the applicable continuing education requirements set forth in any of the following [, if such failure has resulted in an agent's denial, suspension or revocation or a license, registration or membership with a self regulatory organization,] shall be deemed a demonstration of a lack of business knowledge by [~~a broker-dealer or an~~] agent insofar as such business knowledge is required for registration by § 13.1-505 A 3 of the Act [~~and is hereby required for renewal of registration~~] .

1. Schedule C to the National Association of Securities Dealers By-Laws, Part XII of the National Association of Securities Dealers, as such provisions existed on July 1, 1995;
2. Rule 345 A of the New York Stock Exchange, as such provisions existed on July 1, 1995;
3. Rule G-3(h) of the Municipal Securities Rulemaking Board, as such provisions existed on July 1, 1995;
4. Rule 341 A of the American Stock Exchange, as such provisions existed on July 1, 1995;
5. Rule 9.3A of the Chicago Board of Options Exchange, as such provisions existed on July 1, 1995;
6. Article VI, Rule 9 of the Chicago Stock Exchange, as such provisions existed on July 1, 1995;
7. Rule 9.27(C) of the Pacific Stock Exchange, as such provisions existed on July 1, 1995; or
8. Rule 640 of the Philadelphia Stock Exchange, as such provisions existed on July 1, 1995.

Each or all of the education requirements standards listed above may be changed [~~and compliance with such requirements will be deemed to demonstrate sufficient business knowledge if such changes do~~] by each respective entity and if so changed will become a requirement if such change does] not materially reduce the educational requirements expressed above or [~~otherwise materially reduce the investor protection contemplated by this regulation~~] reduce the investor protection provided by such requirements] .

D. No person shall publish, give publicity to, or circulate any notice, circular, advertisement, newspaper article, letter, investment service or communication which, though not purporting to offer a security for sale, describes such security, for a consideration received or to be received, directly or indirectly, from an issuer, underwriter, or dealer, without fully disclosing the receipt, whether past or prospective, of such consideration and the amount thereof.

[E. The purpose of this subsection is to identify practices in the securities business which are generally associated with schemes to manipulate and to identify prohibited business conduct of broker-dealers and/or sales agents.

1. Entering into a transaction with a customer in any security at an unreasonable price or at a price not reasonably related to the current market price of the

security or receiving an unreasonable commission or profit.

2. Contradicting or negating the importance of any information contained in a prospectus or other offering materials with intent to deceive or mislead or using any advertising or sales presentation in a deceptive or misleading manner.

3. In connection with the offer, sale, or purchase of a security, falsely leading a customer to believe that the broker-dealer or agent is in possession of material, non-public information which would affect the value of the security.

4. In connection with the solicitation of a sale or purchase of a security, engaging in a pattern or practice of making contradictory recommendations to different investors of similar investment objective for some to sell and others to purchase the same security, at or about the same time, when not justified by the particular circumstances of each investor.

5. Failing to make a bona fide public offering of all the securities allotted to a broker-dealer for distribution by, among other things, (i) transferring securities to a customer, another broker-dealer or a fictitious account with the understanding that those securities will be returned to the broker-dealer or its nominees or (ii) parking or withholding securities.

6. Although nothing in this subsection precludes application of the general anti-fraud provisions against anyone for practices similar in nature to the practices discussed below, the following subdivisions a through f specifically apply only in connection with the solicitation of a purchase or sale of OTC (over the counter) unlisted non-NASDAQ equity securities:

- a. Failing to advise the customer, both at the time of solicitation and on the confirmation, of any and all compensation related to a specific securities transaction to be paid to the agent including commissions, sales charges, or concessions.

- b. In connection with a principal transaction, failing to disclose, both at the time of solicitation and on the confirmation, a short inventory position in the firm's account of more than 3.0% of the issued and outstanding shares of that class of securities of the issuer; however, subdivision 6 of this subsection shall apply only if the firm is a market maker at the time of the solicitation.

- c. Conducting sales contests in a particular security.

- d. After a solicited purchase by a customer, failing or refusing, in connection with a principal transaction, to promptly execute sell orders.

- e. Soliciting a secondary market transaction when there has not been a bona fide distribution in the primary market.

f. Engaging in a pattern of compensating an agent in different amounts for effecting sales and purchases in the same security.

7. Effecting any transaction in, or inducing the purchase or sale of any security by means of any manipulative, deceptive or other fraudulent device or contrivance including but not limited to the use of boiler room tactics or use of fictitious or nominee accounts.

8. Failing to comply with any prospectus delivery requirements promulgated under federal law or the Act.

9. In connection with the solicitation of a sale or purchase of an OTC unlisted non-NASDAQ security, failing to promptly provide the most current prospectus or the most recently filed periodic report filed under § 13 of the Securities Exchange Act when requested to do so by a customer.

10. Marking any order tickets or confirmations as unsolicited when in fact the transaction was solicited.

11. For any month in which activity has occurred in a customer's account, but in no event less than every three months, failing to provide each customer with a statement of account with respect to all OTC non-NASDAQ equity securities in the account, containing a value for each such security based on the closing market bid on a date certain; however, this subdivision shall apply only if the firm has been a market maker in such security at any time during the month in which the monthly or quarterly statement is issued.

12. Failing to comply with any applicable provision of the Rules of Fair Practice of the NASD or any applicable fair practice or ethical standard promulgated by the SEC or by a self-regulatory organization approved by the SEC.

13. In connection with the solicitation of a purchase or sale of a designated security:

a. Failing to disclose to the customer the bid and ask price, at which the broker-dealer effects transactions with individual, retail customers, of the designated security as well as its spread in both percentage and dollar amounts at the time of solicitation and on the trade confirmation documents; or

b. Failing to include with the confirmation, the notice disclosure contained in subsection F of this section, except the following shall be exempt from this requirement:

(1) Transactions in which the price of the designated security is \$5.00 or more, exclusive of costs or charges; however, if the designated security is a unit composed of one or more securities, the unit price divided by the number of components of the unit other than warrants, options, rights, or similar securities must be \$5.00 or more, and any component of the unit that is a warrant, option, right, or similar securities, or a convertible security must

have an exercise price or conversion price of \$5.00 or more.

(2) Transactions that are not recommended by the broker-dealer or agent.

(3) Transactions by a broker-dealer: (i) whose commissions, commission equivalents, and mark-ups from transactions in designated securities during each of the immediately preceding three months, and during 11 or more of the preceding 12 months, did not exceed 5.0% of its total commissions, commission-equivalents, and mark-ups from transactions in securities during those months; and (ii) who has not executed principal transactions in connection with the solicitation to purchase the designated security that is the subject of the transaction in the immediately preceding 12 months.

(4) Any transaction or transactions that, upon prior written request or upon its own motion, the commission conditionally or unconditionally exempts as not encompassed within the purposes of this section.

c. For purposes of this section, the term "designated security" means any equity security other than a security:

(1) Registered, or approved for registration upon notice of issuance, on a national securities exchange and makes transaction reports available pursuant to 17 CFR 11Aa3-1 under the Securities Exchange Act of 1934;

(2) Authorized, or approved for authorization upon notice of issuance, for quotation in the NASDAQ system;

(3) Issued by an investment company registered under the Investment Company Act of 1940;

(4) That is a put option or call option issued by The Options Clearing Corporation; or

(5) Whose issuer has net tangible assets in excess of \$4,000,000 as demonstrated by financial statements dated less than 15 months previously that the broker or dealer has reviewed and has a reasonable basis to believe are true and complete in relation to the date of the transaction with the person, and

(a) In the event the issuer is other than a foreign private issuer, are the most recent financial statements for the issuer that have been audited and reported on by an independent public accountant in accordance with the provisions of 17 CFR 210.2.02 under the Securities Exchange Act of 1934; or

(b) In the event the issuer is a foreign private issuer, are the most recent financial statements

Final Regulations

for the issuer that have been filed with the SEC; furnished to the SEC pursuant to 17 CFR 241.12g3-2(b) under the Securities Exchange Act of 1934; or prepared in accordance with generally accepted accounting principles in the country of incorporation, audited in compliance with the requirements of that jurisdiction, and reported on by an accountant duly registered and in good standing in accordance with the regulations of that jurisdiction.

F. Customer notice requirements follow:

IMPORTANT CUSTOMER NOTICE--READ CAREFULLY

You have just entered into a solicited transaction involving a security which may not trade on an active national market. The following should help you understand this transaction and be better able to follow and protect your investment.

Q. What is meant by the BID and ASK price and the spread?

A. The BID is the price at which you could sell your securities at this time. The ASK is the price at which you bought. Both are noted on your confirmation. The difference between these prices is the "spread," which is also noted on the confirmation, in both a dollar amount and a percentage relative to the ASK price.

Q. How can I follow the price of my security?

A. For the most part, you are dependent on broker-dealers that trade in your security for all price information. You may be able to find a quote in the newspaper, but you should keep in mind that the quote you see will be for dealer-to-dealer transactions (essentially wholesale prices and will not necessarily be the prices at which you could buy or sell).

Q. How does the spread relate to my investments?

A. The spread represents the profit made by your broker-dealer and is the amount by which your investment must increase (the BID must rise) for you to break even. Generally, a greater spread indicates a higher risk.

Q. How do I compute the spread?

A. If you bought 100 shares at an ASK price of \$1.00, you would pay \$100 (100 shares x \$1.00 = \$100). If the BID price at the time you purchased your stock was \$.50, you could sell the stock back to the broker-dealer for \$50 (100 shares x \$.50 = \$50). In this example, if you sold at the BID price, you would suffer a loss of 50%.

Q. Can I sell at any time?

A. Maybe. Some securities are not easy to sell because there are few buyers, or because there are no broker-dealers who buy or sell them on a regular basis.

Q. Why did I receive this notice?

A. The laws of some states require your broker-dealer or sales agent to disclose the BID and ASK price on your confirmation and include this notice in some instances. If the BID and ASK were not explained to you at the time you discussed this investment with your broker, you may have further rights and remedies under both state and federal law.

Q. Where do I go if I have a problem?

A. If you cannot work the problem out with your broker-dealer, you may contact the Virginia State Corporation Commission or the securities commissioner in the state in which you reside, the United States Securities and Exchange Commission, or the National Association of Securities Dealers, Inc.]

~~C. [E. G.] Engaging in or having engaged in conduct specified in subsection A [or,] B [, C, D, or E] of this section, or other conduct such as forgery, embezzlement, nondisclosure, incomplete disclosure or misstatement of material facts, or manipulative or deceptive practices shall be grounds under the Act for imposition of a penalty, denial of a pending application or refusal to renew or revocation of an effective registration.~~

~~[21 VAC 5-20-285. Fraudulent or deceitful practices of broker-dealers and sales agents; customer notice requirements.~~

~~A. The purpose of this section is to identify practices in the securities business which are generally associated with schemes to manipulate. A broker-dealer or agent who engages in one or more of the following practices shall be deemed to have engaged in a "transaction, practice or course of business which operates or would operate as a fraud or deceit" under § 13.1-502 of the Act. This section is not intended to be all inclusive, and thus, transactions or practices not enumerated herein may also be deemed fraudulent.~~

~~1. Entering into a transaction with a customer in any security at an unreasonable price or at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit.~~

~~2. Contradicting or negating the importance of any information contained in a prospectus or other offering materials with intent to deceive or mislead or using any advertising or sales presentation in a deceptive or misleading manner.~~

~~3. In connection with the offer, sale, or purchase of a security, falsely leading a customer to believe that the broker-dealer or agent is in possession of material, nonpublic information which would affect the value of the security.~~

~~4. In connection with the solicitation of a sale or purchase of a security, engaging in a pattern or practice of making contradictory recommendations to different investors of similar investment objective for some to sell~~

~~and others to purchase the same security, at or about the same time, when not justified by the particular circumstances of each investor.~~

~~5. Failing to make a bona fide public offering of all the securities allotted to a broker-dealer for distribution by, among other things, (i) transferring securities to a customer, another broker-dealer or a fictitious account with the understanding that those securities will be returned to the broker-dealer or its nominees or (ii) parking or withholding securities.~~

~~6. Although nothing in this section precludes application of the general anti-fraud provisions against anyone for practices similar in nature to the practices discussed below, the following subdivisions a through f specifically apply only in connection with the solicitation of a purchase or sale of OTC (over the counter) unlisted non-NASDAQ equity securities:~~

~~a. Failing to advise the customer, both at the time of solicitation and on the confirmation, of any and all compensation related to a specific securities transaction to be paid to the agent including commissions, sales charges, or concessions.~~

~~b. In connection with a principal transaction, failing to disclose, both at the time of solicitation and on the confirmation, a short inventory position in the firm's account of more than 3.0% of the issued and outstanding shares of that class of securities of the issuer; provided that subdivision 6 shall apply only if the firm is a market maker at the time of the solicitation.~~

~~c. Conducting sales contests in a particular security.~~

~~d. After a solicited purchase by a customer, failing or refusing, in connection with a principal transaction, to promptly execute sell orders.~~

~~e. Soliciting a secondary market transaction when there has not been a bona fide distribution in the primary market.~~

~~f. Engaging in a pattern of compensating an agent in different amounts for effecting sales and purchases in the same security.~~

~~7. Effecting any transaction in, or inducing the purchase or sale of any security by means of any manipulative, deceptive or other fraudulent device or contrivance including but not limited to the use of boiler room tactics or use of fictitious or nominee accounts.~~

~~8. Failing to comply with any prospectus delivery requirements promulgated under federal law or the Act.~~

~~9. In connection with the solicitation of a sale or purchase of an OTC unlisted non-NASDAQ security, failing to promptly provide the most current prospectus or the most recently filed periodic report filed under § 13 of the Securities Exchange Act when requested to do so by a customer.~~

~~10. Marking any order tickets or confirmations as unsolicited when in fact the transaction was solicited.~~

~~11. For any month in which activity has occurred in a customer's account, but in no event less than every three months, failing to provide each customer with a statement of account with respect to all OTC non-NASDAQ equity securities in the account, containing a value for each such security based on the closing market bid on a date certain; provided that, this subdivision shall apply only if the firm has been a market maker in such security at any time during the month in which the monthly or quarterly statement is issued.~~

~~12. Failing to comply with any applicable provision of the Rules of Fair Practice of the NASD or any applicable fair practice or ethical standard promulgated by the SEC or by a self-regulatory organization approved by the SEC.~~

~~13. In connection with the solicitation of a purchase or sale of a designated security:~~

~~a. Failing to disclose to the customer the bid and ask price, at which the broker-dealer effects transactions with individual, retail customers, of the designated security as well as its spread in both percentage and dollar amounts at the time of solicitation and on the trade confirmation documents, or~~

~~b. Failing to include with the confirmation, the notice disclosure contained in subsection B of this section, except the following shall be exempt from this requirement:~~

~~(1) Transactions in which the price of the designated security is \$5.00 or more, exclusive of costs or charges; provided, that if the designated security is a unit composed of one or more securities, the unit price divided by the number of components of the unit other than warrants, options, rights, or similar securities must be \$5.00 or more, and any component of the unit that is a warrant, option, right, or similar securities, or a convertible security must have an exercise price or conversion price of \$5.00 or more.~~

~~(2) Transactions that are not recommended by the broker-dealer or agent.~~

~~(3) Transactions by a broker-dealer: (i) whose commissions, commission equivalents, and mark-ups from transactions in designated securities during each of the immediately preceding three months, and during 11 or more of the preceding 12 months, did not exceed 5.0% of its total commissions, commission equivalents, and mark-ups from transactions in securities during those months; and (ii) who has not executed principal transactions in connection with the solicitation to purchase the designated security that is the subject of the transaction in the immediately preceding 12 months.~~

Final Regulations

~~(4) Any transaction or transactions that, upon prior written request or upon its own motion, the commission conditionally or unconditionally exempts as not encompassed within the purposes of this section.~~

~~c. For purposes of this section the term "designated security" means any equity security other than a security:~~

~~(1) Registered, or approved for registration upon notice of issuance, on a national securities exchange and makes transaction reports available pursuant to 17 CFR 11Aa3-1 under the Securities Exchange Act of 1934;~~

~~(2) Authorized, or approved for authorization upon notice of issuance, for quotation in the NASDAQ system;~~

~~(3) Issued by an investment company registered under the Investment Company Act of 1940;~~

~~(4) That is a put option or call option issued by The Options Clearing Corporation; or~~

~~(5) Whose issuer has not tangible assets in excess of \$4,000,000 as demonstrated by financial statements dated less than 15 months previously that the broker or dealer has reviewed and has a reasonable basis to believe are true and complete in relation to the date of the transaction with the person, and~~

~~(a) In the event the issuer is other than a foreign private issuer, are the most recent financial statements for the issuer that have been audited and reported on by an independent public accountant in accordance with the provisions of 17 CFR 210.2.02 under the Securities Exchange Act of 1934; or~~

~~(b) In the event the issuer is a foreign private issuer, are the most recent financial statements for the issuer that have been filed with the SEC; furnished to the SEC pursuant to 17 CFR 241.12g3-2(b) under the Securities Exchange Act of 1934; or prepared in accordance with generally accepted accounting principles in the country of incorporation, audited in compliance with the requirements of that jurisdiction, and reported on by an accountant duly registered and in good standing in accordance with the regulations of that jurisdiction.~~

~~B. Customer notice requirements follow:~~

~~IMPORTANT CUSTOMER NOTICE - READ CAREFULLY~~

~~You have just entered into a solicited transaction involving a security which may not trade on an active national market. The following should help you understand this transaction and be better able to follow and protect your investment.~~

~~Q. What is meant by the BID and ASK price and the spread?~~

~~A. The BID is the price at which you could sell your securities at this time. The ASK is the price at which you bought. Both are noted on your confirmation. The difference between these prices is the "spread," which is also noted on the confirmation, in both a dollar amount and a percentage relative to the ASK price.~~

~~Q. How can I follow the price of my security?~~

~~A. For the most part, you are dependent on broker-dealers that trade in your security for all price information. You may be able to find a quote in the newspaper, but you should keep in mind that the quote you see will be for dealer-to-dealer transactions (essentially wholesale prices and will not necessarily be the prices at which you could buy or sell).~~

~~Q. How does the spread relate to my investments?~~

~~A. The spread represents the profit made by your broker-dealer and is the amount by which your investment must increase (the BID must rise) for you to break even. Generally, a greater spread indicates a higher risk.~~

~~Q. How do I compute the spread?~~

~~A. If you bought 100 shares at an ASK price of \$1.00, you would pay \$100 (100 shares x \$1.00 = \$100). If the BID price at the time you purchased your stock was \$.50, you could sell the stock back to the broker-dealer for \$50 (100 shares x \$.50 = \$50). In this example, if you sold at the BID price, you would suffer a loss of 50%.~~

~~Q. Can I sell at any time?~~

~~A. Maybe. Some securities are not easy to sell because there are few buyers, or because there are no broker-dealers who buy or sell them on a regular basis.~~

~~Q. Why did I receive this notice?~~

~~A. The laws of some states require your broker-dealer or sales agent to disclose the BID and ASK price on your confirmation and include this notice in some instances. If the BID and ASK were not explained to you at the time you discussed this investment with your broker, you may have further rights and remedies under both state and federal law.~~

~~Q. Where do I go if I have a problem?~~

~~A. If you cannot work the problem out with your broker-dealer, you may contact the Virginia State Corporation Commission, the United States Securities and Exchange Commission, or the National Association of Securities Dealers, Inc.]~~

[21 VAC 5-20-300. Net worth.

A. For broker-dealers not subject to the Securities Exchange Act of 1934, the term "net worth" as used in §

13.1-505 B of the Act shall be computed as total assets minus total liabilities, excluding liabilities of the broker-dealer which are subordinated to the claims of creditors pursuant to a satisfactory subordination agreement as defined in Appendix D of Rule 15c3-1 under the Securities Exchange Act of 1934 (17 CFR 240.15c3-1d).

B. If a broker-dealer applicant or registrant not subject to the Securities Exchange Act of 1934 cannot demonstrate and maintain a net worth in excess of \$25,000, the commission shall require the filing of a surety bond on the form prescribed in ~~21 VAC 5-85-10~~. The amount of the penal sum of the surety bond can be determined according to the following table:

NET WORTH (Rounded to nearest \$1)	PENALTY AMOUNT OF SURETY BOND
Less than \$5,000	\$25,000
5,001-10,000	20,000
10,001-15,000	15,000
15,001-20,000	10,000
20,001-25,000	5,000

C. If the net worth of a broker-dealer registrant not subject to the Securities Exchange Act of 1934 plus the penal sum of its surety bond drops below \$25,000, the registrant must so notify the Division of Securities and Retail Franchising in writing within three business days and immediately take action to establish a net worth in excess of \$25,000.]

21 VAC 5-20-330. Model rules for sales of securities at financial institutions.

A. This section applies exclusively to broker-dealer services conducted by broker-dealers and their agents on the premises of a financial institution where retail deposits are taken.

This section does not alter or abrogate a broker-dealer's obligation to comply with other applicable laws, rules, or regulations that may govern the operations of broker-dealers and their agents, including but not limited to, supervisory obligations. This section does not apply to broker-dealer services provided to nonretail customers.

B. For purposes of this section, the following terms have the meanings indicated:

1. "Financial institution" means federal and state-chartered banks, savings and loan associations, savings banks, credit unions, and the service corporations of such institutions located in Virginia.
2. "Networking arrangement" means a contractual or other arrangement between a broker-dealer and a financial institution pursuant to which the broker-dealer conducts broker-dealer services on the premises of such financial institution where retail deposits are taken.
3. "Broker-dealer services" means the investment banking or securities business as defined in paragraph (p) of Article I of the By-Laws of the NASD.

C. Standards for broker-dealer conduct. No broker-dealer shall conduct broker-dealer services on the premises of a financial institution where retail deposits are taken unless the broker-dealer and its agents complies initially and continuously with the following requirements:

1. *Setting.* Wherever practical, broker-dealer services shall be conducted in a physical location distinct from the area in which the financial institution's retail deposits are taken. In those situations where there is insufficient space to allow separate areas, the broker-dealer has a heightened responsibility to distinguish its services from those of the financial institution. In all situations, the broker-dealer shall identify its services in a manner that clearly distinguishes those services from the financial institution's retail deposit-taking activities. The broker-dealer's name shall be clearly displayed in the area in which the broker-dealer conducts its services.

2. *Networking arrangements and program management.* Networking arrangements shall be governed by a written agreement that sets forth the responsibilities of the parties and the compensation arrangements. Networking arrangements must provide that supervisory personnel of the broker-dealer and representatives of state securities authorities, unless prohibited by state law, will be permitted access to the financial institution's premises where the broker-dealer conducts broker-dealer services in order to inspect the books and records and other relevant information maintained by the broker-dealer with respect to its broker-dealer services. Management of the broker-dealer shall be responsible for ensuring that the networking arrangement clearly outlines the duties and responsibilities of all parties, including those of financial institution personnel.

3. *Customer disclosure and written acknowledgment.*
 a. At or prior to the time that a customer's securities brokerage account is opened by a broker-dealer on the premises of a financial institution where retail deposits are taken, the broker-dealer or its agents shall:

(1) Disclose, orally and in writing, that the securities products purchased or sold in a transaction with the broker-dealer:

- (a) Are not insured by the Federal Deposit Insurance Corporation ("FDIC") or the National Credit Union Administration ("NCUA") [-;]
- (b) Are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; and
- (c) Are subject to investment risks, including possible loss of principal invested.

(2) Make reasonable efforts to obtain from each customer during the account opening process a written acknowledgment of the disclosures required by subdivision C 3 a [(1 [])].

Final Regulations

b. If broker-dealer services include any written or oral representations concerning insurance coverage, other than FDIC insurance coverage, then clear and accurate written or oral explanations of the coverage must also be provided to the customers when such representations are first made.

4. Communications with the public.

a. All of the broker-dealer's confirmations and account statements must indicate clearly that the broker-dealer services are provided by the broker-dealer.

b. Advertisements and sales literature that announce the location of a financial institution where broker-dealer services are provided by the broker-dealer or its agents, or that are distributed by the broker-dealer or its agents on the premises of a financial institution, must disclose that securities products: are not insured by the FDIC; are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; and are subject to investment risks, including possible loss of the principal invested. The shorter logo format described in subdivision C 4 d may be used to provide these disclosures.

c. Recommendations by a broker-dealer or its agents concerning nondeposit investment products with a name similar to that of a financial institution must only occur pursuant to policies and procedures reasonably designed to minimize risk of customer confusion.

d. The following shorter logo format disclosures may be used by a broker-dealer or its agents in advertisements and sales literature, including material published, or designed for use, in radio or television broadcasts, automated teller machine ("ATM") screens, billboards, signs, posters and brochures, to comply with the requirements of subdivision C 4 b provided that such disclosures are displayed in a conspicuous manner:

- (1) Not FDIC insured;
- (2) No bank guarantee;
- (3) May lose value.

e. As long as the omission of the disclosures required by subdivision C 4 b would not cause the advertisement or sales literature to be misleading in light of the context in which the material is presented, such disclosures are not required with respect to messages contained in:

- (1) Radio broadcasts of 30 seconds or less;
- (2) Electronic signs, including billboard-type signs that are electronic, time and temperature signs and ticker tape signs, but excluding messages contained in such media as television, on-line computer services, or ATMs; and

(3) Signs, such as banners and posters, when used only as location indicators.

5. Notification of termination. The broker-dealer must promptly notify the financial institution if any agent of the broker dealer who is employed by the financial institution is terminated for cause by the broker-dealer.

21 VAC 5-30-40. Requirements for registrations filed pursuant to §§ 13.1-508 and 13.1-510 of the Code of Virginia.

A. Except as provided in subsection B of 21 VAC 5-30-90, the balance sheet required by §§ 13.1-508 and 13.1-510 of the Code of Virginia Act must be examined and reported upon with an opinion expressed by an independent accountant and shall include the information described in 21 VAC 5-30-10 in the definition of "certified financial statements." (See [~~21 VAC 5-30-40~~ subsections] B and C [of this section]).

B. In lieu of the financial information required by ~~these Code sections~~ §§ 13.1-508 and 13.1-510 of the Act, the registration statement may contain certified financial statements for the issuer's and/or any predecessor's three most recent fiscal or calendar years preceding the date of filing the registration statement. If the issuer's or any predecessor's existence is less than three years, then the registration statement may contain certified financial statements for the issuer's or any predecessor's most recent fiscal year preceding the date of filing the registration statement.

C. If the certified financial statements ~~as outlined by~~ described in subsection B [of this section] are as of a date in excess of four months prior to the filing of the registration statement [,] then an unaudited balance sheet (as of a date within four months prior to the filing of the registration statement together with a profit and loss statement and analysis of surplus for the period between the close of the latest fiscal year and the date of the balance sheet) must be filed in addition to the certified financial statements.

21 VAC 5-30-90. Small corporate offering registration.

A. A registration statement on Form U-7 (Small Corporate Offering Registration Form), as amended by NASAA on April 28, 1996, may be used to register securities by qualification under § 13.1-510 of the Act, provided the conditions set forth in subsection B of this section, and the instructions to Form U-7, are satisfied.

B. The financial statements included in the application for registration shall be those required under the instructions to the Form U-7. Financial statements shall be prepared in accordance with either U.S. or Canadian generally accepted accounting principles. Interim financial statements may be unaudited. All other financial statements shall be audited by independent certified public accountants; [~~provided, that~~ however,] if each of the following four conditions are met, such financial statements in lieu of being audited may be reviewed by independent certified public accountants in accordance with the Accounting and Review Service

Standards promulgated by the American Institute of Certified Public Accountants or the Canadian equivalent:

1. *The issuer shall not have previously sold securities through an offering involving the general solicitation of prospective investors by means of advertising, mass mailing, public meetings, "cold call" telephone solicitation, or any other method directed toward the public;*
2. *The issuer has not been previously required under federal, state, provincial or territorial securities laws to provide audited financial statements in connection with any sale of its securities;*
3. *The aggregate amount of all previous sales of securities by the issuer (exclusive of debt financing with banks and similar commercial lenders) shall not exceed \$1,000,000; and*
4. *The amount of the present offering does not exceed \$1,000,000.*

21 VAC 5-40-50. Foreign issuer.

In accordance with § 13.1-514 A 13 of the Act, any equity or debt security issued by an issuer organized under the laws of any foreign country is exempted from the securities registration requirements of the Act provided the following criteria are met:

1. With respect to an equity security, the security is ~~included on the List of Foreign Margin Stocks ("the list") periodically published~~ meets the marginability requirements of regulation T adopted by the Board of Governors of the Federal Reserve System ("the Board") or is an American Depository Receipt ("ADR") representing such a security ~~whether or not the ADR is included on the list; and~~
2. With respect to a debt security, the security meets the marginability requirements of regulation T adopted by the Board.

21 VAC 5-40-100. Domestic issuer limited transactional exemption.

A. In accordance with § 13.1-514 B 7 (b) of the Act, an offer or sale by the issuer of any of the following securities issued by a corporation, partnership, limited liability company, or real estate investment trust, as the case may be: note, stock, bond, debenture, evidence of indebtedness, partnership interest, share of beneficial interest in a real estate investment trust, a warrant or right to purchase or subscribe to any of the foregoing or a security convertible into any of the foregoing, shall be exempt from the securities, broker-dealer and agent registration requirements of the Act, provided the following conditions are met:

1. In connection with an offering pursuant to this section, there shall be no more than 35 purchasers in this Commonwealth during any period of 12 consecutive months;
2. In connection with an offering pursuant to this section, the issuer shall:

a. Deliver Form VA-1 and in certain prescribed circumstances, Part 2 of Form VA-1 or a disclosure document containing the information required by Form VA-1 and Part 2, if required, to each prospective purchaser prior to a sale to a purchaser; and

b. Sell securities only to purchasers, each of which the issuer shall, after reasonable inquiry, believe either:

(1) Has sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the prospective investment, and is able to bear the economic risks of the prospective investment; or

(2) Together with a purchaser representative or representatives, has sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the prospective investment, and that the purchaser is able to bear the economic risks of the prospective investment; and

3. No commission or similar remuneration is paid or given, directly or indirectly, for soliciting a prospective purchaser, or in connection with sales of securities in reliance on this section, unless paid to a broker-dealer and its agent who are registered under the Act *and the securities are offered only to persons whose investing history demonstrates an ability to evaluate the merits and risks of the investment and who are capable of bearing the economic risks of the investment.*

B. This exemption is not available with respect to an offering:

1. Pursuant to a registration statement or Regulation A (17 CFR 230.251-230.263) notification which has been filed under the Securities Act of 1933;

2. Pursuant to an exemption under Regulation D (17 CFR 230.505 or 17 CFR 230.506), which offering may be exempted in Virginia only by 21 VAC 5-40-30, Uniform Limited Offering Exemption;

3. If the amount of money to be raised from the offering exceeds ~~\$1,000,000~~ \$2,000,000;

4. If the issuer has offered for sale or sold its securities which are of the same or a similar class as that to be offered for sale or sold under this section within 180 days prior to this offering or if the issuer offers for sale or sells its securities that are of the same or a similar class as those offered and sold under this section within 180 days after this offering; or

5. If the issuer does not have a *its* principal place of business in this Commonwealth.

C. An exemption under this section is not available if the issuer, its directors, officers, partners, members, trustees or beneficial owners of 10% or more of a class of its voting securities, or its promoters or agents connected with it or a person offering or selling the securities for or on behalf of the issuer:

Final Regulations

1. Has been convicted (or has pleaded nolo contendere) within five years prior to reliance on this section of a felony or a misdemeanor in connection with the purchase or sale of a security, or in connection with making a false filing with the ~~United States Securities and Exchange Commission~~ SEC or a state securities administrator or of a felony involving fraud or deceit, including but not limited to, forgery, embezzlement, obtaining money under false pretenses, larceny, conspiracy to defraud, or theft;

2. Is subject to an order, judgment or decree of a court of competent jurisdiction that temporarily or preliminarily restrains or enjoins, or is subject to an order, judgment or decree of a court of competent jurisdiction, entered within five years prior to reliance on this section, which permanently restrains or enjoins a person from engaging in or continuing a practice or conduct in connection with the purchase or sale of a security, or involving the making of a false filing with the ~~United States Securities and Exchange Commission~~ SEC or a state securities administrator;

3. Is subject to a United States Postal Service false representation order entered within five years prior to reliance on this section; or

4. Is subject to a state administrative order entered within five years prior to reliance on this section by a state securities administrator in which fraud or deceit was found.

D. The issuer shall file with the ~~State Corporation~~ commission 15 days prior to the first sale in this Commonwealth in reliance on this section:

1. A copy of Form VA-1, including Part 2, if applicable or a disclosure document containing the information required by the Form;

2. An executed Consent to Service of Process on Form U2 appointing the Clerk of the State Corporation Commission as its agent for service of process;

3. An undertaking to promptly provide to the ~~State Corporation~~ commission, upon request, additional information as the ~~State Corporation~~ commission may require; and

4. A nonrefundable filing fee of \$250.

E. The issuer shall, within 30 days after the completion of the offering, file with the commission a report of sales indicating the number of purchasers in this Commonwealth, a description of the securities sold to such purchasers, and the total dollar amount raised.

~~E. F.~~ This section does not exempt persons or transactions from the anti-fraud provisions of the Act.

F. G. The ~~State Corporation~~ commission may deny the exemption if it determines that a particular transaction or offering is not in the public interest.

~~G. H.~~ For purposes of this section and § 13.1-514 B 7 (b) of the Act, the following shall apply:

1. Neither the issuer nor persons acting on its behalf shall offer or sell the securities by form of general solicitation or advertising, including but not limited to, the following:

a. "Cold" calls" by telephone or other means, advertising, article, notice, or other communication published in a newspaper, newsletter, magazine, mass mailing, electronic media, or similar media or broadcast over television or radio; or

b. Seminars or meetings whose attendees have been invited by general solicitation or general advertising.

2. Securities acquired in a transaction under this section shall not be resold without registration under or exemption from the ~~Virginia Securities~~ Act. The issuer or a person acting on its behalf shall exercise reasonable care to assure that the purchasers of the securities in an offering under this section are purchasing for investment and not with a view to distribution of the securities. Reasonable care shall include, but not be limited to, the following:

a. Reasonable inquiry to determine whether the purchaser is acquiring the securities for himself or for other persons;

b. Placement of a restrictive legend on the certificate or other document evidencing the securities. The legend shall be in the following form: THE SECURITIES REPRESENTED BY THIS CERTIFICATE (OR OTHER DOCUMENT) HAVE BEEN ISSUED PURSUANT TO A CLAIM OF EXEMPTION FROM THE REGISTRATION OR QUALIFICATION PROVISIONS OF FEDERAL AND STATE SECURITIES LAWS AND SHALL NOT BE SOLD OR TRANSFERRED WITHOUT COMPLIANCE WITH THE REGISTRATION OR QUALIFICATION PROVISIONS OF APPLICABLE FEDERAL AND STATE SECURITIES LAWS OR APPLICABLE EXEMPTIONS THEREFROM;

c. Issuance of stop-transfer instructions to the issuer's transfer agent with respect to the securities, or, if the issuer transfers its own securities, notation in the appropriate records of the issuer; and

d. Obtaining from the purchaser a signed agreement that the securities will not be sold unless they are registered under the ~~Virginia Securities~~ Act or exempted from registration.

3. All sales that are part of the same offering under this section shall meet all the conditions of this section. Offers and sales that are made more than six months before the commencement of an offering under this section or are made more than six months after completion of an offering under this section will not be considered part of that offering, so long as during those six-month periods there are no offers or sales of

securities by or on behalf of the issuer that are of the same or a similar class as those offered or sold under this section. If securities of the same or a similar class as those offered pursuant to this section are offered or sold less than six months before or after an offer or sale pursuant to this section, those offers to sell or sales, will be deemed to be "integrated" with the offering.

¶ I. In proceedings involving this section, the burden of proving the exemption or an exception from a definition or condition is upon the person claiming it.

† J. The exemption authorized by this section shall be known and may be cited as the "Domestic Issuer Limited Transactional Exemption."

21 VAC 5-40-130. Calculation of the number of purchasers under § 13.1-514 B 7 b.

A. For the purpose of calculating the number of purchasers in the Commonwealth under § 13.1-514 B 7 b of the Act, the following persons are excluded:

1. A relative, spouse, or relative of the spouse of a purchaser, who has the same principal residence as the purchaser;
2. A trust or estate in which a purchaser and any of the persons related to the purchaser as specified in subdivision 1 or 3 of this subsection collectively are beneficial owners of more than 50% of the interests, excluding contingent interests;
3. A corporation, limited liability company, partnership, or other entity of which a purchaser and any of the persons related to the purchaser as specified in subdivision 1 or 2 of this subsection collectively are beneficial owners of more than 50% of the equity interests (excluding directors' qualifying shares); and
4. A person who comes within one of the categories of an "accredited investor" in Rule 501(a) of Regulation D (17 CFR 230.501-230.508) adopted by the SEC under the Securities Act of 1933.

B. A corporation, partnership, limited liability company, unincorporated association or trust is considered one purchaser unless it was organized to raise capital for the issuer.

C. If a purchaser that is a corporation, partnership, limited liability company, unincorporated association or trust was organized to raise capital for the issuer and is not an "accredited investor" under Rule 501(a)(8) of Regulation D (17 CFR 230.501 through 230.508), then each beneficial owner of an equity interest in the corporation, partnership, limited liability company, unincorporated association or trust is considered a separate purchaser.

D. A noncontributory employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 is considered one purchaser [7] if the plan's trustee makes all investment decisions for the plan.

21 VAC 5-40-140. Accredited investor exemption.

A. In accordance with § 13.1-514 B 19 of the Act, any offer or sale of a security by an issuer in a transaction that meets the requirements of this section is exempt from the securities, broker-dealer and agent registration requirements of the Act.

B. Sales of securities shall be made only to persons who are or the issuer reasonably believes are "accredited investors," as that term is defined in 17 CFR 230.501(a), and

1. Have sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the prospective investment, and are able to bear the economic risks of the prospective investment; or
2. Together with a purchaser representative or representatives, have sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the prospective investment, and are able to bear the economic risks of the prospective investment.

C. The exemption is not available to an issuer that is in the development stage that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.

D. The issuer reasonably believes that all purchasers are purchasing for investment and not with the view to or for sale in connection with a distribution of the security. Any resale of a security sold in reliance on this exemption within 12 months of sale shall be presumed to be with a view to distribution and not for investment, except a resale pursuant to a registration statement effective under §§ 13.1-508 through 13.1-510 of the Act or to an accredited investor pursuant to an exemption available under the Act.

E. 1. The exemption is not available to an issuer if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's directors, officers, general partners, beneficial owners of 10% or more of any class of its equity securities, any of the issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director or officer of such underwriter:

- a. Within the last five years, has filed a registration statement which is the subject of a currently effective registration stop order entered by any state securities administrator or the SEC;
- b. Within the last five years, has been convicted of any criminal offense in connection with the offer, purchase or sale of any security, or involving fraud or deceit;
- c. Is currently subject to any state or federal administrative enforcement order or judgment, entered within the last five years, finding fraud or deceit in connection with the purchase or sale of any security; or

Final Regulations

d. Is currently subject to any order, judgment or decree of any court of competent jurisdiction, entered within the last five years, temporarily, preliminarily or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security.

2. Subdivision 1 of this subsection shall not apply if:

a. The party subject to the disqualification is licensed or registered to conduct securities related business in the state in which the order, judgment or decree creating the disqualification was entered against such party;

b. Before the first offer under this exemption, the state securities administrator, or the court or regulatory authority that entered the order, judgment, or decree, waives the disqualification; or

c. The issuer establishes that it did not know and in the exercise of reasonable care, based on a factual inquiry, could not have known that a disqualification existed under this section.

F. 1. A general announcement of the proposed offering may be made by any means.

2. The general announcement shall include only the following information, unless additional information is specifically permitted by the commission:

a. The name, address and telephone number of the issuer of the securities;

b. The name, a brief description and price (if known) of any security to be issued;

c. A description of the business of the issuer in 25 words or less;

d. The type, number and aggregate amount of securities being offered;

e. The name, address and telephone number of the person to contact for additional information; and

f. A statement that:

(1) Sales will only be made to accredited investors;

(2) No money or other consideration is being solicited or will be accepted by way of this general announcement; and

(3) The securities have not been registered with or approved by any state securities agency or the SEC and are being offered and sold pursuant to an exemption from registration.

G. The issuer, in connection with an offer, may provide information in addition to the general announcement under subsection F of this section, if such information:

1. Is delivered through an electronic database that is restricted to persons who have been pre-qualified as accredited investors; or

2. Is delivered if the issuer reasonably believes that the prospective purchaser is an accredited investor.

H. No telephone solicitation shall be permitted unless prior to placing the call, the issuer reasonably believes that the prospective purchaser to be solicited is an accredited investor.

I. Dissemination of the general announcement of the proposed offering to persons who are not accredited investors shall not disqualify the issuer from claiming the exemption under this section.

J. The issuer shall file with the commission no later than 15 days after the first sale in this Commonwealth from an offering being made in reliance upon this exemption:

1. A notice on the Model Accredited Investor Exemption Uniform Notice of Transaction form (see CCH NASAA Reports ¶1362).

2. An executed consent of service of process appointing the Clerk of the commission as its agent for purpose of service of process, unless a currently effective consent to service of process is on file with the commission.

3. A copy of the general announcement.

4. A nonrefundable filing fee of \$250.

21 VAC 5-40-150. Employee benefit plans; eligible participants.

The term "employee" as referred to in § 13.1-514 A 10 of the Act shall include all directors of the issuer regardless of whether the director is employed by the issuer. This exemption shall not apply to transfers of securities to individuals who are appointed directors for the purpose of avoiding registration under the Act.

21 VAC 5-80-30. Renewals.

A. To renew its registration, an investment advisor will be billed by the ~~NASAA/NASD Central Registration Depository system~~ Division of Securities and Retail Franchising or any other entity designated by the commission the statutory fee of \$200 prior to the annual expiration date. A renewal of registration shall be granted as of course upon payment of the proper fee together with any surety bond that the commission may require pursuant to 21 VAC 5-80-180 B unless the registration was, or the renewal would be, subject to revocation under § 13.1-506 of the Act.

B. To renew its notice filing a federal covered advisor will be billed by the ~~NASAA/NASD Central Registration Depository~~ Division of Securities and Retail Franchising or any other entity designated by the commission the statutory fee of \$200 prior to the annual expiration date. A renewal of notice filing shall be granted as a matter of course upon payment of the proper fee.

Notwithstanding the exclusion provided by subdivision (vi) of § 13.1-501 of the Act in the definition of "investment advisor," for the period ending three years from October 11, 1996, the commission may require the registration as an investment advisor of any federal covered advisor who fails or refuses to pay a fee required by this rule; provided that a delay in payment or an underpayment of a fee that is remedied within 15 days after receipt of notice from the commission shall not constitute a failure or refusal to pay the fee.

21 VAC 5-80-60. Investment advisor merger or consolidation.

In any merger or consolidation of an investment advisor or federal covered advisor a new application for registration or notice filing together with the proper fee must be filed with the commission at its Division of Securities and Retail Franchising.

For each investment advisor representative of the new or surviving entity who will transact business in this Commonwealth, an application for registration together with the proper fee or fees must also be filed ~~on and in compliance with all requirements of the NASAA/NASD Central Registration Depository system~~ with the commission at its Division of Securities and Retail Franchising or any other entity designated by the commission and in full compliance with the forms prescribed by the commission. The foregoing filing requirement applies to each investment advisor representative who has a place of business located in the Commonwealth and who is connected with a federal covered advisor that is the new or surviving entity to the merger or consolidation.

21 VAC 5-80-70. Application for registration as an investment advisor representative.

A. Application for registration as an investment advisor representative shall be filed ~~on and in compliance with all requirements of the NASAA/NASD Central Registration Depository system~~ with the commission at its Division of Securities and Retail Franchising or any other entity designated by the commission on and in full compliance with forms prescribed by the commission. The application shall include all information required by such forms.

B. An application shall be deemed incomplete for purposes of applying for registration as an investment advisor representative unless the following executed forms, fee and information are submitted:

1. Form U-4.
2. The statutory fee in the amount of \$30. The check must be made payable to the ~~NASD~~ Treasurer of Virginia.
3. [Provide] Evidence of [obtaining a minimum] passing [grade of 70% on: (i) the Uniform Investment Adviser Law Examination, Series 65; (ii) the Uniform Combined State Law Examination, Series 66 [, and the General Securities Representative Examination, Series 7] ; or [~~on~~ (iii)] a similar examination in general use by

securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates.

3. 4. Any other information the commission may require.

C. The commission shall either grant or deny each application for registration within 30 days after it is filed. However, if additional time is needed to obtain or verify information regarding the application, the commission may extend such period as much as 90 days by giving written notice to the applicant. No more than three such extensions may be made by the commission on any one application. An extension of the initial 30-day period, not to exceed 90 days, shall be granted upon written request of the applicant.

21 VAC 5-80-90. Renewals.

To renew the registration(s) of its investment advisor representative(s), an investment advisor or federal covered advisor will be billed by the ~~NASAA/NASD Central Registration Depository system~~ Division of Securities and Retail Franchising or any other entity designated by the commission the statutory fee of \$30 per investment advisor representative. A renewal of registration(s) shall be granted as a matter of course upon payment of the proper fee or fees unless the registration was, or the renewal would be, subject to revocation under § 13.1-506 of the Act.

21 VAC 5-80-100. Updates and amendments.

An investment advisor representative shall amend or update Form U-4 as required by the "Amendment Filings" provisions set forth under "How to Use Form U-4." All filings shall be made with the ~~NASAA/NASD Central Registration Depository system~~ Division of Securities and Retail Franchising or any other entity designated by the commission.

21 VAC 5-80-110. Termination of registration.

A. When an investment advisor representative terminates a connection with an investment advisor, or an investment advisor terminates connection with an investment advisor representative, the investment advisor shall file with the ~~NASAA/NASD Central Registration Depository system~~ Division of Securities and Retail Franchising or any other entity designated by the commission notice of such termination on Form U-5 within 30 calendar days of the date of termination.

B. When an investment advisor representative terminates a connection with a federal covered advisor, the investment advisor representative shall file with the ~~NASAA/NASD Central Registration Depository system~~ Division of Securities and Retail Franchising or any other entity designated by the commission notice of such termination on Form U-5 within 30 calendar days of the date of termination.

21 VAC 5-80-130. Examination/qualification.

A. An individual applying for registration as an investment advisor representative ~~on or after July 1, 1989~~, shall be required to provide evidence of passing: (i) the Uniform

Final Regulations

Investment Adviser Law Examination, Series 65₇; (ii) the Uniform Combined State Law Examination, Series 66 [7] and the General Securities Representative Examination, Series 7; or (iii) a similar examination in general use by securities administrators which, after reasonable notice and subject to review by the commission, the Director of the Division of Securities and Retail Franchising designates with a minimum grade of 70%.

B. Any individual who is currently registered as an investment advisor or investment advisor representative in any state jurisdiction shall not be required to satisfy the examination requirements for continued registration, except that the commission may require additional examinations for any individual found to have violated any federal or state securities laws.

Any individual who has not been registered in any state jurisdiction for a period of two years shall be required to comply with the examination requirements of this section.

C. The examination requirements shall not apply to an individual who currently holds one of the following professional designations:

- 1. Certified Financial Planner (CFP) issued by the Certified Financial Planner Board of Standards, Inc.;*
- 2. Chartered Financial Consultant (ChFC) awarded by The American College, Bryn Mawr, Pennsylvania;*
- 3. Personal Financial Specialist (PFS) administered by the American Institute of Certified Public Accountants;*
- 4. Chartered Financial Analyst (CFA) granted by the Association for Investment Management and Research;*
- 5. Chartered Investment Counselor (CIC) granted by the Investment Counsel Association of America; or*
- 6. Such other professional designation, after reasonable notice and subject to review by the commission, as the Director of the Division of Securities and Retail Franchising designates.*

~~B.~~ *D. In lieu of meeting the examination requirement described in subsection A of this section, an applicant who meets all the qualifications set forth below may file with the commission at its Division of Securities and Retail Franchising an executed Affidavit for Waiver of Examination (Form S.A.3).*

- 1. No more than one other individual connected with the applicant's investment advisor is utilizing the waiver at the time the applicant files Form S.A.3.*
- 2. The applicant is, and has been for at least the five years immediately preceding the date on which the application for registration is filed, actively engaged in the investment advisory business.*
- 3. The applicant has been for at least the two years immediately preceding the date on which the application is filed the president, chief executive officer or chairman of the board of directors of an investment advisor*

organized in corporate form or the managing partner, member, trustee or similar functionary of an investment advisor organized in noncorporate form.

4. The investment ~~advisor(s)~~ *advisor or advisors* referred to in subdivision 3 [*of this subsection*] has been actively engaged in the investment advisory business and during the applicant's tenure as president, chief executive officer, chairman of the board of directors, or managing partner, member, trustee or similar functionary had at least \$40 million under management.

5. The applicant verifies that he has read and is familiar with the investment advisor and investment advisor representative provisions of the Act and the provisions of Parts I through V of this chapter.

6. The applicant verifies that none of the questions in Item 22 (disciplinary history) on his Form U-4 have been, or need be, answered in the affirmative.

21 VAC 5-80-160. Recordkeeping requirements for investment advisors.

A. Every investment advisor registered or required to be registered under the Act shall make and keep *true, accurate and current* the following books, ledgers and records, except an investment advisor having its principal place of business outside this Commonwealth and registered or licensed, and in compliance with the applicable books and records requirements, in the state where its principal place of business is located, shall only be required to make, keep current, maintain and preserve such of the following required books, ledgers and records as are not in addition to those required under the laws of the state in which it maintains its principal place of business:

1. A journal or journals, including cash receipts and disbursements records, and any other records of original entry forming the basis of entries in any ledger.
2. General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts.
3. A memorandum of each order given by the investment advisor for the purchase or sale of any security, of any instruction received by the investment advisor from the client concerning the purchase, sale, receipt or delivery of a particular security, and of any modification or cancellation of any such order or instruction. ~~Such~~ *The* memoranda shall show the terms and conditions of the order, instruction, modification or cancellation; shall identify the person connected with the investment advisor who recommended the transaction to the client and the person who placed such order; and shall show the account for which entered, the date of entry, and the bank, broker or dealer by or through whom executed where appropriate. Orders entered pursuant to the exercise of discretionary power shall be so designated.
4. All check books, bank statements, canceled checks and cash reconciliations of the investment advisor.

5. All bills or statements (or copies thereof), paid or unpaid, relating to the business of the as an investment advisor as such.

6. All trial balances, financial statements prepared in accordance with generally accepted accounting principles which shall include a balance sheet, income statement and such other statements as may be required pursuant to 21 VAC 5-80-180, and internal audit working papers relating to the business of such investment advisor's business as an investment advisor.

7. Originals of all written communications received and copies of all written communications sent by such investment advisor relating to (i) any recommendation made or proposed to be made and any advice given or proposed to be given [;] (ii) any receipt, disbursement or delivery of funds or securities [;] and (iii) the placing or execution of any order to purchase or sell any security; [provided,] however, (a) [that] the investment advisor shall not be required to keep any unsolicited market letters and other similar communications of general public distribution not prepared by or for the investment advisor, and (b) [that] if the investment advisor sends any notice, circular or other advertisement offering any report, analysis, publication or other investment advisory service to more than 10 persons, the investment advisor shall not be required to keep a record of the names and addresses of the persons to whom it was sent; except that if such notice, circular or advertisement is distributed to persons named on any list, the investment advisor shall retain with a copy of such notice, circular or advertisement a memorandum describing the list and the source thereof.

8. A list or other record of all accounts which list identifies the accounts in which the investment advisor is vested with any discretionary power with respect to the funds, securities or transactions of any client.

9. All powers of attorney and other evidences of the granting of any discretionary authority by any client to the investment advisor, or copies thereof.

10. All written agreements (or copies thereof) entered into by the investment advisor with any client or otherwise relating to the business of such investment advisor as such, and all other written agreements otherwise related to the investment advisor's business as an investment advisor.

11. a. A copy of each notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication recommending the purchase or sale of a specific security, which the investment advisor circulates or distributes, directly or indirectly, to 10 or more persons (other than investment advisory clients or persons connected with such investment advisor), and if such notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication does not state the reasons for such recommendation, a memorandum of the investment advisor indicating the reasons therefor.

b. All of their advertisements and all records, worksheets, and calculations necessary to form the basis for performance data in their advertisements.

11. A file containing a copy of each notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including by electronic media that the investment advisor circulates or distributes, directly or indirectly, to two or more persons (other than persons connected with the investment advisor), and if the notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including by electronic media recommends the purchase or sale of a specific security and does not state the reasons for the recommendation, a memorandum of the investment adviser indicating the reasons for the recommendation.

12. a. A record of every transaction in a security in which the investment advisor or any investment advisor representative of such investment advisor has, or by reason of such any transaction acquires, any direct or indirect beneficial ownership, except (i) transactions effected in any account over which neither the investment advisor nor any investment advisor representative of the investment advisor has any direct or indirect influence or control; and (ii) transactions in securities which are direct obligations of the United States. Such record shall state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the broker, dealer or bank with or through whom the transaction was effected. Such record may also contain a statement declaring that the reporting or recording of any such transaction shall not be construed as an admission that the investment advisor or investment advisor representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than 10 days after the end of the calendar quarter in which the transaction was effected.

b. For purposes of this subdivision 12, the following definitions will apply. The term "advisory representative" means any partner, officer or director of the investment advisor; any employee who participates in any way in the determination of which recommendations shall be made; any employee who, in connection with his duties, obtains any information concerning which securities are being recommended prior to the effective dissemination of the recommendations; and any of the following persons who obtain information concerning securities recommendations being made by the investment advisor prior to the effective dissemination of the recommendations:

(1) Any person in a control relationship to the investment adviser [;]

Final Regulations

(2) Any affiliated person of a controlling person [;] and

(3) Any affiliated person of an affiliated person.

"Control" means the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company. Any person who owns beneficially, either directly or through one or more controlled companies, more than 25% of the ownership interest of a company shall be presumed to control such company.

~~b-~~ c. An investment advisor shall not be deemed to have violated the provisions of this subdivision 12 because of his failure to record securities transactions of any investment advisor representative if ~~he~~ the investment advisor establishes that ~~he~~ it instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded.

13. a. Notwithstanding the provisions of subdivision 12 of this subsection, where the investment advisor is primarily engaged in a business or businesses other than advising ~~registered investment companies or other~~ investment advisory clients, a record must be maintained of every transaction in a security in which the investment advisor or any investment ~~advisor~~ advisory representative of such investment advisor has, or by reason of such transaction acquires, any direct or indirect beneficial ownership, except (i) transactions effected in any account over which neither the investment advisor nor any investment ~~advisor~~ advisory representative of the investment advisor has any direct or indirect influence or control; and (ii) transactions in securities which are direct obligations of the United States. Such record shall state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the broker, dealer or bank with or through whom the transaction was effected. Such record may also contain a statement declaring that the reporting or recording of any such transaction shall not be construed as an admission that the investment advisor or investment ~~advisor~~ advisory representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than 10 days after the end of the calendar quarter in which the transaction was effected.

b. An investment advisor is "primarily engaged in a business or businesses other than advising ~~registered investment companies or other~~ investment advisory clients" when, for each of its most recent three fiscal years or for the period of time since organization, whichever is less, the investment advisor derived, on an unconsolidated basis, more than 50% of (i) its total sales and revenues, and (ii) its income (or loss)

before income taxes and extraordinary items, from such other business or businesses.

c. For purposes of this subdivision 13 [,] the following definitions will apply. The term "advisory representative," when used in connection with a company primarily engaged in a business or businesses other than advising investment advisory clients, means any partner, officer, director or employee of the investment advisor who participates in any way in the determination of which recommendation shall be made, or whose functions or duties relate to the determination of which securities are being recommended prior to the effective dissemination of the recommendations; and any of the following persons, who obtain information concerning securities recommendations being made by the investment advisor prior to the effective dissemination of such the recommendations or of the information concerning the recommendations:

(1) Any person in a control relationship to the investment advisor [;]

(2) Any affiliated person of a controlling person [;] and

(3) Any affiliated person of an affiliated person.

~~e-~~ d. An investment advisor shall not be deemed to have violated the provisions of this subdivision 13 because of his failure to record securities transactions of any investment advisor representative if he establishes that he instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded.

14. A copy of each written statement and each amendment or revision ~~thereof~~, given or sent to any client or prospective client of such investment advisor in accordance with the provisions of 21 VAC 5-80-190 and a record of the dates that each written statement, and each amendment or revision ~~thereof~~, was given, or offered to be given, to any client or prospective client who subsequently becomes a client.

15. For each client that was obtained by the advisor by means of a solicitor to whom a cash fee was paid by the advisor, the following:

a. Evidence of a written agreement to which the advisor is a party related to the payment of such fee;

b. A signed and dated acknowledgement of receipt from the client evidencing the client's receipt of the investment advisor's disclosure statement and a written disclosure statement of the solicitor; and,

c. A copy of the solicitor's written disclosure statement. The written agreement, acknowledgement and solicitor disclosure statement will be considered to be in compliance if such documents are in compliance with Rule 275.206(4)-3 of the Investment Advisers Act of 1940.

For purposes of this regulation, the term "solicitor" shall mean any person or entity who, for compensation, acts as an agent of an investment advisor in referring potential clients.

16. All accounts, books, internal working papers, and any other records or documents that are necessary to form the basis for or demonstrate the calculation of the performance or rate of return of all managed accounts or securities recommendations in any notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including but not limited to electronic media that the investment advisor circulates or distributes directly or indirectly, to two or more persons (other than persons connected with the investment advisor); [~~provided, that~~ however,] with respect to the performance of managed accounts, the retention of all account statements, if they reflect all debits, credits, and other transactions in a client's account for the period of the statement, and all worksheets necessary to demonstrate the calculation of the performance or rate of return of all managed accounts shall be deemed to satisfy the requirements of this subdivision.

~~15. 17. [Every investment advisor subject to 21 VAC 5-80-170 shall keep in each business office written procedures which shall include, but not be limited to, the duties imposed under 21 VAC 5-80-170. A file containing a copy of all written communications received or sent regarding any litigation involving the investment advisor or any investment advisor representative or employee, and regarding any written customer or client complaint.]~~

18. Written information about each investment advisory client that is the basis for making any recommendation or providing any investment advice to such client.

19. Written procedures to supervise the activities of employees and investment advisor representatives that are reasonably designed to achieve compliance with applicable securities laws and regulations.

20. A file containing a copy of each document (other than any notices of general dissemination) that was filed with or received from any state or federal agency or self regulatory organization and that pertains to the registrant or its investment advisor representatives, which file should contain, but is not limited to, all applications, amendments, renewal filings, and correspondence.

B. If an investment advisor subject to subsection A of this section has custody or possession of securities or funds of any client, the records required to be made and kept under subsection A [~~above~~ of this section] shall also include:

1. A journal or other record showing all purchases, sales, receipts and deliveries of securities (including certificate numbers) for [such] accounts and all other debits and credits to [such] accounts.

2. A separate ledger account for each [such] client showing all purchases, sales, receipts and deliveries of

securities, the date and price of each [such] purchase and sale, and all debits and credits.

3. Copies of confirmations of all transactions effected by or for the account of any [such] client.

4. A record for each security in which any [such] client has a position, which record shall show the name of each [such] client having any interest in each security, the amount or interest of each [such] client, and the location of each [such] security.

C. Every investment advisor subject to subsection A of this section who renders any investment advisory or management service to any client shall, with respect to the portfolio being supervised or managed and to the extent that the information is reasonably available to or obtainable by the investment advisor, make and keep true, accurate and current:

1. Records showing separately for each [such] client the securities purchased and sold, and the date, amount and price of each [such] purchase and sale.

2. For each security in which any [such] client has a current position, information from which the investment advisor can promptly furnish the name of each [such] client [,] and the current amount or interest of [such ~~the~~] client.

D. Any books or records required by this section may be maintained by the investment advisor in such manner that the identity of any client to whom such investment advisor renders investment advisory services is indicated by numerical or alphabetical code or some similar designation.

E. Every investment advisor subject to subsection A of this section shall preserve the following records in the manner prescribed:

1. All books and records required to be made under the provisions of subsection A to subdivision C [2 1], inclusive, of this section, *except for books and records required to be made under the provisions of subdivisions A 11 and A 16 of this section*, shall be maintained and preserved in an easily accessible place for a period of not less than five years from the end of the fiscal year during which the last entry was made on ~~such~~ record, the first two years ~~of such period~~ in the *principal* office of the investment advisor.

2. Partnership articles and any amendments ~~thereto~~, articles of incorporation, charters, minute books, and stock certificate books of the investment advisor and of any predecessor, shall be maintained in the principal office of the investment advisor and preserved until at least three years after termination of the enterprise.

3. *Books and records required to be made under the provisions of subdivisions A 11 and A 16 of this section shall be maintained and preserved in an easily accessible place for a period of not less than five years, the first two years in the principal office of the investment advisor, from the end of the fiscal year during which the*

Final Regulations

investment advisor last published or otherwise disseminated, directly or indirectly, the notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including by electronic media.

4. Books and records required to be made under the provisions of subdivisions A [~~44 and A-16~~ 17 through 20, inclusive,] of this section shall be maintained and preserved in an easily accessible place for a period of not less than five years, [~~the first two years in the principal office of the investment advisor,~~] from the end of the fiscal year during which the [~~investment advisor last published or otherwise disseminated, directly or indirectly, the notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including by electronic media~~ last entry was made on such record, the first two years in the principal office of the investment advisor, or for the time period during which the investment advisor was registered or required to be registered in the state, if less] .

5. Notwithstanding other record preservation requirements of this subsection, the following records or copies shall be required to be maintained at the business location of the investment advisor from which the customer or client is being provided or has been provided with investment advisory services: (i) records required to be preserved under subdivisions A 3, A 7 through A 10, A 14 and A 15, A 17 through A 19, subsections B and C inclusive of this subdivision, and (ii) the records or copies required under the provision of subdivisions A 11 and A 16 of this section which records or related records identify the name of the investment advisor representative providing investment advice from that business location, or which identify the business locations' physical address, mailing address, electronic mailing address, or telephone number. The records will be maintained for the period described in this subsection.

F. An investment advisor subject to subsection A of this section, before ceasing to conduct or discontinuing business as an investment advisor [,] shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under this section for the remainder of the period specified in this section, and shall notify the commission in writing of the exact address where such books and records will be maintained during such period.

~~G. All books, records or other documents required to be maintained and preserved under this section may be stored on microfilm, microfiche, or an electronic data processing system or similar system utilizing an internal memory device provided a printed copy of any such record is immediately accessible.~~

G. 1. The records required to be maintained and preserved pursuant to this section may be immediately produced or reproduced by photograph on film or, as provided in subdivision 2 of this subsection, on magnetic disk, tape or other computer storage medium, and be maintained

and preserved for the required time in that form. If records are preserved or reproduced by photographic film or computer storage medium, the investment advisor shall:

a. Arrange the records and index the films or computer storage medium so as to permit the immediate location of any particular record [;]

b. Be ready at all times to promptly provide any facsimile enlargement of film or computer printout or copy of the computer storage medium which the commission by its examiners or other representatives may request [;]

c. Store separately from the original one other copy of the film or computer storage medium for the time required [;]

d. With respect to records stored on computer storage medium, maintain procedures for maintenance and preservation of, and access to, records so as to reasonably safeguard records from loss, alteration, or destruction [;] and

e. With respect to records stored on photographic film, at all times have available, for the commission's examination of its records, facilities for immediate, easily readable projection of the film and for producing easily readable facsimile enlargements.

2. Pursuant to subdivision 1 of this subsection [,] an advisor may maintain and preserve on computer tape or disk or other computer storage medium records which, in the ordinary course of the advisor's business, are created by the advisor on electronic media or are received by the advisor solely on electronic media or by electronic transmission.

H. Any book or record made, kept, maintained, and preserved in compliance with SEC Rules 17a-3 (17 CFR 240.17a-3) and 17a-4 (17 CFR 240.17a-4) under the Securities Exchange Act of 1934, which is substantially the same as the book, or other record required to be made, kept, maintained, and preserved under this section shall be deemed to be made, kept, maintained, and preserved in compliance with this section.

I. For purposes of this section, "investment supervisory services" means the giving of continuous advice as to the investment of funds on the basis of the individual needs of each client; and "discretionary power" shall not include discretion as to the price at which or the time when a transaction is or is to be effected [;] if, before the order is given by the investment advisor, the client has directed or approved the purchase or sale of a definite amount of the particular security.

J. Every investment advisor registered or required to be registered in this state and that has its principal place of business in a state other than this state shall be exempt from the requirements of this section to the extent provided by the National Securities Markets Improvement Act of 1996 (Pub.L.

No. 104-290), provided the investment advisor is licensed in such state and is in compliance with such state's recordkeeping requirements.

[21 VAC 5-80-180. Requirements for surety bonds and financial reporting.

A. Investment advisors required to provide a balance sheet pursuant to Part II, Item 14 of Form ADV must demonstrate a net worth in excess of \$25,000. In the case of an investment advisor that is registered in the state in which it maintains its principal place of business, its balance sheet must demonstrate that it is in compliance with the state's net worth or net capital requirements (as the case may be).

B. Investment advisors who maintain their principal place of business in the Commonwealth of Virginia and are subject to subsection A ~~above of this section~~, whose net worth drops below \$25,001, must notify the Division of Securities and Retail Franchising within 24 hours of initial awareness of the discrepancy and immediately take action to establish a net worth in excess of \$25,000 or obtain a surety bond in the penalty amount of \$25,000. The surety bond form ~~(see 21 VAC 5-85-10)~~ must be utilized. Additionally, within 24 hours after transmitting such notice, the investment advisor shall file a report with the Division of Securities and Retail Franchising of its financial condition, including the following:

1. A trial balance of all ledger accounts.
2. A computation of net worth.
3. A statement of all client funds or securities which are not segregated.
4. A computation of the aggregate amount of client ledger debit balances.
5. A statement as to the number of client accounts.

C. An investment advisor registered in the state in which it maintains its principal place of business and subject to subsection A of this section whose net worth or net capital (as the case may be) drops below the state's requirement, must notify the Division of Securities and Retail Franchising within 24 hours of initial awareness of the discrepancy and immediately take action to establish a net worth or net capital that is in compliance with the state's requirement. Additionally, within 24 hours after transmitting such notice, the investment advisor shall file a report with the Division of Securities and Retail Franchising of its financial condition, including the following:

1. A trial balance of all ledger accounts.
2. A computation of net worth or net capital.
3. A statement of all client funds or securities which are not segregated.
4. A computation of the aggregate amount of client ledger debit balances.
5. A statement as to the number of client accounts.]

21 VAC 5-80-200. Dishonest or unethical practices.

A. An investment advisor or federal covered advisor is a fiduciary and has a duty to act primarily for the benefit of his clients. While the extent and nature of this duty varies according to the nature of the relationship between an investment advisor or federal covered advisor and his clients and the circumstances of each case, an investment advisor or federal covered advisor shall not engage in unethical practices, including the following:

1. Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known or acquired by the investment advisor or federal covered advisor after reasonable examination of the client's financial records.
2. Placing an order to purchase or sell a security for the account of a client without written authority to do so.
3. Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party authorization from the client.
4. Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within 10 business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.
5. Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account.
6. Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment advisor or federal covered advisor, or a financial institution engaged in the business of loaning funds or securities.
7. Loaning money to a client unless the investment advisor or federal covered advisor is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment advisor or federal covered advisor.
8. Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment advisor or federal covered advisor, or misrepresenting the nature of the advisory services being offered or fees to be charged for such service, or omission to state a material fact necessary to make the statements made regarding qualifications services or fees, in light of the

Final Regulations

circumstances under which they are made, not misleading.

9. Providing a report or recommendation to any advisory client prepared by someone other than the investment advisor or federal covered advisor without disclosing that fact. This prohibition does not apply to a situation where the advisor uses published research reports or statistical analyses to render advice or where an advisor orders such a report in the normal course of providing service.

10. Charging a client an unreasonable advisory fee in light of the fees charged by other investment advisors or federal covered advisors providing essentially the same services.

11. Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the investment advisor or federal covered advisor or any of his employees which could reasonably be expected to impair the rendering of unbiased and objective advice including:

- a. Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; or
- b. Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the advisor or his employees.

12. Guaranteeing a client that a specific result will be achieved as a result of the advice which will be rendered.

13. Publishing, circulating or distributing any advertisement that would not be permitted under Rule 206(4)-1 under the Investment Advisers Act of 1940 (17 CFR 275.206(4)-1).

14. Disclosing the identity, affairs, or investments of any client to any third party unless required by law or an order of a court or a regulatory agency to do so, or unless consented to by the client.

15. Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment advisor has custody or possession of such securities or funds, when the investment advisor's action is subject to and does not comply with the safekeeping requirements of 21 VAC 5-80-140.

16. Entering into, extending or renewing any investment advisory contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, whether the contract grants discretionary power to the investment advisor or federal covered advisor and that no assignment of such contract shall be made by the investment advisor or

federal covered advisor without the consent of the other party to the contract.

17. ~~[Failure Failing] to [disclose make a disclosure] in a timely manner [(so that to) clients [and or] prospective clients [may take steps to protect their interest), advisory services and relationships, or proposed advisory services and relationships, which may be affected by that the investment advisor has not substantially addressed] year 2000 computer or equipment problems [, if the advisor has not substantially addressed these problems,] or is [substantially] uncertain of its ability to resolve these problems.~~

B. An investment advisor representative is a fiduciary and has a duty to act primarily for the benefit of his clients. While the extent and nature of this duty varies according to the nature of the relationship between an investment advisor representative and his clients and the circumstances of each case, an investment advisor representative shall not engage in unethical practices, including the following:

1. Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known or acquired by the investment advisor representative after reasonable examination of the client's financial records.
2. Placing an order to purchase or sell a security for the account of a client without written authority to do so.
3. Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party authorization from the client.
4. Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within 10 business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.
5. Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account.
6. Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment advisor representative, or a financial institution engaged in the business of loaning funds or securities.

7. Loaning money to a client unless the investment advisor representative is engaged in the business of loaning funds or the client is an affiliate of the investment advisor representative.

8. Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment advisor representative, or misrepresenting the nature of the advisory services being offered or fees to be charged for such service, or omission to state a material fact necessary to make the statements made regarding qualifications services or fees, in light of the circumstances under which they are made, not misleading.

9. Providing a report or recommendation to any advisory client prepared by someone other than the investment advisor or federal covered advisor who the investment advisor representative is employed by or associated with without disclosing that fact. This prohibition does not apply to a situation where the investment advisor or federal covered advisor uses published research reports or statistical analyses to render advice or where an investment advisor or federal covered advisor orders such a report in the normal course of providing service.

10. Charging a client an unreasonable advisory fee in light of the fees charged by other investment advisor representatives providing essentially the same services.

11. Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the investment advisor representative which could reasonably be expected to impair the rendering of unbiased and objective advice including:

a. Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; or

b. Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the investment advisor representative.

12. Guaranteeing a client that a specific result will be achieved as a result of the advice which will be rendered.

13. Publishing, circulating or distributing any advertisement that would not be permitted under Rule 206(4)-1 under the Investment Advisers Act of 1940.

14. Disclosing the identity, affairs, or investments of any client to any third party unless required by law or an order of a court or a regulatory agency to do so, or unless consented to by the client.

15. Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment advisor representative other than a person associated with a federal covered advisor has custody or possession of such securities or funds, when the investment advisor

representative's action is subject to and does not comply with the safekeeping requirements of 21 VAC 5-80-140.

16. Entering into, extending or renewing any investment advisory or federal covered advisory contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, whether the contract grants discretionary power to the investment advisor representative and that no assignment of such contract shall be made by the investment advisor representative without the consent of the other party to the contract.

C. The conduct set forth in subsections A and B of this section is not all inclusive. Engaging in other conduct such as nondisclosure, incomplete disclosure, or deceptive practices may be deemed an unethical business practice except to the extent not permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290).

D. The provisions of this section shall apply to federal covered advisors to the extent that fraud or deceit is involved, or as otherwise permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290).

21 VAC 5-80-210. Exclusions from definition of "investment advisor" and "federal covered advisor."

A. The terms "investment advisor" and "federal covered advisor" do not include any person engaged in the investment advisory business whose only client in this Commonwealth is one (or more) of the following:

1. An investment company as defined in the Investment Company Act of 1940.

2. An insurance company licensed to transact insurance business in this Commonwealth.

3. A bank, a bank holding company as defined in the Bank Holding Company Act of 1956, a trust subsidiary organized under Article 3.1 (§ 6.1-32.1 et seq.) of Chapter 2 of Title 6.1 of the Code of Virginia, a savings institution, a credit union, or a trust company if the entity is either (i) authorized or licensed to transact such business in this Commonwealth or (ii) organized under the laws of the United States.

4. A broker-dealer so registered under the Act and under the Securities Exchange Act of 1934.

5. An employee benefit plan with assets of not less than \$5,000,000.

6. A governmental agency or instrumentality.

7. *A corporation, general partnership, limited partnership, limited liability company, trust or other legal organization that (i) has assets of not less than \$5,000,000 and (ii) receives investment advice based on its investment objectives rather than the individual investment objectives of its shareholders, partners, limited partners,*

Final Regulations

members or beneficiaries, provided the investment advisor or federal covered advisor is exempt from registration pursuant to § 203(b)(3) of the Investment Advisers Act of 1940 or by any rule or regulation promulgated by the SEC under that section.

B. Any investment advisor or federal covered advisor who (i) does not have a place of business located within this Commonwealth and (ii) during the preceding 12-month period has had fewer than six clients who are residents of this Commonwealth other than those listed in subsection A of this section is excluded from the registration and notice filing requirements of the Act.

21 VAC 5-80-220. Performance based fees.

A. In accordance with § 13.1-503 C of the Act, an investment advisor may enter into, extend, or renew any investment advisory contract to provide for compensation to the investment advisor on the basis of a share of the capital gains upon, or the capital appreciation of, the funds or any portion of the funds of a client, provided that the following conditions of this section are satisfied.

B. Nature of the client:

1. a. The client entering into the contract subject to this section must be a natural person or a company, as defined in subdivision 2 of this subsection and in the definition of "company" in subsection [F E] of this section, who immediately after entering into the contract has at least ~~\$500,000~~ \$750,000 under the management of the investment advisor; or

b. A person who the registered investment advisor (and any person acting on his behalf) entering into the contract reasonably believes, immediately prior to entering into the contract, is a natural person or a company, as defined in subdivision 2 of this subsection and in the definition of "company" in subsection [F E] of this section, whose net worth at the time the contract is entered into exceeds ~~\$1,000,000~~ \$1,500,000. (The net worth of a natural person may include assets held jointly with such person's spouse.)

2. The term "company" as used in subdivision 1 of this subsection does not include:

a. A private investment company, as defined in subsection [F E] of this section;

b. An investment company registered under the Investment Company Act of 1940; or

c. A business development company, as defined in § 202(a)(22) of the Investment Advisers Act of 1940 (15 USC § 80b-2(a)(22))

unless each of the equity owners (other than the investment advisor entering into a contract under this section) of any such company identified in this subdivision 2, is a natural person or company described in this subsection B.

~~C. Compensation formula. The compensation paid to the advisor under this section with respect to the performance of any securities over a given period shall be based on a formula which:~~

~~1. Includes, in the case of securities for which market quotations are readily available, the realized capital losses and unrealized capital depreciation of the securities over the period;~~

~~2. Includes, in the case of securities for which market quotations are not readily available:~~

~~a. The realized capital losses of the securities over the period and~~

~~b. If the unrealized capital appreciation of the securities over the period is included, the unrealized capital depreciation of the securities over the period; and~~

~~3. Provides that any compensation paid to the advisor under this section is based on the gains less the losses (computed in accordance with subdivisions 1 and 2 of this subsection) in the client's account for a period of not less than one year.~~

~~D. C. Disclosure. In addition to the disclosure requirements of Form ADV, the advisor shall disclose to the client, or the client's independent agent, prior to entering into an advisory contract permitted by this section, all material information concerning the proposed advisory arrangement including the following:~~

~~1. That the fee arrangement may create an incentive for the advisor to make investments that are riskier or more speculative than would be the case in the absence of a performance fee;~~

~~2. Where relevant, that the advisor may receive increased compensation with regard to unrealized appreciation as well as realized gains in the client's account;~~

~~3. The time period which will be used to measure investment performance throughout the term of the contract and its significance in the computation of the fee;~~

~~4. The nature of any index which will be used as a comparative measure of investment performance, the significance of the index, and the reason the advisor believes the index is appropriate; and~~

~~5. Where an advisor's compensation is based on the unrealized appreciation of securities for which market quotations are not readily available, how such securities will be valued and the extent to which the valuation will be independently determined.~~

~~E. D. Arms-length contract. The investment advisor (and any person acting on its behalf) who enters into the contract must reasonably believe, immediately prior to entering into the contract, that the contract represents an arm's-length arrangement between the parties and that the client (or in the case of a client which is a company as defined in subsection~~

F E of this section, the person, representing the company), alone or together with the client's independent agent, understands the proposed method of compensation and its risks. The representative of a company may be a partner, director, officer or an employee of the company or the trustee, where the company is a trust, or any other person designated by the company or trustee, but must satisfy the definition of client's independent agent set forth in subsection F E of this section.

F. E. Definitions. For the purpose of this section:

The term "affiliated person" has the same meaning as in § 2 (a)(3) of the Investment Company Act of 1940 (15 USC § 80a-2(a)(3)).

The term "client's independent agent" means any person agreeing to act as the client's agent in connection with the contract other than:

1. The investment advisor acting in reliance upon this section, an affiliated person of the investment advisor, an affiliated person of an affiliated person of the investment advisor, or an interested person of the investment advisor as defined in this subsection;
2. A person who receives, directly or indirectly, any compensation in connection with the contract from the investment advisor, an affiliated person of the investment advisor, an affiliated person of an affiliated person of the investment advisor or an interested person of the investment advisor as defined in this subsection; or
3. A person with any material relationship between himself (or an affiliated person of such person) and the investment advisor (or an affiliated person of the investment advisor) that exists, or has existed at any time during the previous two years.

The term "company" has the same meaning as in § 202 (a)(5) of the Investment Advisers Act of 1940 (15 USC § 80b-2(a)(5)).

The term "interested person" as used in the definition of "client's independent agent" of this section means:

1. Any member of the immediate family of any natural person who is an affiliated person of the investment advisor;
2. Any person who knowingly has any direct or indirect beneficial interest in, or who is designated as trustee, executor, or guardian of any legal interest in, any security issued by the investment advisor or by a controlling person of the investment advisor if the beneficial or legal interest of the person in any security issued by the investment advisor or by a controlling person of the investment advisor:
 - a. Exceeds one tenth of one percent of any class of outstanding securities of the investment advisor or a controlling person of the investment advisor; or
 - b. Exceeds 5.0% of the total assets of the person (seeking to act as the client's independent agent); or

3. Any person or partner or employee of any person who at any time since the beginning of the last two years has acted as legal counsel for the investment advisor.

The term "private investment company" means a company which would be defined as an investment company under § 3 (a) of the Investment Company Act of 1940 (15 USC § 80a-3(a)) but for the exception provided from that definition by § 3 (c)(1) of such Act.

The term "securities for which market quotations are readily available" in subsection C of this section has the same meaning as in Rule 2a-4 (a)(1) under the Investment Company Act of 1940 (17 CFR 270.2a-4 (a)(1)).

The term "securities for which market quotations are not readily available" in subsection C of this section means securities not described in the above paragraph.

[CHAPTER 85.
FORMS—SECURITIES ACT.]

21 VAC 5-85-10. [Adopted securities forms. (Repealed.)]

[The commission adopts for use under the Act the forms contained in the appendix (not included in the Virginia Administrative Code) and listed below:

Broker-Dealer and Agent Forms

~~Form BD—Uniform Application for Broker-Dealer Registration (2/98).~~

~~Agreement for Inspection of Records (rev. 7/98).~~

~~Form S.A.11—Broker-Dealer's Surety Bond (rev.] 1982 [7/99).~~

~~Form S.A.2—Application for Renewal of a Broker-Dealer's Registration (rev.] 11/96 [7/99).~~

~~Form S.D.4—Application for Renewal of Registration as an Agent of an Issuer (1997).~~

~~Form S.D.4.A—Non-NASD Broker-Dealer or Issuer Agents to be Renewed Exhibit (1974).~~

~~Form S.D.4.B—Non-NASD Broker-Dealer or Issuer Agents to be Canceled with no disciplinary history (1974).~~

~~Form S.D.4.C—Non-NASD Broker-Dealer or Issuer Agents to be Canceled with disciplinary history (1974).~~

~~Form BDW—Uniform Notice of Termination or Withdrawal of Registration as a Broker-Dealer (rev. 4/89).~~

~~Rev. Form U 4—Uniform Application for Securities Industry Registration or Transfer (11/97).~~

~~Rev. Form U 5—Uniform Termination Notice for Securities Industry Registration (11/97).~~

Investment Advisor and Investment Advisor Representative Forms

~~Form ADV—Uniform Application for Registration of Investment Advisors (rev. 7/97).~~

Final Regulations

~~Agreement for Inspection of Records (rev. 7/98).~~

~~Surety Bond Form () 1987 [rev. 7/99).~~

~~Rev. Form U-4 Uniform Application for Securities Industry Registration or Transfer (11/97).~~

~~Rev. Form U-5 Uniform Termination Notice for Securities Industry Registration (11/97).~~

~~Form S.A.3 Affidavit for Waiver of Examination (rev.) 11/96 [7/99).~~

~~Form S.A.14 Consent to Service of Process for Notice Filing as a Federal Covered Advisor (7/97).~~

~~Form S.A.15 Investment Advisor Representative Multiple Employment Agreement (7/98).~~

Securities Registration Forms

~~Form U-1 Uniform Application to Register Securities (7/81).~~

~~Form U-2 Uniform Consent to Service of Process (7/81).~~

~~Form U-2a Uniform Form of Corporate Resolution (7/81 rev. 7/99).~~

~~Form S.A.4 Registration by Notification Original Issue (rev. 11/96).~~

~~Form S.A.5 Registration by Notification Non-Issuer Distribution (rev. 11/96).~~

~~Form S.A.6 Registration by Notification Pursuant to 21 VAC 5-30-50 Non-Issuer Distribution "Secondary Trading" (1989).~~

~~Form S.A.8 Registration by Qualification (7/91).~~

~~Form S.A.10 Request for Refund Affidavit (Unit Investment Trust) () 7/90 [rev. 7/99).~~

~~Form S.A.12 Escrow Agreement (1971).~~

~~Form S.A.13 Impounding Agreement () 7/58 [rev. 7/99).~~

~~Form VA-1 Parts 1 and 2 Notice of Limited Offering of Securities (rev. 11/96).~~

~~Form NF Uniform Investment Company Notice Filing (4/97).]~~

21 VAC 5-100-10. Rule governing disclosure of confidential information.

A. This ~~rule section~~ governs the disclosure by the commission of information or documents obtained or prepared by any member, subordinate or employee of the commission in the course of any examination or investigation conducted pursuant to the provisions of the Securities Act (§ 13.1-501 et seq. of the Code of Virginia), the Take Over Bid Disclosure Act (§ 13.1-528 et seq. of the Code of Virginia [Repealed.]), or the Retail Franchising Act (§ 13.1-557 et seq. of the Code of Virginia) (hereinafter "data"). It is designed to implement the provisions of §§ 13.1-518, 13.1-534 [Repealed.] and 13.1-567 that permit disclosure of such data information to governmental and

quasi-governmental and governmental entities approved by rule of the commission.

B. The Director ~~or the Deputy Director~~ of the Division of Securities and Retail Franchising or his designee is hereby authorized to disclose data information to the entities enumerated in subsections F, G, and H, below D, E and F of this section. Disclosure shall be made only for the purpose of aiding in the detection or prevention of possible violations of law or to further administrative, legislative or judicial action resulting from possible violations of law. As a condition precedent to disclosure a writing shall be obtained from the receiving entity undertaking that it will exercise reasonable measures to preserve the confidential nature of the information.

C. Disclosure of data shall be made only for the purpose of aiding in the detection or prevention of possible violations of law or to further administrative, legislative or judicial action resulting from possible violations of law.

D. As a condition precedent to disclosure of data, the Director or Deputy Director shall obtain in writing from the receiving entity an undertaking that it will exercise reasonable measures to preserve the confidential nature of the data.

E. C. Disclosure may be made only under the following circumstances:

1. In response to an entity's request for data information relating to a specific subject or person.
2. By disseminating to an entity data information which may indicate a possible violation of law within the administrative, regulatory or enforcement responsibility of that entity.
3. To participate in a centralized program or system designed to collect and maintain information pertaining to possible violations of securities, investment advisory, take-over bid, retail franchising or related laws.
4. To the extent necessary for participation in coordinated examinations or investigations.

F. D. The Director or Deputy Director may disclose data under the conditions set forth in subsections C, D, and E, above, to the following are approved governmental entities (including any agencies, bureaus, commissions, divisions or successors thereof) of the United States:

1. Board of Governors of the Federal Reserve System or any Federal Reserve Bank.
2. Commodity Futures Trading Commission.
3. Congress of the United States, including either House, or any committee or subcommittee thereof.
4. Department of Defense.
5. Department of Housing & Urban Development.
6. Department of Justice.
7. Department of Treasury.

8. Federal Deposit Insurance Corporation.
9. ~~Federal Savings & Loan Insurance Corporation Office of Thrift Supervision.~~
10. Federal Trade Commission.
11. Postal Service.
12. Securities & Exchange Commission.
13. *Comptroller of the Currency.*
14. *Federal Bureau of Investigation.*
15. *Any other federal agency or instrumentality which demonstrates a need for access to confidential information.*

~~G. The Director or Deputy Director may disclose data under the conditions set forth in subsections C, D, and E, above, to E. The following are approved nonfederal governmental entities:~~

1. The securities or retail franchising regulatory entity of any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, ~~including their state legislative bodies as well as their~~ and state and local law-enforcement entities involved in the detection, investigation or prosecution of violations of law.
2. The securities or retail franchising regulatory entity of any foreign country, whether such entity is on a national, provincial, regional, state or local level, ~~including the~~ and law-enforcement entities within such countries.

~~H. The Director or Deputy Director may disclose data under the conditions set forth in subsections C, D, and E, above, to F. The following are approved quasi-governmental entities:~~

1. American Stock Exchange.
2. Chicago Board Options Exchange.
3. Midwest Stock Exchange.
4. Municipal Securities Rulemaking Board.
5. National Association of Attorneys General.
6. National Association of Securities Dealers, Inc.
7. New York Stock Exchange.
8. North American Securities Administrators Association, Inc.
9. Pacific Stock Exchange.
10. Philadelphia Stock Exchange.
11. Securities Investor Protection Corporation.
- [12. *National White Collar Crime Center.*
13. *National Association of Securities Dealers Regulation, Inc.*

14. *Any other quasi-governmental entity which demonstrates a need for access to confidential information.*]

[21 VAC 5-120-30. Classification of regulatory standards.

Regulations are regulatory standards adopted and promulgated and shall be considered the highest level of policy applied by the State Corporation Commission.

Forms are ~~regulatory standards prescribed or~~ adopted for the purpose of implementing the Act ~~by prescribing initial basic requirements for completing various applications and reports filed with the State Corporation Commission. The forms required by the State Corporation Commission are set forth in 21 VAC 5-120-110 and have the same force and effect as regulations. When so prescribed or adopted, use of the forms is mandatory.~~

Statements made orally or in writing by personnel of the division or other State Corporation Commission personnel in response to inquiries or otherwise and not specifically identified and promulgated as regulations shall not be considered regulatory standards of the State Corporation Commission and shall not be considered binding upon the State Corporation Commission in connection with specific decisions undertaken by the State Corporation Commission thereafter. The State Corporation Commission may refuse to answer any question based upon a hypothetical situation.]

[PART IV.

~~FORMS FOR TRADEMARKS AND SERVICE MARKS.~~

~~21 VAC 5-120-110. Trademark and service mark forms. (Repealed.)~~

~~The State Corporation Commission adopts for use under the Act the forms listed below:~~

~~Form TM 1—Application for Registration of a Trademark or Service Mark (eff. 7/98).~~

~~Form TM 2—Application for Renewal of Registration of a Trademark or Service Mark (eff. 7/98).~~

~~Form TM 3—Certificate of Name Change of an Applicant or Registrant (eff. 7/98).]~~

NOTICE: The forms used in administering 21 VAC 5-120-10 et seq., Virginia Trademark and Service Mark Act, are listed below. The State Corporation Commission has repealed the codified section, 21 VAC 5-120-110, Trademark and service mark forms, but will list the forms used in administering the chapter at the end of the chapter.

FORMS

Form TM 1, Application for Registration of a Trademark or Service Mark (eff. 7/98).

Form TM 2, Application for Renewal of Registration of a Trademark or Service Mark (eff. 7/98).

Final Regulations

Form TM 3, Certificate of Name Change of an Applicant or Registrant (eff. 7/98).

NOTICE: The forms used in administering Title 21, Securities and Retail Franchising, of the Virginia Administrative Code are listed below. Any amended or added forms are reflected in the listing and are published following the listing. This list is currently located in a separate chapter, 21 VAC 5-85-10, Forms--Securities Act. That chapter has been repealed by the State Corporation Commission, effective July 1, 1999. The forms list will now be located at the end of 21 VAC 5-10-10 et seq., General Administration--Securities Act, and will continue to list all forms used in administering the Securities Act regulations.

FORMS

Broker-Dealer and Agent Forms

Form BD--Uniform Application for Broker-Dealer Registration (2/98).

Agreement for Inspection of Records (rev. 7/98).

Form S.A.11--Broker-Dealer's Surety Bond (rev. ~~4/98~~ 7/99).

Form S.A.2--Application for Renewal of a Broker-Dealer's Registration (rev. ~~4/96~~ 7/99).

Form S.D.4--Application for Renewal of Registration as an Agent of an Issuer (1997).

Form S.D.4.A--Non-NASD Broker-Dealer or Issuer Agents to be Renewed Exhibit (1974).

Form S.D.4.B--Non-NASD Broker-Dealer or Issuer Agents to be Canceled with no disciplinary history (1974).

Form S.D.4.C--Non-NASD Broker-Dealer or Issuer Agents to be Canceled with disciplinary history (1974).

Form BDW--Uniform Notice of Termination or Withdrawal of Registration as a Broker-Dealer (rev. 4/89).

Rev. Form U-4--Uniform Application for Securities Industry Registration or Transfer (11/97).

Rev. Form U-5--Uniform Termination Notice for Securities Industry Registration (11/97).

Investment Advisor and Investment Advisor Representative Forms

Form ADV--Uniform Application for Registration of Investment Advisors (rev. 7/97).

Agreement for Inspection of Records (rev. 7/98).

Surety Bond Form (~~4/97~~ rev. 7/99).

Rev. Form U-4--Uniform Application for Securities Industry Registration or Transfer (11/97).

Rev. Form U-5--Uniform Termination Notice for Securities Industry Registration (11/97).

Form S.A.3--Affidavit for Waiver of Examination (rev. ~~4/96~~ 7/99).

Form S.A.14--Consent to Service of Process for Notice Filing as a Federal Covered Advisor (7/97).

Form S.A.15--Investment Advisor Representative Multiple Employment Agreement (7/98).

Securities Registration [*and Notice Filing*] Forms

Form U-1--Uniform Application to Register Securities (7/81).

Form U-2--Uniform Consent to Service of Process (7/81).

Form U-2a--Uniform Form of Corporate Resolution (~~7/84~~ rev. 7/99).

Form S.A.4--Registration by Notification--Original Issue (rev. 11/96).

Form S.A.5--Registration by Notification--Non-Issuer Distribution (rev. 11/96).

Form S.A.6--Registration by Notification--Pursuant to 21 VAC 5-30-50 Non-Issuer Distribution "Secondary Trading" (1989).

Form S.A.8--Registration by Qualification (7/91).

Form S.A.10--Request for Refund Affidavit (Unit Investment Trust) (~~7/90~~ rev. 7/99).

Form S.A.12--Escrow Agreement (1971).

Form S.A.13--Impounding Agreement (~~7/58~~ rev. 7/99).

Form VA-1--Parts 1 and 2--Notice of Limited Offering of Securities (rev. 11/96).

Form NF--Uniform Investment Company Notice Filing (4/97).

S.A. 11
(Revised 1982 Z/99)

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
DIVISION OF SECURITIES AND RETAIL FRANCHISING
BROKER-DEALER'S SURETY BOND

_____ of _____ as principal, and
_____ a corporation organized and existing
under the laws of the State of _____, and authorized to write bonds in
the Commonwealth of Virginia, as Surety, are held and firmly bound unto the COMMONWEALTH
OF VIRGINIA in the penal sum of \$ _____ for the payment of which, well and truly to be
made, we, and each of us, bind ourselves, our heirs, successors and assigns, jointly and severally,
firmly by these presents.

SIGNED, SEALED AND DATED this _____ day of _____, 19 _____.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

Whereas, the said Principal has applied to the State Corporation Commission of the
Commonwealth of Virginia for registration (or renewal of registration) as an broker-dealer pursuant
to the Securities Act (Chapter 5, Title 13.1, Code of Virginia (1950), as amended) and, in
accordance with §13.1-505 thereof, the State Corporation Commission has conditioned registration
(or renewal of registration) upon the Principal filing a surety bond;

Therefore, the conditions of this obligation are such that if the Principal, in connection with
his investment advisory business transacted in Virginia, discharges all obligations imposed on him as
an investment advisor registered under the Securities Act, accounts for all money and securities
coming into his hands for the use of his clients, fully performs all investment advisory contracts to
which he is a party, and satisfies all civil penalties provided in the Securities Act for which said
Principal may become liable, then this obligation shall be null and void; otherwise, to remain in full
force and effect.

Provided, this bond shall cover the acts of the Principal during the period of registration, and
in no event shall the Surety's aggregate liability hereunder for all losses exceed the penal sum of
\$ _____.

Provided further, the Surety may be released from liability for future breaches of the
conditions of this bond only after thirty days have elapsed from the giving of written notice to the
Principal and to the State Corporation Commission of the Commonwealth of Virginia, of its desire to
be released.

(SEAL OF PRINCIPAL)

(Principal)
By _____
(If Principal is Partnership
or Corporation)

Title _____

(SEAL OF SURETY)

(Surety)

By _____
(Officer or Attorney-in-Fact)

Countersigned by _____
(Name of Agency)

(Resident Virginia Agent)

Date _____

Final Regulations

S.A.2
(rev. 4/96 7/99)

COMMONWEALTH OF VIRGINIA STATE CORPORATION COMMISSION DIVISION OF SECURITIES AND RETAIL FRANCHISING

APPLICATION FOR RENEWAL OF A BROKER-DEALER'S REGISTRATION

- Name of Applicant: _____
- Principal Address of Applicant: _____
- Attach the most current audited financial statements of the broker-dealer prepared and certified by an independent certified public accountant (if they have not been previously submitted). If the statements are not dated within 120 days of the filing of the application, financial statements attested to by an officer of the firm or the latest quarterly FOCUS report must also be submitted. The financial statements or FOCUS report must be dated within the 120 day period. The financial statements should include all reports, schedules and statements defined in 21 VAC 5-20-30 B 2.
- During the last twelve months, has there been any change in the organization or policy of the applicant, including form of organization, officers, partners, managers, business address, changes which would cause affirmative answers to any part of question 10 of form BD, etc.? _____. If we have not had prior notification of such change(s), attach appropriate amended page(s) to form BD.
- The application must be accompanied by a fee of \$200 payable to the Treasurer of Virginia, if the renewal is not granted; the fee is not refundable.

Broker-Dealer

Date

By _____ (Signature)

Title

COMMONWEALTH OF VIRGINIA

_____ OF _____, to-wit:

_____ being first duly sworn, deposes
and says:

I have been authorized by the applicant to execute and file the foregoing application. I have read the application and exhibits filed with it, and the facts stated in the application and in the exhibits are true to the best of my knowledge, information and belief.

Affiant

Subscribed and sworn to before me this

_____ day of _____, 19 _____

Notary Public

My commission expires: _____ (SEAL)

NOTE: NON-NASD MEMBER FIRMS SHOULD ALSO ATTACH TO THIS APPLICATION S.D.4.A AND, IF APPLICABLE, S.D.4.B AND S.D.4.C. A \$30 FEE FOR EACH AGENT LISTED ON FORM S.D.4.A AND A \$200 RENEWAL FEE FOR THE FIRM SHOULD BE INCORPORATED INTO ONE CHECK, PAYABLE TO THE TREASURER OF VIRGINIA.

COMMONWEALTH OF VIRGINIA STATE CORPORATION COMMISSION DIVISION OF SECURITIES AND RETAIL FRANCHISING

INVESTMENT ADVISOR'S SURETY BOND

_____ of _____ as principal, and _____ a corporation organized and existing under the laws of the State of _____, and authorized to write bonds in the Commonwealth of Virginia, as Surety, are held and firmly bound unto the COMMONWEALTH OF VIRGINIA in the penal sum of \$_____ for the payment of which, well and truly to be made, we, and each of us, bind ourselves, our heirs, successors and assigns, jointly and severally, firmly by these presents.

SIGNED, SEALED AND DATED this _____ day of _____, 19 _____.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

Whereas, the said Principal has applied to the State Corporation Commission of the Commonwealth of Virginia for registration (or renewal of registration) as an investment advisor pursuant to the Securities Act (Chapter 5, Title 13.1, Code of Virginia (1950), as amended) and, in accordance with §13.1-505 thereof, the State Corporation Commission has conditioned registration (or renewal of registration) upon the Principal filing a surety bond;

Therefore, the conditions of this obligation are such that if the Principal, in connection with his investment advisory business transacted in Virginia, discharges all obligations imposed on him as an investment advisor registered under the Securities Act, accounts for all money and securities coming into his hands for the use of his clients, fully performs all investment advisory contracts to which he is a party, and satisfies all civil penalties provided in the Securities Act for which said Principal may become liable, then this obligation shall be null and void; otherwise, to remain in full force and effect.

Provided, this bond shall cover the acts of the Principal during the period of registration; and in no event shall the Surety's aggregate liability hereunder for all losses exceed the penal sum of \$_____.

Provided further, the Surety may be released from liability for future breaches of the conditions of this bond only after thirty days have elapsed from the giving of written notice to the Principal and to the State Corporation Commission of the Commonwealth of Virginia, of its desire to be released.

(SEAL OF PRINCIPAL)

By _____
(If Principal is Partnership
or Corporation)

Title _____

(Principal)

SA.3
(Rev. 11/06/789)

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
DIVISION OF SECURITIES AND RETAIL FRANCHISING

AFFIDAVIT FOR WAIVER OF EXAMINATION
Pursuant to 21 VAC 5-80-130 B

(SEAL OF SURETY)

(Surety)

By _____
(Officer or Attorney-in-Fact)

State of _____

County/City of _____ to wit:

The undersigned, having been duly sworn, deposes and says:

1. My name is _____
2. My CRD number is _____
3. The name of the investment advisory with which I am, or will be connected is _____
4. The CRD number of this investment advisor is _____
5. I am, and have been for at least the five years immediately preceding the date on which my application for registration was filed, actively engaged in the investment advisory business.
6. I have been for at least the two years immediately preceding the date on which my application for registration was filed the president, chief executive, chairman of the board of directors, or managing partner, member, trustee or similar functionary, of an investment advisor actively engaged in the investment advisory business.
7. The investment advisor(s) referred to in subdivision 6, above, have, or had during my tenure as president, chief executive officer, chairman of the board of directors, or managing partner, member, trustee or similar functionary, at least forty million dollars under management.
8. I have read and am familiar with the investment advisor and investment advisor representative provisions of the Virginia Securities Act (§ 13.1-501 et seq. of the Code of Virginia) and provisions of 21 VAC 5-80-10 - 240 of this Commission's Securities Act Rules.
9. None of the questions in Item 22 (disciplinary history) on my Form U-4 have been, or need be, answered in the affirmative.

Countersigned by

(Name of Agency)

(Resident Virginia Agent)

Date _____

Signature of the Affiant

Subscribed and sworn to before me, a Notary Public, this _____ day of _____, 19____.

Signature of the Notary Public (SEAL)

My commission expires: _____

INSTRUCTIONS

This form must be filed with the Division of Securities and Retail Franchising, Form U-4 (or any amendment) and any required fee must be filed with the NASA/NASD Central Registration Depository system.

UNIFORM FORM OF CORPORATE RESOLUTION OF

(NAME OF CORPORATION)

RESOLVED, that it is desirable and in the best interest of this Corporation that its securities be qualified or registered for sale in the various states; that the President or any Vice President and the Secretary or an Assistant Secretary hereby are authorized to determine the states in which appropriate action shall be taken to qualify or register for sale all or such part of the securities of this Corporation as said officers may deem advisable; that said officers are hereby authorized to perform on behalf of this Corporation any and all such acts as they may deem necessary or advisable in order to comply with the applicable laws of any such states, and in connection therewith to execute and file all requisite papers and documents, including, but not limited to, applications, reports, surety bonds, irrevocable consents and appointments of attorneys for service of process; and the execution by such officers of any such paper or document or the doing by them of any act in connection with the foregoing matters shall conclusively establish their authority therefore from this Corporation and the approval and ratification by this Corporation of the papers and documents so executed and the action so taken.

CERTIFICATE

The undersigned hereby certifies that he is the _____ Secretary of _____ a corporation organized the existing under the laws of the State of _____; that the foregoing is a true and correct copy of a resolution duly adopted at a meeting of the Board of Directors of said corporation held on the _____ day of _____, 19____, at which meeting a quorum was at all time present and acting; that the passage of said resolution was in all respects legal, and that the said resolution is in full force and effect.

Date this _____ day of _____, 199_____

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
DIVISION OF SECURITIES AND RETAIL FRANCHISING

REQUEST FOR REFUND AFFIDAVIT
(Unit Investment Trust)

- State/Commonwealth of _____ to wit:
County/City of _____
1. Name of Trust _____
2. Address _____
3. Name of Sponsor (if applicable) _____
Address _____
4. Contact Person _____
5. Telephone Number (____) _____
6. Virginia Effective Date of the Trust's Registration Statement _____
7. Date Sales Concluded in Virginia _____
8. Amount of Fee which Accompanied Registration Statement \$ _____
Aggregate Purchase Price of the Units Sold in Virginia \$ _____
9. Aggregate Number of Units Sold in Virginia Pursuant to the Offering _____
10. Amount of Fee Due Based on Actual Sales in Virginia (amount of item 9 X 0.0005; \$400 minimum) _____
11. Amount of Refund Due (subtract item 11 from item 8, if result is less than \$25, no refund will be made) _____
13. Refund Check Should be sent to _____ Trust _____ Sponsor _____

Under penalty of perjury, I state that I have examined the foregoing information and that to the best of my knowledge, it is true, correct and complete.

Date _____, 19 _____ Name of Trust or Sponsor _____

By _____ Signature of Person Authorized to Sign on Behalf of Trust or Sponsor
Printed Name _____

Subscribed and sworn to before me, a Notary Public, this _____ day of _____, 19_____

Notary Public
My Commission expires: _____ (SEAL)

S.A. 13 (7/19/68 7/99)

STATE CORPORATION COMMISSION
DIVISION OF SECURITIES AND RETAIL FRANCHISING

SPECIAL INSTRUCTIONS

IMPOUNDING AGREEMENT

As a condition of the registration by qualification of the securities described hereafter:

The undersigned issuer agrees that the proceeds from the sale of such securities shall be delivered in escrow to _____ as depository until at least _____ of such securities have been sold and paid for.

The undersigned depository accepts the duties hereby imposed on it and agrees to hold said proceeds in trust until authorized in writing by the Division of Securities and Retail Franchising of the State Corporation Commission to disburse them.

If less than _____ of said securities have been sold within _____ months of the date of this agreement, the proceeds in escrow are to be returned to the subscribers who have paid for the securities.

The undersigned broker-dealers and agents of the issuer agree to remit immediately to the depository all proceeds without deduction of any fees, commissions or expenses.

In Witness Whereof, this agreement has been executed as of the _____ day of _____, 199____, by the issuer, by the depository, by each broker-dealer offering the securities and by each agent of the issuer offering the securities.

ISSUER

Name of Issuer (Type or Print) _____ President, Other Appropriate Officer or General Partner and Title (Type or Print)

Signature of President, Other Appropriate Officer or General Partner _____

DEPOSITORY

Name of Virginia Depository _____ Bank Officer (Type or Print) and Title

Address of Virginia Depository (Type or Print) _____ Signature of Bank Officer

BROKER/AGENT

Virginia Broker-Dealer (Type or Print) _____ President or Other Appropriate Officer and Title (Type or Print)

Signature of President or Other Appropriate Officer _____

Virginia Broker-Dealer (Type or Print) _____ President or Other Appropriate Officer and Title (Type or Print)

Signature of President or Other Appropriate Officer _____

Agent of the Issuer (Type or Print) _____ Signature of Agent of the Issuer

In order to substantiate that the terms of the impounding agreement have been complied with the following documentation together with a request for authorization to disburse funds must be submitted to the State Corporation Commission's Division of Securities and Retail Franchising. Upon receipt of items 1 and 2 below, the written authorization to disburse funds will be processed:

1. An affidavit from the issuer (its president or other appropriate officer) that the requisite percentage of the offering has been sold and paid for.
2. An affidavit from the depository (its president or other appropriate officer) setting forth the total aggregate sum being held by the depository pursuant to the terms of the impounding agreement.

Final Regulations

Title of Regulation: 21 VAC 5-110-10 et seq. **Retail Franchising Act Rules and Forms (SEC 990022) (amending 21 VAC 5-110-20, 21 VAC 5-110-30, 21 VAC 5-110-40, 21 VAC 5-110-50, 21 VAC 5-110-60 and 21 VAC 5-110-70; adding 21 VAC 5-110-85).**

Statutory Authority: §§ 12.1-13 and 13.1-572 of the Code of Virginia.

Effective Date: July 1, 1999.

Summary:

The amendments clarify the regulations, improve their readability, and make minor and technical changes. Areas of changes are identification of SCC as a regulator, registration, fees, amendments to registrations, expiration, renewals, automatic effectiveness, service of process, and disclosure of information.

Agency Contact: Copies of the regulation are available from the commission's Division of Securities and Retail Franchising, P.O. Box 1197, Richmond, VA 23218-1197, telephone (804) 371-9187, FAX (804) 371-9911 and can be downloaded from the commission's website at <http://www.state.va.us/division/srf>.

AT RICHMOND, JUNE 22, 1999

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. SEC990022

Ex Parte, In Re
Amendments to Retail
Franchising Act Rules

ORDER ADOPTING AMENDED RULES

On May 4, 1999, the Division of Securities and Retail Franchising ("Division") mailed notice of proposed amendments to the Commission's Retail Franchising Act Rules ("Rules") to all franchisors who had applications pending registration or registered under the Virginia Retail Franchise Act, § 13.1-557 *et seq.* of the Code of Virginia, and to other interested parties. Notice of the proposed amendments to the Rules was also published in several newspapers in general circulation throughout Virginia, and in the "Virginia Register of Regulations" on May 10, 1999. The notices described the proposed amendments, and afforded interested parties an opportunity to file written comments or requests for a hearing. No person filed any comments or request for hearing.

The Commission, upon consideration of the proposed amendments and the recommendations of the Division, finds that the proposed amendments should be adopted. Accordingly,

IT IS ORDERED THAT:

(1) The evidences of mailing and publication of notice of the proposed Rules amendments shall be filed in and made part of the record in this case.

(2) The proposed Rules amendments are adopted effective July 1, 1999. A copy of the Rules amendments is attached to and made part of this order.

(3) This matter is dismissed from the Commission's docket, and the papers herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Division to the Virginia Register of Regulations, and to such other persons as the Division deems appropriate.

21 VAC 5-110-20. Preliminary statement.

Follow these rules for each item in franchise applications and disclosures in the UFOC.

The following rules shall be adhered to with respect to applications for registration, applications for renewal of registration, and amendments filed ~~with the commission~~ pursuant to Chapter 8 (§ 13.1-557 *et seq.*) of Title 13.1 of the Code of Virginia. *These applications shall be submitted to Virginia's state administrator: State Corporation Commission, Division of Securities and Retail Franchising, 1300 East Main Street, 9th Floor, Richmond, Virginia 23219.*

21 VAC 5-110-30. ~~Original~~ Registration application; documents to file.

A. An application for registration of a franchise is made by filing with the commission the following completed forms and other material:

1. Uniform Franchise Registration Application page (also known as "Facing Page"), Form A;
2. Supplemental Information page(s), Form B;
3. Certification page, Form C;
4. Uniform Consent to Service of Process, Form D;
5. If the applicant is a corporation or partnership, an authorizing resolution if the application is verified by a person other than applicant's officer or general partner;
6. Uniform Franchise Offering Circular;
7. Application fee (*payable to the "Treasurer of Virginia"*); and
8. Auditor's consent (or a photocopy of the consent) to the use of the latest audited financial statements in the offering circular.

B. Examples of Forms A through D are printed at the end of these rules.

21 VAC 5-110-40. Pre-effective and post-effective amendments to the registration.

Upon the occurrence of a material change, the franchisor shall amend the effective registration filed at the

commission. An amendment to an application filed either before or after the effective date of registration shall may include only the pages containing the information being amended if pagination is not disturbed. The information being amended shall be identified by item, shall be underscored in red or identified highlighted in some other appropriate manner, and shall be verified by means of the prescribed certification page (Form C). Each amendment shall be accompanied by a facing page (Form A) on which the applicant shall indicate that the filing is an amendment. The required fee shall accompany all post-effective amendments unless submitted in connection with an application for renewal.

An application to amend a franchise registration is made by submitting the following completed forms and other material:

1. Uniform Franchise Registration Application page (also known as "Facing Page"), Form A;
2. Certification page, Form C;
3. One clean copy of the updated Uniform Franchise Offering Circular pages;
4. One copy of the amended Uniform Franchise Offering Circular pages underscored in red or highlighted in some other appropriate manner; and
5. Application fee (payable to the "Treasurer of Virginia"). The fee shall accompany all post-effective amendments unless submitted in connection with an application for renewal.

Examples of Forms A and C are printed at the end of these regulations.

21 VAC 5-110-50. Expiration; application to renew the registration.

A franchise registration expires at midnight on the annual date of the registration's effectiveness. An application to renew the franchise registration should be filed 30 days prior to the expiration date in order to prevent a lapse of registration under the Virginia statute. The registrant shall file a renewal application by submitting a facing page (Form A) accompanied by a UFOC and the required fee. Alterations from the text of the UFOC previously filed as a part of registration shall be indicated by means of underscoring.

An application for renewal of a franchise registration is made by submitting the following completed forms and other material:

1. Uniform Franchise Registration Application page (also known as "Facing Page"), Form A;
2. Certification page, Form C;
3. Updated Uniform Franchise Offering Circular;
4. One copy of the amended Uniform Franchise Offering Circular pages underscored in red or highlighted in some other appropriate manner; and

5. Application fee (payable to the "Treasurer of Virginia").

Examples of Forms A and C are printed at the end of these regulations.

21 VAC 5-110-60. Automatic effectiveness (optional).

If the registrant desires, an application to amend or renew an effective registration which is may be accompanied by an executed Affidavit of Compliance on Form E and filed in accordance with 21 VAC 5-110-40 or 21 VAC 5-110-50 above. The application shall become effective immediately upon receipt by the commission (or upon such later date as the applicant indicates in writing to the commission) unless one or more of the following is applicable:

1. The franchisor has, since the effective date of its most recent application, been convicted of any crime or been held liable in any civil action by final judgment (if such crime or civil action involved a felony, an act of fraud, a misdemeanor involving a franchise, or a violation of the Virginia Retail Franchising Act).
2. The franchisor is insolvent or in danger of becoming insolvent, either in the sense that its liabilities exceed its assets (determined in accordance with "generally accepted accounting principles") or in the sense that it cannot meet its obligations as they mature.
3. The revised disclosure document submitted in connection with the application to amend/renew is not in compliance with the requirements of [~~21 VAC 5-110-80~~ ~~21 VAC 5-110-80 and 21 VAC 5-110-90~~], below.

If the application does not qualify for automatic effectiveness, it shall become effective as of the date it is granted by the commission.

21 VAC 5-110-70. Consent to service of process.

If the franchisor is not a Virginia corporation or, a foreign corporation or other entity authorized to transact business in the Commonwealth of Virginia, the franchisor shall execute the Consent to Service of Process on Form D designating the Clerk of the State Corporation Commission, 1300 East Main Street, First Floor, Richmond, VA 23219, as the agent authorized to receive service of process for the franchisor in Virginia. If the franchisor is a Virginia corporation or, a foreign corporation or other entity authorized to transact business in the Commonwealth of Virginia, a Consent to Service of Process is not necessary under this section.

The Division of Securities and Retail Franchising does not handle administer the qualification of foreign corporations. Qualification of foreign corporations is handled by the Clerk of the State Corporation Commission (804) 371-9672, P.O. Box 1197, Richmond, VA 23218. Qualification must be completed prior to the filing of the application.

21 VAC 5-110-85. Disclosure of confidential information.

A. This section governs the disclosure by the commission of information or documents obtained or prepared by any member, subordinate or employee of the commission in the

Final Regulations

course of any examination or investigation conducted pursuant to the provisions of the Retail Franchising Act (§ 13.1-557 et seq. of the Code of Virginia). It is designed to implement the provisions of § 13.1-567 that permit disclosure of information to governmental and quasi-governmental entities approved by rule of the commission.

B. The Director of the Division of Securities and Retail Franchising or his designee is hereby authorized to disclose information to the entities enumerated in subsections D, E and F of this section. Disclosure shall be made only for the purpose of aiding in the detection or prevention of possible violations of law or to further administrative, legislative or judicial action resulting from possible violations of law. As a condition precedent to disclosure a writing shall be obtained from the receiving entity undertaking that it will exercise reasonable measures to preserve the confidential nature of the information.

C. Disclosure may be made only under the following circumstances:

1. In response to an entity's request for information relating to a specific subject or person.
2. By disseminating to an entity information which may indicate a possible violation of law within the administrative, regulatory or enforcement responsibility of that entity.
3. To participate in a centralized program or system designed to collect and maintain information pertaining to possible violations of securities, investment advisory, retail franchising or related laws.
4. To the extent necessary for participation in coordinated examinations or investigations.

D. The following are approved governmental entities (including any agencies, bureaus, commissions, divisions or successors thereof) of the United States:

1. Board of Governors of the Federal Reserve System or any Federal Reserve Bank.
2. Commodity Futures Trading Commission.
3. Congress of the United States, including either House, or any committee or subcommittee thereof.
4. Department of Defense.
5. Department of Housing and Urban Development.
6. Department of Justice.
7. Department of Treasury.
8. Federal Deposit Insurance Corporation.
9. Office of Thrift Supervision.
10. Federal Trade Commission.
11. Postal Service.
12. Securities and Exchange Commission.

13. Comptroller of the Currency.

14. Federal Bureau of Investigation.

15. Any other federal agency or instrumentality which demonstrates a need for access to confidential information.

E. The following are approved nonfederal governmental entities:

1. The securities or retail franchising regulatory entity of any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, state legislative bodies and state and local law-enforcement entities involved in the detection, investigation or prosecution of violations of law.

2. The securities or retail franchising regulatory entity of any foreign country, whether such entity is on a national, provincial, regional, state or local level, and law-enforcement entities within such countries.

F. The following are approved quasi-governmental entities:

1. American Stock Exchange.
2. Chicago Board Options Exchange.
3. Midwest Stock Exchange.
4. Municipal Securities Rulemaking Board.
5. National Association of Attorneys General.
6. National Association of Securities Dealers, Inc.
7. New York Stock Exchange.
8. North American Securities Administrators Association, Inc.
9. Pacific Stock Exchange.
10. Philadelphia Stock Exchange.
11. Securities Investor Protection Corporation.
12. National White Collar Crime Center.
13. National Association of Securities Dealers Regulation, Inc.
14. Any other quasi-governmental entity which demonstrates a need for access to confidential information.

~~COMMENTARY DATED JUNE 21, 1994 ON THE UNIFORM
FRANCHISE OFFERING CIRCULAR.~~

~~INTRODUCTION~~

~~On April 25, 1993, the North American Securities Administrators Association ("NASAA") adopted amendments to the Uniform Franchise Offering Circular ("new UFOC"). Adoption followed several years of work by the NASAA Franchise and Business Opportunities Committee ("NASAA Committee").~~

After adoption of the new UFOC, members of the Franchise Advisory Committee ("Advisory Committee") and other interested parties brought to the NASAA Committee's attention certain issues under the new UFOC where they believed additional interpretation and clarification would be helpful.

In response to the concerns of the Advisory Committee, which consulted with the NASAA Committee during the process of drafting the new UFOC, the NASAA Committee agreed that a "Commentary" to the new UFOC would be valuable to franchisors drafting offering circulars pursuant to the new UFOC and to franchise examiners and enforcement agencies reviewing offering circulars. The Commentary is not intended to change any substantive requirements of the new UFOC and, therefore, does not require formal approval by NASAA or by the Federal Trade Commission.

The NASAA Committee and the Advisory Committee met in Richmond, Virginia in January of 1994 to discuss these interpretational concerns. This Commentary is a result of the Richmond meeting and additional discussions and drafting since the meeting. The Commentary is intended to clarify and provide interpretations of specific provisions of the new UFOC. The issues covered by the Commentary are presented in a question and answer format.

Issue #1 - Instruction 265 - Phase-In

The new UFOC is effective 6 months after the last franchise regulatory state (or the FTC) approves it, but no later than January 1, 1995. Can a franchisor begin using the new format in a state which has approved the new UFOC (and after FTC approval) but before the national effective date?

Answer

A circular prepared in accordance with the new UFOC may be used in a state after that state and the FTC have approved the new format. (FTC approval was given on December 30, 1993.) Thus, after state and FTC approval, either a new or old format circular may be used in that state. After the national effective date, only a new UFOC may be used in connection with an initial filing or renewal.

Issue #2 - Instruction 265 - Amendments

If a franchisor files an amendment (for example, to change personnel in Item 2 or add litigation in Item 3) after the national effective date but before its next renewal date, is it required to change over the entire UFOC to the new format at that time?

Answer

An amendment filing is not required to be on the new format until after the franchisor submits a new UFOC in its first renewal (or annual report) after the national effective date (however, see FTC Staff Advisory Opinion 94-1 CCH Business Franchise Guide 6457).

It may be advisable, but is not required, for a franchisor to amend its registration before the national effective

date to change over to the new UFOC (to avoid potential delays in review and approval during 1995). Because of the nature of this type of amendment filing (that is, an amendment only for the purpose of changing over to the new UFOC), a franchisor should not have to stop offering franchises during the review period.

Issue #3 - Instruction 265 - "Re-Registration"

The word "re-registration" appears in Instruction 265. What does it mean?

Answer

The word "re-registration" was intended to cover a franchisor who had been registered in the past but whose registrations have since lapsed and now is filing to become registered again.

Issue #4 - Instruction 265 - Phase-In for Non-Registration States

If a franchisor has not registered its offering in any state, when is it required to convert to the new UFOC?

Answer

The FTC phase-in requirements will apply.

Issue #5 - Item 1 - "Predecessor"

Is the definition of "predecessor" in instruction iii of Item 1 applicable to Item 1 only or is it applicable throughout the UFOC, for example, to the use of "predecessor" in Items 3 and 4?

Answer

The definition of predecessor in instruction iii to Item 1 should be applied throughout the UFOC.

Issue #6 - Item 1 - Predecessor Disclosure Period

Is the ten year period regarding predecessor disclosure in instruction iv to Item 1 applicable to Item 1 only or is it also applicable to predecessor information in Items 3 and 4?

Answer

The ten year period referred to instruction iv of Item 1 is also applicable to predecessor disclosure in Items 3 and 4.

Issue #7 - Item 1 - "Affiliate"

What definition of "affiliate" should be used in the new UFOC?

Answer

As a general rule in the new UFOC, an "affiliate" is "a person (other than a natural person) controlled by, controlling or under common control with the franchisor". This definition applies to all Items unless a particular Item defines it differently or limits its use. For example, Item 1, instruction v, limits the general definition to an affiliate "which is offering franchises in any line of business or is providing products or services to the franchisees of the franchisor". Also, Item 3,

Final Regulations

instruction i, limits the general definition to an affiliate "offering franchises under the franchisor's principal trademarks".

Issue #8 - Item 1 - Government Regulations

Item 1E, instruction vi, refers to "regulations specific to the industry in which the franchise business operates." How broadly does this extend? How much detail is required about these regulations? For example, a restaurant franchisor might refer to food service health and sanitation codes since these are industry focused. Child labor laws, while not industry specific, impact on the fast food business. Should they be mentioned and, if so, what about other general laws that have a significant impact on a particular type of business format?

Answer

The instruction states that it is unnecessary to refer to laws that "apply to businesses generally". A fast food franchisor, therefore, would not be required to refer to child labor laws or other general categories of laws even if those laws have a substantial or disproportionate impact on the business being franchised. In addition, generally applicable regulations such as local signage restrictions, no fault liability insurance requirements, business licensing laws (as opposed to professional licensing laws), tax regulations and labor laws need not be disclosed. Only laws that pertain solely and directly to the industry sector of which the franchised business is a part must be disclosed in this Item. Examples include:

A real estate brokerage franchisor should disclose that broker licensing laws will apply to the franchisee.

An optical products franchisor should disclose the existence of applicable optometrist/optician staffing regulations and licensing requirements.

A lawn care franchisor should disclose that certain laws regulating pesticide application to residential lawns will require that franchisees post notices on treated lawns.

In any case where industry specific laws are disclosed, statutory citation and identification are unnecessary; the disclosure should state that a specific type of regulation exists and that the prospective franchisee should investigate the matter further.

Issue #9 - Item 3 - Confidential Settlements

Under the old UFOC, franchisors were not required to disclose the terms of confidential settlements. Are the terms of confidential settlements required to be disclosed under the new UFOC?

Answer

If a settlement agreement must be disclosed under Item 3B of the new UFOC, all material settlement terms must be disclosed, whether or not the agreement is confidential. However, because of difficulties in retrieving information and/or obtaining releases from confidentiality agreements, for confidential settlements

entered into before April 25, 1993 (the date of NASAA's approval of the new UFOC), a franchisor may disclose only the information required under the old UFOC.

Issue #10 - Item 3 - Dismissals

Based on the last sentence of section ii of Item 3, Definitions, may actions which are dismissed in the context of a settlement be omitted from Item 3?

Answer

The last sentence of section ii of Item 3, Definitions, allows the omission of an action which is dismissed as a result of a concluded adversarial proceeding, but is not intended to cover dismissal of an action in connection with a settlement. The standards for determining whether a settlement must be disclosed (or may be omitted) are described in section iv of Item 3, Definitions.

Issue #11 - Item 3 - Other Material Actions

Are only actions of the types enumerated in Item 3 required to be disclosed?

Answer

The requirement that a franchisor disclose actions which include allegations of violations of franchise, antitrust or securities law, or fraud, unfair or deceptive practices, or comparable allegations should not be narrowly construed in drafting disclosure for Item 3. Most franchise laws generally prohibit, among other things, omissions of material fact. The courts have generally interpreted "material facts" or "materiality" to include information which a reasonable investor would deem to be significant when making an investment decision. Franchisors should not limit disclosure solely to those items enumerated in Item 3 if a materiality analysis requires disclosure of an action.

Issue #12 - Item 3 - Foreign Litigation

Are franchisors required to disclose foreign (outside the United States) actions in Item 3 of the UFOC?

Answer

Item 3 is not limited to disclosure of actions which have been filed in the United States. Franchisors must disclose all material litigation, even if the actions are in a foreign court or arbitration forum.

Issue #13 - Item 4 - Bankruptcy

Item 4 requires disclosure of bankruptcy information about "officers." Does this include everyone listed in Item 2?

Answer

Only "officers" are required to make bankruptcy disclosures in Item 4, not every person listed in Item 2. "Officers" includes those individuals whose duties include some or all of the duties typically performed by the chief executive and chief operating, financial, franchise marketing, training and service officers. It also

includes "de facto" officers, those individuals who have management responsibility in connection with the operation of the franchisor's business relating to the franchises offered by the offering circular but whose title does not reflect the nature of the position. A member of the Board of Directors who is not also an officer (as described above) is not covered by this disclosure.

Issue #14 – Item 5 – Initial Fees Paid to Affiliates

If the franchisee makes any payments to affiliates of the franchisor before the franchisee's business opens, must this be disclosed as an "initial fee"?

Answer

"Initial fees" includes all fees and payments received by the franchisor and its affiliates before the franchisee's business opens.

Issue #15 – Item 7 – Initial Phase

The new UFOC requires disclosure of certain information during the "initial phase" of operation of the franchised business and indicates that it is ordinarily 3 months. Is the initial phase always 3 months? Or must a franchisor use a longer period if that is typical in its industry? Also, does the "initial phase" requirement apply to any line item in Item 7 other than "additional funds"?

Answer

A franchisor may use either a 3 month initial phase, or an initial phase longer than 3 months if the length of time is a "reasonable period for the industry" and if earnings claims problems can be avoided (for example, by complying with Item 19). Only the additional funds line item is covered by the "initial phase" requirement, but it may also be appropriate in some cases to disclose real estate costs during the initial phase. In addition, fees paid to the franchisor during the initial phase may be disclosed, so long as earnings claims problems can be avoided (for example, by complying with Item 19). All other expenditures, such as for inventory, should only be stated through the franchise opening date.

Issue #16 – Item 8 – Scope

A variety of terminology is used throughout Item 8 to refer to a wide range of sourcing restrictions. For example, although the requirements refer to all sourcing restrictions, reference is made in Instruction iii to "required purchases" and in Instruction vii to "designated" suppliers. What is the scope of Item 8?

Answer

Item 8 requires disclosure of all restrictions on the freedom of the franchisee to obtain goods, real estate, services, etc. from sources of the franchisee's choosing, and of all means by which a franchisor may derive revenue as a result of franchisee purchases or leases of goods and services. As a result, for example, Instruction iii encompasses all revenues a franchisor (or its affiliates) derives from purchases and leases of products and services to franchisees. Also, Instruction vii requires

the disclosure of all rebates paid by designated suppliers, approved suppliers and suppliers whose goods and services meet specifications.

Issue #17 – Item 8 – Rebates for Advertising

If a supplier makes payments to an advertising fund or advertising co-op, must this be reported?

Answer

If the payments are made to an independent advertising co-op, disclosure is not required. Payments to an advertising fund directly or indirectly controlled by the franchisor must be reported.

Issue #18 – Item 8 – Rebates from Other Parties

If the supplier of goods to franchisees is a distributor who buys from a manufacturer and the manufacturer pays rebates to the franchisor, must this be disclosed?

Answer

Rebates paid by all third parties involved in the product distribution process must be disclosed.

Issue #19 – Item 8 – Rebates to Affiliates

If rebates are paid by suppliers to an affiliate of the franchisor, must these rebates be disclosed?

Answer

Rebates paid by suppliers to the franchisor's affiliates must be disclosed.

Issue #20 – Item 8 – Rebates – Identity of Suppliers

Although the sample answer identifies suppliers who pay rebates, the instruction does not require such identification. Must the franchisor identify by name suppliers who pay rebates?

Answer

Franchisors are not required to identify by name any suppliers who pay rebates.

Issue #21 – Item 8 – Product Discounts

Instruction vii indicates that a franchisor who pays less than its franchisees for products bought from a common source has received a "payment" from a supplier. Is this intended to encompass every situation where a franchisor pays less than a franchisee?

Answer

If a franchisor receives a "special deal" on the purchase of products that a vendor also supplies to franchisees, this constitutes a "payment" to the franchisor for purposes of this disclosure. It is not a payment, however, if a franchisor takes advantage of a volume discount or other program which the supplier makes available to all other buyers, including franchisees.

Issue #22 – Item 8 – Rebate Reporting

Final Regulations

Can a franchisor choose to report either the dollar amount of the rebates or the percentage paid on purchases by franchisees?

Answer

A franchisor can choose to report rebates in either of 2 formats: the actual dollar amounts paid or the percentage rebate based on franchisee purchases. Thus, if a number of suppliers pay rebates and a franchisor chooses the latter reporting method, its circular might state that it received rebates from suppliers ranging from 1% to 5% of the amount of purchases by franchisees from such suppliers.

Issue #23 - Item 8 - Cooperatives

Must cooperatives be identified under Item 8F?

Answer

If a franchisee is required to participate in a purchasing or distribution cooperative, it must be identified. If participation is voluntary, it need not be identified but the franchisor must disclose that one or more cooperatives exist.

Issue #24 - Item 11 - Advertising

A franchisor must account for its use of monies in the advertising fund by providing a disclosure which allocates dollars to production, media costs, administrative expenses and other. If franchisor personnel are involved in production activities, can such expenses be allocated to production rather than administration?

Answer

A franchisor's internal costs associated with production of advertising materials may properly be characterized as production expenses. However, the franchisor must have a reasonable basis for claiming the allocation at the time the disclosure is made.

Issue #25 - Item 11 - Operating Manuals

Can the table of contents (which may be lengthy if there are multiple manuals) be disclosed in an exhibit rather than in the body of text to Item 11? Also, can a franchisor require that a franchisee sign a confidentiality agreement in connection with the "viewing" of a manual? If so, must the confidentiality agreement be attached as an exhibit to the UFOC and do the FTC waiting periods apply?

Answer

Tables of contents can be incorporated as an exhibit to the UFOC. A confidentiality agreement must be disclosed in the UFOC and the franchisor cannot require that it be signed until 10 business days have elapsed from delivery of the offering circular and 5 business days have elapsed from delivery of the execution copy of the confidentiality agreement.

Issue #26 - Item 15 - Agreements by Owners

Does Item 15 require the disclosure of all agreements that apply to the franchisee's owners?

Answer

All agreements relating to the franchise that are binding on the franchisee's owners must be disclosed in this Item.

Issue #27 - Item 20 - Subfranchise/Area Development Statistics

Does Item 20 require disclosure of data regarding area development, master franchise, subfranchise and similar arrangements in addition to unit/outlet franchise statistics?

Answer

All area development, master franchise, subfranchise or similar arrangements must be disclosed in Item 20 of the franchisor's offering circular. If there are only a few arrangements like this in a system, the disclosure may be provided in the text or in a subordinate table rather than in the main chart. Whatever format is used, it must include all of the information which would be required in the chart.

Issue #28 - Item 20 - System Statistics in Subfranchisor Offering Circulars

In an offering circular prepared by a subfranchisor in a particular region, must its Item 20 also reflect national statistics for the franchisor in addition to the statistics from the subfranchisor's region?

Answer

In the example, Item 20 must contain 2 sets of charts: one set for statistics from the subfranchisor's region and one set reflecting national data for the franchise being offered by the franchisor and other subfranchisors.

Issue #29 - Item 20 - Former Franchisees

Item 20E requires a list of home addresses and phone numbers of former franchisees. Can a franchisor answer this to the best of its knowledge? If the former franchisee is a corporation, is the corporate headquarters a home address?

Answer

A franchisor must disclose the last known home address of a former franchisee. Where the former franchisee is a corporation, the franchisor must disclose either the business address of the corporation or the address of a principal officer of the corporation.

CONCLUSION

This Commentary is intended to be a living document which provides interpretative assistance to all members of the franchise community and regulatory authorities. As the need arises at reasonable intervals in the future, the NASAA Committee may consider additions, deletions and amendments to the Commentary.

The NASAA Committee acknowledges the assistance of many segments of the franchise community for their

~~contributions to this Commentary and, in particular, its Advisory Committee, whose current members are as follows:~~

Dennis Wieczorek, Chair	Mark Hamer
Rupert Barkoff	H. Bret Lowell
Anita Blair	George Rummel
Patrick Carter	Andrew Selden
James Conohan	Neil Simon
Mark Forseth	Leonard Swartz
Eileen Harrington (Federal Trade Commission) ex officio	

~~The Advisory Committee provided substantial assistance in the drafting of the new UFOC and has helped to educate the franchise community and ease the transition to the new format. The Commentary is a product of the cooperative efforts of the NASAA Committee and the Advisory Committee, and we look forward to increased cooperation in the future.~~

~~NASAA Franchise and Business Opportunities Committee~~

~~Steve Maxey, Chair (Virginia)
Della Burke (Maryland)
Martin Cordell (Washington)
Patricia Struck (Wisconsin)
Jim Turner (Alberta)
Jocelyn Whittey (North Dakota)~~

NOTICE: The forms used in administering 21 VAC 5-110-10 et seq., Retail Franchising Act Rules and Forms, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

FORM A - "Facing Page" -- Uniform Franchise Registration Application (eff. 7/1/95).

FORM B - Supplemental Information (eff. 7/1/95).

FORM C - Certification (~~eff. 7/1/95~~ rev. 7/99).

FORM D - Uniform Consent to Service of Process (~~eff. 7/1/95~~ rev. 7/99).

FORM E - Affidavit of Compliance -- Franchise Amendment/Renewal (~~eff. 7/1/95~~ rev. 7/99).

FORM F - Guarantee of Performance (~~eff. 7/1/95~~ rev. 7/99).

FORM G - Franchisor's Surety Bond (~~eff. 7/1/95~~ rev. 7/99).

Final Regulations

Form C - Certification
7/1/95 7/99

I certify under penalty of law that I have read and know the contents of this application and the documents attached as exhibits and incorporated by reference and that the statements in all these documents are true and correct.

Executed at _____, 19____, before me _____
(Signature(s) of Franchisor and/or Subfranchisor)

By _____ and _____ known personally
Title _____ Secretary, respectively, of the above-named

(Seal)
STATE OF _____
COUNTY OF _____

Personally appeared before me this _____ day of _____, 19____, and
the above-named _____ to me known to be the person(s) who
executed the foregoing application (as _____ and
_____ respectively, of the above-named applicant) and (each), being
first duly sworn, stated upon oath that said application, and all exhibits submitted
herewith, are true and correct.

(Notary)

CORPORATE ACKNOWLEDGMENT

STATE OF _____)
COUNTY OF _____) ss.
On this _____ day of _____, 19____, before me _____
(Name of Notary)

the undersigned officer, personally appeared _____ and _____ known personally
to me to be the _____ President and _____ Secretary, respectively, of the above-named
corporation, and that they, as such officers, being authorized to do so, executed the foregoing instrument
for the purposes therein contained, by signing the name of the corporation by themselves as such officers.
IN WITNESS WHEREOF I have hereunto set my hand and official seal.

(Notary Public)
(NOTARIAL SEAL) My commission expires: _____

INDIVIDUAL OR PARTNERSHIP ACKNOWLEDGMENT

STATE OF _____)
COUNTY OF _____) ss.
On this _____ day of _____, 19____, before me, _____
the undersigned officer, personally appeared _____ to me personally known
and known to me to be the same person(s) whose name(s) is (are) signed to the foregoing instrument, and
acknowledged the execution thereof for the uses and purposes therein set forth.
IN WITNESS WHEREOF I have hereunto set my hand and official seal.

(Notary Public)
(NOTARIAL SEAL) My commission expires: _____

FORM E
Rev. 11/96 7/99

UNIFORM CONSENT TO SERVICE OF PROCESS

Form D
7/4/95 7/99

of _____ (a partnership) (an individual) _____ (regulatory authority) _____, irrevocably appoints the _____ and the successors in office, its attorney in the State of _____ for service of notice, process or pleading in an action or proceeding against it arising out of or in connection with the sale of franchises, or a violation of the franchise laws of _____, and consents that an action or proceeding against it may be commenced in a court of competent jurisdiction and proper venue within _____ by service of process upon this officer with the same effect as if the undersigned was organized or created under the laws of _____ and had lawfully been served with process in _____. It is requested that a copy of any notice, process or pleading served this consent be mailed to: _____

(Name and address)

Dated: _____, 19____

By _____
Title _____

By _____
Title _____

(SEAL)

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
Division of Securities and Retail Franchising

Affidavit of Compliance - Franchise Amendment/Renewal

STATE OF _____ (ss);
COUNTY OF _____

_____ being duly sworn, deposes and says:

- This affidavit is submitted in connection with an application to amend/renew the effective franchise registration of _____ in accordance with 21 VAC 5-110-40 or 21 VAC 5-110-50. (Name of Franchisor/Subfranchisor)
- To the best of my knowledge, the franchisor/subfranchisor on whose behalf the application to amend/renew is made:
 - Has not, since the effective date of its most recent application, been convicted of any crime or been held liable in a civil action by final judgment involving a felony, an act of fraud, a misdemeanor involving a franchise, or a knowing or willful violation of the Virginia Retail Franchising Act; and
 - Is not insolvent or in danger of becoming insolvent, either in the sense that its liabilities exceed its assets (determined in accordance with Generally Accepted Accounting Principles) or in the sense that it cannot meet its obligations as they mature.

3. The revised franchise disclosure document submitted in connection with the application to amend/renew is, to the best of my knowledge, in compliance with the requirements of 21 VAC 5-110-80 and 21 VAC 5-110-90.

Executed at _____, 19____
Name of Franchisor/Subfranchisor _____
By: _____ (SEAL)
Title: _____

Select Amendment Effective Date _____
Immediately Upon Request _____ 19____
Select Renewal Effective Date _____
Immediately Upon Receipt _____ 19____

Note: When a renewal application includes amendments, a selection should be made for both the amendments and the renewal. If no selection is made, the effectiveness will be immediately upon receipt by the Commission.

Subscribed and sworn to before me, a Notary Public, this _____ day of _____, 19____.
My Commission Expires: _____ (NOTARY'S SEAL)
(NOTARY PUBLIC)

Final Regulations

Form F
7/4/95 7/99

GUARANTEE OF PERFORMANCE

For value received _____, absolutely and
located at _____, absolutely and
unconditionally guarantees the performance by _____ (Address)
located at _____ of all of
the obligations of _____ of _____ State of
under its franchise registration in the _____ State of
_____ dated _____
(Name of state or province)

_____ and of its Franchise
Agreement. _____
(Effective date of renewal)
This guarantee continues until all obligations of _____
under the franchise registration and franchise agreement are satisfied.
_____ is not discharged from liability if a claim by the franchisee against
_____ remains outstanding. Notice of acceptance is waived. Notice of default
on the part of _____ is not waived. This guarantee is binding on
_____ and on its successors and assignees.

_____ executes this guarantee at
(Affiliate) _____ on the _____ day of _____ 19 _____

_____ (Affiliate)

By: _____

Title: _____

FORM G
7/4/95 7/99

COMMONWEALTH OF VIRGINIA STATE CORPORATION COMMISSION DIVISION OF SECURITIES AND RETAIL FRANCHISING

FRANCHISOR'S SURETY BOND

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the State Corporation Commission has required _____ as principal and _____ as surety, acknowledge themselves indebted and firmly bound unto the _____ to furnish a surety bond as a condition of registration (or renewal of registration) of its franchise as defined in Title 13.1, Chapter 8, Code of Virginia (1950), as amended, and conditioned as provided by law.

NOW, THEREFORE, _____ as principal and _____ as surety, acknowledge themselves indebted and firmly bound unto the COMMONWEALTH OF VIRGINIA in the penal sum of _____ thousand dollars to the payment of, which will and truly be made, they jointly and severally bind themselves, their successors and assigns, firmly by these presents.

THE CONDITIONS of this obligation are such that if the principal satisfies all criminal and civil penalties, or either, provided in Title 13.1, Chapter 8, Code of Virginia (1950), as amended, for which said principal may become liable, then this obligation shall be null and void; otherwise to be and remain in full force and effect.

IT IS AGREED that this obligation is to remain in force until cancelled by the surety by thirty days written notice to the principal and the State Corporation Commission.

WITNESS the following signatures and seals this _____ day of _____, 19 _____

Principal _____ (SEAL)

Surety _____ (SEAL)

by Attorney-in-fact _____

Countersigned:

_____ Name of Agency

by: _____ Registered Virginia Agent

VA.R. Doc. No. R99-152; Filed June 24, 1999, 1:29 p.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Title of Regulation: 22 VAC 40-830-10 et seq. State Income Tax Intercept for Child Support (REPEALED).

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

Effective Date: August 18, 1999.

Summary:

The Department of Social Services has repealed 22 VAC 40-830-10 et seq., State Income Tax Intercept. This chapter provided that money the department receives through the Setoff Debt Collection Act, Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1 of the Code of Virginia, for overdue support payments shall satisfy a debt owed to the Commonwealth for public assistance paid before satisfying any other arrearage owed. This regulation was made obsolete by the promulgation of 22 VAC 40-880-10 et seq. in 1992. Specifically, the provision is currently found in 22 VAC 40-880-380, Tax intercept.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

Agency Contact: Bill Brownfield, Department of Social Services, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-2401.

VA.R. Doc. No. R97-146; Filed June 25, 1999, 3:34 p.m.

Title of Regulation: 22 VAC 40-840-10 et seq. Application Fee Scale (REPEALED).

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

Effective Date: August 18, 1999.

Summary:

The Department of Social Services has repealed 22 VAC 40-840-10 et seq., Application Fee Scale. This chapter set forth a fee schedule, or sliding scale, by which an applicant is charged in order to receive child support enforcement services. Charges on this fee schedule are based on the applicant's income. This regulation was made obsolete by the promulgation of 22 VAC 40-880-10 et seq. in 1992. Specifically, 22 VAC 40-880-70, Application fees, addresses the issue of fees.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

Agency Contact: Bill Brownfield, Department of Social Services, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-2401.

VA.R. Doc. No. R97-145; Filed June 25, 1999, 3:34 p.m.

Title of Regulation: 22 VAC 40-850-10 et seq. Separate Fee Charged for Child Support Enforcement Services (REPEALED).

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

Effective Date: August 18, 1999.

Summary:

The Department of Social Services has repealed 22 VAC 40-850-10 et seq., Separate Fee Charged for Child Support Enforcement Services. This chapter limited separate charges for child support enforcement services to fees charged for blood testing. This regulation was made obsolete by the promulgation of 22 VAC 40-880-10 et seq. in 1992. The repealed provision is currently found in 22 VAC 40-880-680, Recovery of fees. Current child support enforcement regulation allows the department to assess fees for attorney and intercept program costs in addition to those charged for genetic blood testing.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

Agency Contact: Bill Brownfield, Department of Social Services, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-2401.

VA.R. Doc. No. R97-148; Filed June 25, 1999, 3:33 p.m.

Title of Regulation: 22 VAC 40-860-10 et seq. Policy of the Department of Social Services Division of Child Support Enforcement (REPEALED).

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

Effective Date: August 18, 1999.

Summary:

The Department of Social Services has repealed 22 VAC 40-860-10 et seq., Policy of the Department of Social Services Division of Child Support Enforcement. This regulation was made obsolete by the promulgation of 22 VAC 40-880-10 et seq. in 1992. The regulation reflected the requirements of state law and is duplicated in the Department of Social Services' Child Support Enforcement Manual of Policy and Procedures.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

Agency Contact: Bill Brownfield, Department of Social Services, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-2401.

VA.R. Doc. No. R97-149; Filed June 25, 1999, 3:32 p.m.

Final Regulations

* * * * *

Title of Regulation: 22 VAC 40-870-10 et seq. **Credit Bureau Reporting (REPEALED).**

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

Effective Date: August 18, 1999.

Summary:

The Department of Social Services has repealed 22 VAC 40-870-10 et seq., Credit Bureau Reporting. This chapter provided that, upon request, the Department of Social Services' Division of Child Support Enforcement shall furnish support payment arrearage information on a named responsible person to consumer credit bureaus and consumer reporting agencies provided the arrearage is at least \$1,000. Advance notice shall be sent to the responsible person of the proposed release of arrearage information. This notice shall include information on the procedures available to the responsible person for contesting the accuracy of the arrearage information. This regulation was made obsolete by the promulgation of 22 VAC 40-880-10 et seq. in 1992. Specifically, the provision is currently found in 22 VAC 40-880-520, Agencies to whom the department releases information.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

Agency Contact: Bill Brownfield, Department of Social Services, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-2401.

VA.R. Doc. No. R97-147; Filed June 25, 1999, 3:33 p.m.

Summary:

The regulations governing the Logo Program establish minimum criteria, set by the Commonwealth Transportation Board (CTB) in 1972, by which gas, food, lodging, and camping establishments may qualify for participation in the department's travel services signing program. This program, known as the "Logo Program," applies to signing placed on the right of way of interstate highways, as well as controlled and limited access primary bypass routes. The guidelines were created to reflect the current trends of the participating business and service industries, to ensure the program is managed efficiently, and to ensure that the needs of the traveling public are met. They are periodically revised to ensure that these aims are achieved.

The most recent revisions to the program occurred in June of 1999, when the CTB approved changes to how the word "breakfast" is defined, consolidated separate criteria for different types of highways into a single set of guidelines, and revised the distance criteria pertaining to how far signs can be located from exit ramps.

Document available for inspection at the following location:

Virginia Department of Transportation
Traffic Engineering Division
1401 East Broad Street, 2nd Floor
Richmond, VA 23219

VA.R. Doc. No. R99-203; Filed June 22, 1999, 1:37 p.m.

◆ ————— ◆

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Title of Regulation: 24 VAC 30-550-10. **Guidelines for the Logo Program.**

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

Effective Date: June 22, 1999.

Exemptions Claimed:

This regulation is exempt from the Administrative Process Act pursuant to § 9-6.14:4.1 B 11 of the Code of Virginia, which exempts agency action involving traffic signs, markers, or control devices. Subdivision 2 e of § 2.3 of the Virginia Code Commission Regulations allows regulations concerning state property or funds to be filed by description subject to the authorization of the Registrar of Regulations.

EMERGENCY REGULATIONS

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Title of Regulation: 4 VAC 20-910-10 et seq. Pertaining to Scup (amending 4 VAC 20-910-45).

Statutory Authority: § 28.2-210 of the Code of Virginia.

Effective Dates: June 24, 1999, through July 21, 1999.

Summary:

This emergency regulation establishes a reduced quota of 1,629 pounds for the harvest and landing of scup in Virginia for the period of May 1 through October 31.

Agency Contact: Deborah R. Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, 2600 Washington Avenue, Newport News, VA 23607-0756, telephone (757) 247-2248.

4 VAC 20-910-45. Possession limits and harvest quotas.

A. During the period January 1 through April 30 of each year, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than 20,000 pounds of scup; except when it is projected and announced that 85% of the coastwide quota for this period has been landed, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than 1,000 pounds of scup.

B. During the period November 1 through December 31 of each year, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than 8,000 pounds of scup except when it is announced that the coastwide quota for this period has been reached.

C. During the period May 1 through October 31 of each year, the commercial harvest and landing of scup in Virginia shall be limited to ~~3,467~~ 1,629 pounds.

D. For each of the time periods set forth in this section, the Marine Resources Commission will give timely notice to the industry of calculated poundage possession limits and quotas and any adjustments thereto. It shall be unlawful for any person to possess or to land any scup for commercial purposes after any winter period coastwide quota or summer period Virginia quota has been attained and announced as such.

E. It shall be unlawful for any buyer of seafood to receive any scup after any commercial harvest or landing quota has been attained and announced as such.

VA.R. Doc. No. R99-204; Filed June 24, 1999, 4:06 p.m.



TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: 12 VAC 30-90-10 et seq. Methods and Standards for Establishing Payment Rates For Long-Term Care (adding 12 VAC 30-90-340).

Statutory Authority: § 32.1-325 of the Code of Virginia and Item 335 II of Chapter 935 of the 1999 Virginia Acts of Assembly.

Effective Dates: July 1, 1999, through June 30, 2000.

Agency Contact: Victoria P. Simmons, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-3481.

SUMMARY

REQUEST: The Governor is hereby requested to approve this agency's adoption of the emergency regulation entitled Nursing Facility Services Rate Increase. This regulation funds the costs of increasing nursing facility per diems. The 1999 Session of the General Assembly appropriated the funds necessary for this increase.

RECOMMENDATION: Recommend approval of the department's request to take an emergency adoption action regarding a nursing facility services rate increase. The department intends to initiate the public notice and comment requirements contained in § 9-6.14:7.1 of the Code of Virginia.

CONCURRENCES:

/s/ Dennis G. Smith
Director, Department of Medical Assistance Services
Date: June 4, 1999

/s/ Claude A. Allen
Secretary of Health and Human Resources
Date: June 15, 1999

ACTION:

/s/ James S. Gilmore, III
Governor
Date: June 18, 1999

DISCUSSION

BACKGROUND: The section of the State Plan affected by this action is 12 VAC 30-90-340.

The Nursing Home Payment System (NHPS) has three primary reimbursement components: indirect operating costs, direct operating costs, and capital costs. Capital costs are the costs of equipment, building, and mortgage interest expenses. Indirect operating costs are the costs of administrative staff, housekeeping, laundry, nutrition, etc. Direct operating costs are the costs of nursing staff salaries and fringe benefits, professional (physician and pharmacy) fees, minor medical and surgical supplies, oxygen, nutrient

Emergency Regulations

tube feeding, etc. (12 VAC 30-90-270). There are also two minor reimbursement components (Nurse Aide Training and Competency Evaluation Program and Criminal Record Checks) that do not affect this regulation.

Presently, DMAS reimburses the costs of nursing services (for Registered Nurses (RNs), Licensed Practical Nurses (LPNs) and Certified Nurse Aides (CNAs)) as part of the direct operating cost component of the NHPS. Nursing facilities (NFs) report, in their submitted cost reports, their nursing staff salaries/fringe benefits costs and, if the NF costs are below the established ceiling, DMAS reimburses 100% of these costs plus an efficiency incentive. If the NF's reported costs exceed the established ceiling, then the NF is reimbursed at the level of the established ceiling without the efficiency incentive.

During the 1999 Session of the General Assembly, the nursing facility industry requested an increase in funding for nurse aide salaries which was approved by the legislature and signed into law on April 7, 1999, by the Governor. In response to this specific appropriation, DMAS has developed a methodology for an increase (to be contained in 12 VAC 30-90-340) in direct operating costs (to cover salary increases for CNAs) in conformance to the General Assembly's mandate.

DMAS has developed an implementation plan to ensure that appropriated funds are expended to the fullest extent possible consistent with the constraints imposed by the General Assembly. Briefly, the plan is to obtain from all facilities base line data on nurse aide costs and anticipated increases in those costs for SFY 2000. Subject to the limitations of the appropriation and the targeted nature of the funding, anticipated increases in the costs will be converted to per day amounts that will be added to payment rates that would otherwise prevail during SFY 2000. After one year, additional data will be collected to determine the actual level of expenditure during SFY 2000, for the intended purposes. Facilities' year-end cost reports will be settled based on the actual increase in the types of expenditures for which this appropriation is intended. All data collected for this purpose will be subject to audit.

It is expected that this increase in nurse aide salaries will reduce staff turnover thereby improving the quality of care to NF residents and protecting the health of the citizens of the Commonwealth.

The only impact on families of this regulation is expected to be the improvement in care that their institutionalized family members will receive in NFs.

AUTHORITY TO ACT: The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. 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 prior approval. Chapter 935 of the 1999 Acts of Assembly, Item 335 II mandated that DMAS increase nursing facility reimbursement to the direct care operating ceiling to provide a salary increase for certified nurse aides across the state, to be effective July 1, 1999.

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. Therefore, approval to file the required Notice of Intended Regulatory Action is also necessary and hereby being requested by this action.

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, 1999, effective date established by the General Assembly.

NEED FOR EMERGENCY ACTION: Section 9-6.14:4.1 C 5 of the Code of Virginia 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 the General Assembly mandate, he is required to make these changes. This issue qualifies as an emergency regulation as provided for in § 9-6.14:4.1 C 5 (ii), because the Virginia Appropriation Act requires this regulation to be effective within 280 days from the enactment of the 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 procedures by requesting approval to file its Notice of Intended Regulatory Action. At the time that DMAS publishes its Article 2 proposed regulations, the entire NHPS will be revised in accordance with Chapter 935 of the 1999 Acts of Assembly, Item 335 CC.

FISCAL/BUDGETARY IMPACT: The providers that would be affected are the approximately 270 nursing facilities. The projected costs appropriated in the budget were \$21,716,649 (\$10,500,000 GF) for FY 2000 to provide for nursing staff pay increases, including certified nursing aides' salary increases.

The money appropriated will be divided among approximately 270 nursing homes throughout the Commonwealth. There are approximately 27,000 recipients receiving care in these nursing facilities.

RECOMMENDATION: Recommend approval of this request to adopt this emergency regulation to become effective July 1, 1999. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the department would lack

the authority to provide an increase in payments to nursing facilities as mandated by the General Assembly.

APPROVAL SOUGHT FOR 12 VAC 30-90-340.

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with § 9-6.14:4.1 C 5 of the Code of Virginia to adopt the following regulation:

PART V.

PAYMENT FOR INCREASED CERTIFIED NURSE AIDE
AND OTHER DIRECT COSTS.

12 VAC 30-90-340. Payment for increased certified nurse aide and other direct costs.

A. In addition to other payments made to nursing facilities under the Nursing Home Payment System, for services in SFY2000, nursing facilities shall be eligible for an additional payment. This payment shall be to compensate nursing facilities for increased costs of certified nurse aides (CNAs) and for other increases in direct patient care operating costs. Interim and final payments to facilities shall be calculated as provided in this section.

B. General provisions. A total of \$21,716,649 shall be available for direct patient care operating cost increases, with \$14 million of this total specifically designated for increased CNA salary costs.

1. Facility increases in direct salary and salary-related costs shall be measured from the base period of July 1, 1998, through December 31, 1998, to the payment period of July 1, 1999, through June 30, 2000. Costs from the base period shall be annualized to represent one year's costs.

2. Subject to the statewide maximum amount of \$14 million and any excess amount as identified in subdivision 4 of this subsection, the Medicaid percent share of the cost of CNA salary increases in excess of the nursing facility inflation factor shall be paid.

3. The Medicaid percent share of the cost of other direct salary and salary-related increases in excess of the nursing facility inflation factor shall be paid, subject to the statewide maximum of \$7,716,649.

4. If Medicaid's share of the measured cost of other direct salary and salary-related increases is less than \$7,716,649, the difference may be used for any CNA amounts in excess of the \$14 million amount. However, if the \$14 million is not fully utilized for CNA salary increases, it may not be reallocated to other direct salary and salary-related increases beyond the \$7,716,649.

5. If Medicaid's share of either the CNA amount or the amount for other direct salary and salary-related increases exceeds the total maximum amount, facility specific amounts shall be reduced. To determine the reductions, facility specific amounts will be converted to per diem amounts using total Medicaid days from the most recent settled cost report. Then a ceiling per diem

shall be determined which results in spending of no more than the maximum amount. Facilities with per diem amounts, for the costs described in this section, that are above this ceiling shall receive a total payment equal to the ceiling times the days from their most recent settled cost report. Facilities with per diem amounts below the ceiling shall be unaffected by this limitation.

C. Interim Payments. Nursing facilities shall report base period and SFY2000 forecasted costs and other information on forms supplied and within timeframes determined by the department. Using this information the department shall determine interim payable amounts as provided in this section. It shall then calculate interim per diem amounts to be added to the per diem rates otherwise payable during SFY2000. Facilities not filing the required information timely shall be at risk of forgoing interim payment if the entire available amount is already allocated to those filing timely.

D. Final Payments. Nursing facilities shall report base period and SFY2000 actual costs and other information on forms supplied and within timeframes determined by the department. Using this information the department shall determine payable amounts as provided in this section. Facilities not filing the required information timely shall be at risk of losing funding if the entire available amount is already allocated to those filing timely. The department shall announce final payment amounts through a Medicaid Memo. After release of this memo, no final payment amounts may be revised except as a result of field audit findings.

VA.R. Doc. No. R99-202; Filed June 22, 1999, 11:21 a.m.

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THE LEGISLATIVE RECORD

The Legislative Record is available on the Internet at <http://dls.state.va.us/legrec99.htm>

GENERAL NOTICES/ERRATA

STATE CORPORATION COMMISSION

Bureau of Insurance

June 21, 1999

Administrative Letter 1999-7

TO: All Insurers Licensed to Write Accident and Sickness Insurance in Virginia, all Health Services Plans, and all Health Maintenance Organizations authorized to do business in Virginia

RE: Applications for Individual Health Insurance Coverage; § 38.2-3430.3 C of the Code of Virginia

The Bureau of Insurance recently issued Administrative Letter 1999-3, dated May 12, 1999, in which descriptions of various bills enacted by the 1999 Virginia General Assembly were provided. One of the bills described in the earlier Administrative Letter was 1999 House Bill 2283. As described in Administrative Letter 1999-3, much of 1999 House Bill 2283 deals with changes in definitions of "creditable coverage" under HIPAA and in applicability of preexisting conditions in group and individual contracts.

However, the purpose of this letter is to make certain that all affected carriers are aware that 1999 House Bill 2283 also added § 38.2-3430.3 C to the Code of Virginia, requiring the inclusion of a specific question concerning an applicant's possible status as an eligible individual in all applications for individual health insurance coverage. It is the Bureau's position that the specific question must be included in the application itself; inclusion of the question on a supplement or endorsement to the application will not be considered sufficient to comply with this requirement.

There are a great many health insurance application forms on file with the Forms & Rates Section of the Bureau's Life and Health Division, and it appears that most of them will need to be amended and re-filed. There is no practicable means either for the industry or the Bureau to accomplish this by July 1, 1999, the effective date of the statutory requirement. As a result, the following summarizes the action that the Bureau of Insurance intends to take with respect to individual health insurance applications that were approved at any time prior to July 1, 1999:

- In consideration of both the potentially large volume of affected forms as well as the time constraints under which approval of revised forms must be obtained, the Bureau will grant carriers until August 30, 1999, to secure approval of revised application forms.
- During this extended period, the Bureau will not initiate enforcement action against carriers for non-compliance with § 38.2-3430.3 C of the Code of Virginia.
- It should be noted however, that this moratorium on enforcement is specifically limited to the omission of the question required by the aforementioned statute, and is further limited to the period ending August 30, 1999.

- Carriers using application forms for individual health insurance coverage on and after August 31, 1999, that do not include the question required by § 38.2-3430.3 C of the Code of Virginia will be subject to disciplinary action as appropriate and in accordance with § 38.2-218 of the Code of Virginia.
- Further, this letter serves as official notification to all affected carriers that the Bureau will, pursuant to § 38.2-316 D of the Code of Virginia, withdraw approval of any non-complying application forms on August 31, 1999. No further notification of form withdrawal will be provided to carriers.

Revised submissions, as well as any questions relating to this matter, should be referred IN WRITING to:

Jacqueline K. Cunningham
Supervisor
Forms and Rates Section - Life and Health Division
State Corporation Commission
Bureau of Insurance
Post Office Box 1157
Richmond, Virginia 23218

/s/ Alfred W. Gross
Commissioner of Insurance

Virginia Tax Bulletin

Virginia Department of Taxation

June 11, 1999

99-7

INTEREST RATES THIRD QUARTER 1999

Interest Rate Provisions of the IRS Restructuring Act: Congress recently enacted the Internal Revenue Restructuring and Reform Act of 1998 (the "Restructuring Act") which included a provision that changed the manner in which the interest is computed on federal tax underpayments (assessments) and overpayments (refunds). Under the provisions of the Restructuring Act, the federal overpayment rate was increased for taxpayers (other than corporations) to equal the federal underpayment rate. However, the Restructuring Act had no impact on the federal interest rates applicable to corporations. Because Virginia's interest rates are tied to the federal rates, the interest rates on corporate overpayments (refunds) will be different than those for overpayments (refunds) of taxpayers other than corporations beginning January 1, 1999.

Rates remain unchanged: State and certain local interest rates are subject to change every quarter based on changes in federal rates established pursuant to I.R.C. § 6621. The federal rates for the third quarter of 1999 remain at 8% for tax underpayments (assessments), 8% for tax overpayments (refunds) by taxpayers other than corporations, 7% for corporate tax overpayments (refunds), and 10% for "large corporate underpayments" as defined in I.R.C. § 6621(c). Code of Virginia § 58.1-15 provides that the underpayment rate for Virginia taxes will be 2% higher than the corresponding federal rates. Accordingly, the Virginia rates for the third quarter of 1999 remain at 10% for tax underpayments (assessments), 8% for tax overpayments (refunds) for taxpayers other than corporations, 7% for corporate tax overpayments (refunds), and 12% for "large corporate underpayments."

Rate for Addition to Tax for Underpayments of Estimated Tax

Taxpayers whose taxable year ends on June 30, 1999: For the purpose of computing the addition to the tax for underpayment of Virginia estimated income taxes on Form 760C (for individuals, estates and trusts), Form 760F (for farmers and fishermen) or Form 500C (for corporations), the 10% underpayment rate will apply through the due date of the return, October 15, 1999, (for corporations), and November 1, 1999, (for individuals and fiduciaries).

Virginia Tax Bulletin 99-7
Page 2

Local Tax

Assessments: Localities assessing interest on delinquent taxes pursuant to Code of Virginia § 58.1-3916 may impose interest at a rate not to exceed 10% for the first year of delinquency, and at a rate not to exceed 10% or the federal underpayment rate in effect for the applicable quarter, whichever is greater, for the second and subsequent years of delinquency. For the third quarter of 1999, the federal underpayment rate is 7%.

Refunds: Effective July 1, 1999, localities which charge interest on delinquent taxes are required paying interest to taxpayers on all overpayments or erroneously assessed taxes at the same rate as they charge interest on delinquent taxes under Code of Virginia § 58.1-3916.

Recent Interest Rates

Accrual Beginning	Period Through	Non - Corporation Overpayment (Refund)	Corporation Overpayment (Refund)	Underpayment (Assessment)	Large Corporate Underpayment
1-Oct-89	31-Mar-91	10%	10%	11%	----
1-Apr-91	30-Jun-91	9%	9%	10%	----
1-Jul-91	31-Dec-91	9%	9%	12%	14%
1-Jan-92	31-Mar-92	8%	8%	11%	13%
1-Apr-92	30-Sep-92	7%	7%	10%	12%
1-Oct-92	30-Jun-94	6%	6%	9%	11%
1-Jul-94	30-Sep-94	7%	7%	10%	12%
1-Oct-94	31-Mar-95	8%	8%	11%	13%
1-Apr-95	30-Jun-95	9%	9%	12%	14%
1-Jul-95	31-Mar-96	8%	8%	11%	13%
1-Apr-96	30-Jun-96	7%	7%	10%	12%
1-Jul-96	31-Mar-98	8%	8%	11%	13%
1-Apr-98	31-Dec-98	7%	7%	10%	12%
1-Jan-99	31-Mar-99	7%	6%	9%	11%
1-Apr-99	30-Sep-99	8%	7%	10%	12%

Virginia Tax Bulletin 99-7

Page 3

For additional information: Contact the Office of Customer Services, Virginia Department of Taxation, P. O. Box 1115, Richmond, Virginia 23218-1115, or call the following numbers for additional information about interest rates and penalties.

Individual & Fiduciary Income Tax	(804) 367-8031
Corporation Income Tax	(804) 367-8037
Withholding Tax	(804) 367-8037
Soft Drink Excise Tax	(804) 367-8098
Aircraft Sales & Use Tax	(804) 367-8098
Other Sales & Use Taxes	(804) 367-8037

General Notices/Errata

STATE WATER CONTROL BOARD

Consent Special Orders Multitrade of Pittsylvania County, L.P.LG & E- Altavista Westmoreland, Old Dominion Electric Cooperative and Virginia Power

On June 15, 1999, the State Water Control Board approved consent special orders for Multitrade of Pittsylvania County, regarding its Hurt facility; L.P.LG&E-Altavista Westmoreland regarding its Campbell County facility, and Old Dominion Electric Cooperative and Virginia Power, regarding their Clover facility. These facilities produce electric power using surface water withdrawals from the Roanoke (Staunton) River. In response to worsening drought conditions, the board approved temporary relief from water withdrawal limitations in the facilities' 401 Certifications and Virginia Water Protection permits provided that the Federal Energy Regulatory Commission acts to issue a license variance for reduced water releases from the Smith Mountain/Leesville Hydroelectric Project.

The Department of Environmental Quality will receive written comments relating to the special orders until August 18, 1999. Comments should be addressed to Joe Hassell, Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219, and should refer to the consent special orders.

The orders may be examined at the same address. Copies of the orders may be obtained in person or by mail.

Proposed Consent Special Order Stillwater, Inc.

The State Water Control Board proposes to enter into a consent special order with Stillwater, Inc., to address anticipated violations of the State Water Control Law and regulations at Stillwater's Goshen facility. Stillwater is subject to a No-Discharge Certificate issued by the board authorizing the company to discharge its wastewater into a nondischarging lagoon. All No-Discharge Certificates in Virginia will expire by regulation on July 1, 1999. Stillwater has been unable to convert its certificate to a VPA Permit because the cost of upgrading its lagoon is prohibitive.

Rockbridge County and the Public Service Authority are working with Stillwater to construct a regional wastewater treatment facility which will serve Stillwater, as well as other neighboring businesses and residents. The consent order requires Stillwater to apply for a VPA Permit, but will allow Stillwater to continue to operate its existing lagoon under the terms of its certificate as an interim measure. The order will require connection to the new facility as soon as construction is complete.

The board will receive written comments relating to the proposed consent special order until August 18, 1999. Comments should be addressed to Elizabeth V. Scott, Department of Environmental Quality, Post Office Box 1129,

Harrisonburg, Virginia 22801, and should refer to the consent special order.

The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia 22801. A copy of the order may be obtained in person or by mail from this office.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: 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 for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material for publication in *The Virginia Register of Regulations*. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

Internet: Forms and other *Virginia Register* resources may be printed or downloaded from the *Virginia Register* web page:
<http://legis.state.va.us/codecomm/register/regindex.htm>

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

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

Title of Regulation: 18 VAC 10-20-10 et seq. Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Rules and Regulations.

Publication: 15:20 VA.R. 2539-2559 June 21, 1999

Correction to Proposed Regulation:


Page 2549, 18 VAC 10-20-210, Number 3 in
"Educational Requirements" line 2 after "which," replace
"are" with "shall be"


Page 2550, column 1, 18 VAC 10-20-230, line 6 after
"United States institution," insert "where the program
has been"

CALENDAR OF EVENTS

Symbol Key


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

 Location accessible to handicapped

 Teletype (TTY)/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) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY , or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."


VIRGINIA CODE COMMISSION

EXECUTIVE


BOARD OF ACCOUNTANCY

July 19, 1999 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 5W, Richmond,
Virginia. 

The board will conduct routine business. A public comment period will be held at the beginning of the meeting.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8505, FAX (804) 367-2475 or (804) 367-9753/TTY 

BOARD OF AGRICULTURE AND CONSUMER SERVICES


July 27, 1999 - 9 a.m. -- Open Meeting
Four Points Hotels Sheraton, 1400 East Market Street,
Madison/Jefferson Room, Harrisonburg, Virginia. 


A regular meeting to discuss Virginia agriculture and consumer protection. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Roy E. Seward at least five days before the meeting date so that suitable arrangements can be made.

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 211, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3535 or FAX (804) 371-2945.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Charity Food Assistance Advisory Board


† **August 18, 1999 - 10 a.m.** -- Open Meeting
Department of Agriculture and Consumer Services,
Washington Building, 1100 Bank Street, 4th Floor,
Conference Room, Richmond, Virginia. 

† **September 2, 1999 - 10 a.m.** -- Open Meeting
Department of Agriculture and Consumer Services,
Washington Building, 1100 Bank Street, 2nd Floor, Board
Room, Richmond, Virginia. 

A meeting to discuss issues related to food insecurity. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate in the meeting should contact Steven W. Thomas at least five days before the meeting date so that suitable arrangements can be made.

Contact: Steven W. Thomas, Executive Director, Virginia Charity Food Assistance Advisory Board, Department of Agriculture and Consumer Services, 1100 Bank St., Room 809, Richmond, VA 23219, telephone (804) 786-3936 or FAX (804) 371-7788.

Virginia Egg Board


† **August 4, 1999 - 4 p.m.** -- Open Meeting
State Fairgrounds, Strawberry Hill, 600 East Laburnum
Avenue, Fairgrounds Conference Room, Richmond,
Virginia. 

A meeting to receive reports from the Executive Director of the Egg Council on the board's finances, marketing plans, past and future program plans, publicity, public relations and old and new business. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any

person who needs any accommodations in order to participate at the meeting should contact Cecilia Glembocki at least five days before the meeting date so that suitable arrangements can be made.

Contact: Cecilia Glembocki, Secretary, Virginia Egg Board, 911 Saddleback Court, McLean, VA 22102-1317, telephone (703) 790-1984, toll-free 1-800-779-7759, FAX (703) 821-6748, or e-mail virginiaeggcouncil@erols.com.


Virginia Irish Potato Board

September 14, 1999 - 8 p.m. -- Open Meeting
Brewers East Inn, 2484 North Landing Road, Virginia Beach, Virginia. 

A meeting to (i) hear and approve minutes of the last meeting; (ii) receive the board's financial statement; (iii) discuss promotion, research and educational programs; and (iv) establish the board's annual 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 special 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, Virginia Irish Potato Board, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867 or FAX (757) 787-5973.


Virginia Peanut Board

† July 22, 1999 - 11 a.m. -- Open Meeting
Virginia Peanut Growers Association, 23020 Main Street, Capron, Virginia. 

A meeting to (i) hear the chairman's report, (ii) elect officers for 1999-2000, (iii) approve the 1999-2000 budget, (iv) hear and approve minutes of the last meeting if appropriate, and (v) review the board's financial statement. 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 Russell C. Schools at least five days before the meeting date so that suitable arrangements can be made.

Contact: Russell C. Schools, Program Director, Virginia Peanut Board, P.O. Box 356, Capron, VA 23829, telephone (804) 658-4573 or FAX (804) 658-4531.

Virginia Small Grains Board


July 29, 1999 - 8 a.m. -- Open Meeting
Richmond Airport Hilton, 5501 Eubank Road, Sandston, Virginia. 

A meeting to review FY 1998-99 projects reports and receive 1999-2000 project proposals. Minutes from the

last board meeting and a current financial statement will be heard and approved. Additionally, action will be taken on any other new business that comes 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 accommodation in order to participate at the meeting should contact Philip T. Hickman at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Virginia Small Grains Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 1005, Richmond, VA 23219, telephone (804) 371-6157 or FAX (804) 371-7786.

Virginia Winegrowers Advisory Board

July 21, 1999 - 10 a.m. -- Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. 

A meeting to conduct regular business, including hearing and potential approval of minutes from the prior meeting, committee reports, treasurer's report, and a report from the ABC 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 Mary E. Davis-Barton at least five days before the meeting date so that suitable arrangements can be made.

Contact: Mary E. Davis-Barton, Secretary, Virginia Winegrowers Advisory Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 1010, Richmond, VA 23219, telephone (804) 371-7685 or FAX (804) 786-3122.

ALCOHOLIC BEVERAGE CONTROL BOARD

July 26, 1999 - 9:30 a.m. -- Open Meeting
August 9, 1999 - 9:30 a.m. -- Open Meeting
August 23, 1999 - 9:30 a.m. -- Open Meeting
September 8, 1999 - 9:30 a.m. -- Open Meeting
September 20, 1999 - 9:30 a.m. -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. 

A meeting to receive reports from staff members, discuss activities, and discuss other matters not yet 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) 213-4409 or FAX (804) 213-4442.

Calendar of Events

ALZHEIMER'S DISEASE AND RELATED DISORDERS COMMISSION

August 11, 1999 - 10 a.m. -- Open Meeting
Department of Social Services, Theater Row Building, 730 East Broad Street, Lower Level, Training Room 3, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to set priorities for the commission and develop a plan to be submitted to the Secretary of Health and Human Resources by September 1, 1999. There will be a 20-minute public comment period at the beginning of the meeting. Contact the commission by July 23, 1999, if interpreter services are needed for the August meeting.

Contact: Barbara A. Lenkey, Logistics Coordinator, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-3908, FAX (804) 786-9346 or (804) 371-8977/TTY

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

July 22, 1999 - 10 a.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia.

August 23, 1999 - 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 for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects intends to amend regulations entitled: **18 VAC 10-20-10 et seq. Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Rules and Regulations.** The proposed changes are intended to make the regulations clearer and easier to understand and utilize by the regulants of the board. Almost all of the proposed changes are clarifying and less restrictive in nature.

Statutory Authority: §§ 54.1-404 and 54.1-411 C of the Code of Virginia.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TTY

August 8, 1999 - 9 a.m. -- Open Meeting
† September 8, 1999 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Certified Interior Designer Section will conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or

interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TTY

August 11, 1999 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Architect Section will conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, or (804) 367-9753/TTY

August 15, 1999 - 9 a.m. -- Open Meeting
September 15, 1999 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)


A meeting of the full board to conduct business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TTY


August 18, 1999 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)


The Professional Engineer Section will conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TTY


August 25, 1999 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Land Surveyor Section will conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.


Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TTY 

September 1, 1999 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


The Landscape Architect Section will conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TTY 


VIRGINIA BOARD FOR ASBESTOS AND LEAD

August 17, 1999 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 5W, Richmond,
Virginia. 


A meeting to conduct routine business. Public comment will be received at the beginning of the meeting.


Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2176, FAX (804) 367-2475 or (804) 367-9753/TTY 

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY


July 28, 1999 - 9:30 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 3, Richmond, Virginia. 


A public hearing to receive comments on draft legislation of Year 2000 General Assembly.

Contact: Elizabeth Y. Tisdale, Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523 or (804) 662-7197/TTY 


July 29, 1999 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 3, Richmond, Virginia. 

A meeting of the Advisory Committee to the Board of Audiology and Speech-Language Pathology and the Board for Hearing Aid Specialists to draft a report on the advisability of merging the two boards pursuant to Senate Joint Resolution 362 and House Joint Resolution 669.


Contact: Senita Booker, Administrative Staff Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523 or (804) 662-7197/TTY 

† **August 19, 1999 - 9:30 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 3, Richmond, Virginia. 


A general business meeting. Public comments will be received for 15 minutes prior the start of the meeting.

Contact: Senita Booker, Administrative Staff Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523 or (804) 662-7197/TTY 

BOARD FOR BARBERS


July 26, 1999 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review, comments from informational proceedings, and other matters requiring board action, including disciplinary cases. All meetings are subject to cancellation and the meeting time is subject to change. Contact the board at least three days prior to the meeting for possible changes. 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 interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.


Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., 4th Floor, Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TTY 

Calendar of Events


BOARD FOR BRANCH PILOTS

August 2, 1999 - 9:30 a.m. -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia.  (Interpreter for the deaf provided upon request)


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 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, or (804) 367-9753/TTY 

CEMETERY BOARD


† **August 18, 1999 - 8:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A general business meeting of the Delivery Committee. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen O'Neal 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 23230-4917, telephone (804) 367-8552, FAX (804) 367-2475 or (804) 367-9753/TTY 

† **August 18, 1999 - 9:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen O'Neal 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 23230-4917, telephone (804) 367-8552, FAX (804) 367-2475 or (804) 367-9753/TTY 

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD


July 27, 1999 - 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 of the Southern Area Review Committee to review Chesapeake Bay Preservation Area programs for the southern area. Persons interested in observing should call the department to verify meeting time, location and schedule. No public comments will be heard at the meeting; however, written comments are welcome.


Contact: Carolyn J. Elliott, Executive Secretary, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 371-7505, FAX (804) 225-3447 or toll-free (800) 243-7229/TTY 

August 3, 1999 - 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 of the Northern Area Review Committee to review Chesapeake Bay Preservation Area programs for the northern area. Persons interested in observing should call the department to verify meeting time, location and schedule. No public comments will be heard at the meeting; however, written comments are welcome.

Contact: Carolyn J. Elliott, Executive Secretary, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 371-7505, FAX (804) 225-3447 or toll-free (800) 243-7229/TTY 


CHILD DAY-CARE COUNCIL

August 12, 1999 - 9:30 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to discuss issues and concerns that impact child day centers, camps, school age programs, and preschool/nursery schools. Public comment will be received at noon. Please call for possible change in meeting time.

Contact: Rhonda Harrell, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1775 or FAX (804) 692-2370.


STATE CHILD FATALITY REVIEW TEAM

† **July 28, 1999 - 10 a.m.** -- Open Meeting
Office of Chief Medical Examiner, Biotech II, 400 East Jackson Street, Richmond, Virginia. 


A workshop on team building and orientation for new members appointed by the Governor.

Contact: Suzanne J. Keller, Coordinator, State Child Fatality Review Team, 400 East Jackson St., Richmond, VA 23219, telephone (804) 786-1047 or FAX (804) 371-8595.


COAL SURFACE MINING RECLAMATION FUND ADVISORY BOARD

† **July 22, 1999 - 10 a.m.** -- Open Meeting
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia.  (Interpreter for the deaf provided upon request)


A meeting to review and discuss the current status and administration of the Reclamation Fund. Public comments will not be received.


Contact: Roger L. Williams, Abandoned Mine Land Services Manager, Division of Mined Land Reclamation, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8208, FAX (804) 523-8247 or 1-800-828-1120/TTY 

STATE BOARD FOR COMMUNITY COLLEGES


July 21, 1999 - 2:30 p.m. -- Open Meeting
Virginia Community College System, James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


Meetings of the Academic and Student Affairs Committee, the Budget and Finance Committee, and the Audit Committee.

Contact: Dr. Joy S. Graham, Assistant Chancellor for Public Affairs, Virginia Community College System, James Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126, FAX (804) 371-0085, or (804) 371-8504/TTY 

July 21, 1999 - 3:30 p.m. -- Open Meeting
Virginia Community College System, James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


Meetings of the Facilities Committee and the Personnel Committee.

Contact: Dr. Joy S. Graham, Assistant Chancellor for Public Affairs, Virginia Community College System, James Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126, FAX (804) 371-0085, or (804) 371-8504/TTY 


July 22, 1999 - 9 a.m. -- Open Meeting
Virginia Community College System, James Monroe Building, 101 North 14th Street, Godwin-Hamel Board Room, 15th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting of the board.


Contact: Dr. Joy S. Graham, Assistant Chancellor for Public Affairs, Virginia Community College System, James

Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126, FAX (804) 371-0085, or (804) 371-8504/TTY 

COMPENSATION BOARD

† **July 27, 1999 - 11 a.m.** -- Open Meeting
Compensation Board, 202 North 9th Street, 10th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Monthly board meeting.

Contact: Cindy P. Waddell, Administrative Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235 or (804) 786-0786/TTY 

COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND THEIR FAMILIES


State Executive Council

July 30, 1999 - 9 a.m. -- Open Meeting
August 27, 1999 - 9 a.m. -- Open Meeting
Theater Row Building, 730 East Broad Street, Lower Level, Training Room, Richmond, Virginia.


A regular meeting. The council provides for interagency programmatic and fiscal policies, oversees the administration of funds appropriated under the Comprehensive Services Act, and advises the Governor.


Contact: Alan G. Saunders, Director, State Executive Council, 1604 Santa Rosa Road, Suite 137, Richmond, VA 23229, telephone (804) 662-9815 or FAX (804) 662-9831.

DEPARTMENT OF CONSERVATION AND RECREATION

July 20, 1999 - 8:30 a.m. -- Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A general business meeting of the Virginia Land Conservation Foundation. Public comment will be received at the conclusion of regular board business.

Contact: Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141 or (804) 786-2121/TTY 

† **July 21, 1999 - 10 a.m.** -- Open Meeting
† **August 5, 1999 - 10 a.m.** -- Open Meeting
Occoneechee State Park, 1192 Occoneechee Park Road, Office/Visitor Center, Clarksville, Virginia.  (Interpreter for the deaf provided upon request)

Calendar of Events

A meeting to discuss development of the Occoneechee State Park master plan.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899 or (804) 786-2121/TTY ☎

† **July 27, 1999 - 10 a.m.** -- Open Meeting
Monroe Building, 101 North 14th Street, Conference Rooms C, D, and E, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A facilitated workshop to discuss possible concepts and programming for a military history museum in Virginia.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899 or (804) 786-2121/TTY ☎

Fall River Renaissance Planning Committee

† **July 20, 1999 - 10 a.m.** -- Open Meeting
Pocahontas State Park, 10301 State Park Road, Chesterfield, Virginia. ♿

A meeting to plan for the upcoming Fall River Renaissance campaign.

Contact: Bonnie Phillips, Policy Analyst, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-5056 or FAX (804) 786-6141.

Falls of the James Scenic River Advisory Board

August 5, 1999 - Noon -- Open Meeting
Richmond City Hall, 900 East Broad Street, Planning Commission Conference Room, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to discuss river issues. A public comment period will follow the business meeting.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899 or (804) 786-2121/TTY ☎

Virginia State Parks Foundation

July 22, 1999 - 8:30 a.m. -- Open Meeting
Belle Isle State Park, Route 3, Box 550, Lancaster, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular business meeting and tour of Belle Isle State Park at 8:30 a.m.; a tour of Westmoreland State Park, Route 1, Montross, Virginia at noon; and a tour of Caledon Natural Area in King George, Virginia at 2 p.m. Public comments will be received at the conclusion of the business meeting.

Contact: Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141 or (804) 786-2121/TTY ☎

BOARD FOR COSMETOLOGY

July 26, 1999 - 8:30 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)

A meeting to discuss regulatory review, comments from informational proceedings, and other matters requiring board action, including disciplinary cases. All meetings are subject to cancellation and the time of the meeting is subject to change. Please call the board for possible changes. 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 interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.


DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

† **August 4, 1999 - 9:30 a.m.** -- Open Meeting
Department for the Deaf and Hard-of-Hearing, Koger Center, 1602 Rolling Hills Drive, Ratcliffe Building, 2nd Floor Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)


A regular meeting of the advisory board.


Contact: Elaine Ziehl, Executive Secretary, Department for the Deaf and Hard-of-Hearing, Ratcliffe Bldg., 1602 Rolling Hills Dr., Suite 203, Richmond, VA 23229, telephone (804) 662-9705/Voice/TTY ☎, FAX (804) 662-9502 or toll-free 1-800-552-7917/Voice/TTY ☎

BOARD OF DENTISTRY


July 23, 1999 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
Richmond, Virginia.  (Interpreter for the deaf provided upon
request)


A meeting of the Examination Committee to review
proposals for the clinical examination for dentists and
dental hygienists. Public comment will be taken at the
beginning of the meeting.

Contact: Marcia J. Miller, Executive Director, Board of
Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA
23230-1717, telephone (804) 662-9906 or (804) 662-
7197/TTY 


† **July 23, 1999 - 10 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia.  (Interpreter for the deaf
provided upon request)

A panel of the board will conduct a formal administrative
hearing. This is a public meeting; however, no public
comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of
Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA
23230-1717, telephone (804) 662-9906 or (804) 662-
7197/TTY 

July 23, 1999 - 1:30 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia.  (Interpreter for the deaf
provided upon request)

The Special Conference Committee will hear disciplinary
cases. This is a public meeting; however, no public
comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of
Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA
23230-1717, telephone (804) 662-9906 or (804) 662-
7197/TTY 

EASTERN SHORE TRIBUTARY STRATEGY TEAM


† **July 28, 1999 - 7 p.m.** -- Open Meeting
Eastern Shore Community College, Melfa, Virginia. 

Written and oral public comments will be taken
regarding the Eastern Shore Tributary Strategy. Copies
of the strategy are available for review at Northampton
and Accomack County offices.


Contact: Shawn Smith, Program Team Leader, 805 E.
Broad St., Suite 721, Richmond, VA 23219, telephone (804)
371-0609, FAX (804) 235-3447 or toll-free 1-800-243-7229.

VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP


Virginia Tourism Corporation

† **July 28, 1999 - 10 a.m.** -- Open Meeting
Virginia Economic Development Partnership, 901 East Byrd
Street, Riverfront Plaza, West Tower, 19th Floor, Board
Room, Richmond, Virginia.  (Interpreter for the deaf
provided upon request)

A meeting to continue the process of hiring the president
and CEO.

Contact: Gayle Morgan Vail, Acting President and CEO,
Virginia Tourism Corporation, 901 East Byrd St., Richmond,
VA 23219, telephone (804) 371-8175, FAX (804) 786-1919
or (804) 371-0327/TTY 

BOARD OF EDUCATION

July 22, 1999 - 9 a.m. -- Open Meeting
University of Richmond, Jepson School of Leadership, 28
Westhampton Way, Richmond, Virginia.  (Interpreter for
the deaf provided upon request)

The Board of Education and the Board of Vocational
Education will hold its regularly scheduled meeting.
Business will be conducted according to items on the
agenda. The agenda is available upon request.

Contact: Dr. Margaret Roberts, Executive Assistant for
Board Relations, Department of Education, Monroe Bldg.,
101 N. 14th St., P.O. Box 2120, Richmond, VA 23218-2120,
telephone (804) 225-2540, FAX (804) 225-2524 or toll-free 1-
800-292-3820.

BOARDS OF EDUCATION; JUVENILE JUSTICE; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; AND SOCIAL SERVICES

† **August 20, 1999 - 9 a.m.** -- Public Hearing
Koger Center, Wythe Building, 1604 Santa Rose Road,
Conference Rooms A and B, Richmond, Virginia.

September 17, 1999 - 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 Boards of Education;
Juvenile Justice; Mental Health, Mental Retardation and
Substance Abuse Services; and Social Services intend
to adopt regulations entitled: **22 VAC 42-10-10 et seq.
Standards for Interagency Regulation of Children's
Residential Facilities.** The purpose of the proposed
regulation is to ensure that a minimally acceptable level
of care, treatment and education are provided by
children's residential facilities.

Calendar of Events

Statutory Authority: §§ 16.1-309.9, 22.1-321, 22.1-323, 22.1-323.2, 37.1-182, 37.1-189.1, 63.1-25, 63.1-217, 66-10 and 66.24 of the Code of Virginia.

Contact: Charlene Vincent, Coordinator, Office of Interdepartmental Regulation, Department of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1961 or FAX (804) 692-1965.

STATE EMERGENCY SERVICES ADVISORY BOARD

† **August 20, 1999 - 1 p.m.** -- Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia. ♿

A quarterly meeting.

Contact: Irene M. Hamilton, Executive Secretary Senior, Office of Emergency Medical Services, 1538 E. Parham Rd., Richmond, VA 23228, telephone (804) 371-3500, FAX (804) 371-3543 or toll-free 1-800-523-6019.

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

† **August 5, 1999 - 1 p.m.** -- Open Meeting
Frederick County Office Building, 107 North Kent Street, Board of Supervisors' Meeting Room, Winchester, Virginia.

A continuation of Y2K preparation and information sharing. Expected speakers will be representatives from banking, transportation and grocery stores.

Contact: L. A. Miller, Fire and Rescue Chief, Winchester Fire and Rescue Department, 126 N. Cameron St., Winchester, VA 22601, telephone (540) 662-2298 or (540) 662-4131/TTY ♿

DEPARTMENT OF ENVIRONMENTAL QUALITY

July 20, 1999 - 9 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. ♿

A meeting of the Virginia Ground Water Protection Steering Committee to discuss ground water protections issues. Meeting minutes and agenda are available from Mary Ann Massie by request.

Contact: Mary Ann Massie, Environmental Program Planner, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4042 or FAX (804) 698-4032.

July 28, 1999 - 9:30 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Training Room, Richmond, Virginia.

A meeting of the Citizens Wetlands Advisory Committee to develop a wetlands strategy for the Commonwealth.

Contact: William K. Norris, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4022.

FIRE SERVICES BOARD

† **August 12, 1999 - 8:30 a.m.** -- Open Meeting
Richmond Marriott, 500 East Broad Street, Richmond, Virginia.

Committee meetings of the board to discuss fire training and policies will meet as follows:

Fire/EMS Education and Training Committee - 8:30 a.m.

Fire Prevention and Control Committee - 10 a.m.

Legislative/Liaison Committee - 1 p.m.

The meetings are open to the public for input and comments.

Contact: Troy H. Lapetina, Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

† **August 13, 1999 - 9 a.m.** -- Open Meeting
Richmond Marriott, 500 East Broad Street, Richmond, Virginia.

A business meeting to discuss fire training and policies. The meeting is open to the public for input and comments.

Contact: Troy H. Lapetina, Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

DEPARTMENT OF GAME AND INLAND FISHERIES


August 19, 1999 - 9 a.m. -- Open Meeting

August 20, 1999 - 9 a.m. -- Open Meeting

The board will consider adopting 1999-2000 hunting seasons and bag limits for migratory waterfowl (ducks and coots, geese and brant, swan, gallinules and moorhens) and falconry, based on frameworks provided by the U.S. Fish and Wildlife Service. 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. The board may also discuss general and administrative issues. The board may elect to hold a dinner Wednesday evening, August 18, at a location and time to be determined; and it may hold a closed session before the public session begins on August 19. If the board completes its entire agenda on August 19, it may not convene on August 20, the second of the scheduled two days of the meeting.


Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA , telephone (804) 367-1000 or FAX (804) 367-2311.

STATE BOARD OF HEALTH

† **July 22, 1999 - 10 a.m.** -- Open Meeting
Kenmore Plantation, 1201 Washington Avenue,
Fredericksburg, Virginia.  (Interpreter for the deaf provided
upon request)

A work session of the board.


Contact: Paul W. Matthias, Staff to the Board, Department
of Health, 1500 E. Main St., Room 227, Richmond, VA
23219, telephone (804) 371-2902 or FAX (804) 786-4616.

† **July 23, 1999 - 9 a.m.** -- Open Meeting
Wytestone Conference Center, 4615 South Point Parkway,
Fredericksburg, Virginia. 


A business meeting.


Contact: Paul W. Matthias, Staff to the Board, Department
of Health, 1500 E. Main St., Room 227, Richmond, VA
23219, telephone (804) 371-2909 or FAX (804) 786-4616.

DEPARTMENT OF HEALTH PROFESSIONS


† **July 27, 1999 - 9 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)

The Ad Hoc Committee on Independent Boards will
meet to review information and develop policy
recommendations for a study on the feasibility of
establishing an independent board of physical therapy
pursuant to HJR 504, and a study on the feasibility of
establishing an independent board of chiropractic
pursuant to SJR 433. Public comment will be received
at the beginning of the meeting.


Contact: Elaine Yeatts, Regulatory Board Administrator,
Department of Health Professions, 6606 W. Broad St., 4th
Floor, Richmond, VA 23230-1717, telephone (804) 662-
9918, FAX (804) 662-7017 or (804) 662-7197/TTY 

August 13, 1999 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 4, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)


The Intervention Program Committee will meet with its
contractor and representatives to review reports, policies
and procedures for the Health Practitioners' Intervention
Program. The committee will meet in open session for
general discussion of the program. The committee may
meet in closed executive session for the purpose of
considering specific requests from applicants to or
participants in the program.

Contact: John W. Hasty, Director, Department of Health
Professions, 6606 W. Broad St., 4th Floor, Richmond, VA
23230-1717, telephone (804) 662-9424, FAX (804) 662-9114
or (804) 662-7197/TTY 


BOARD FOR HEARING AID SPECIALISTS

August 5, 1999 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Conference Room 4
West, Richmond, Virginia.  (Interpreter for the deaf
provided upon request)

A meeting of the Apprenticeship Committee to review
the feasibility for the development of a Hearing Aid
Specialist apprenticeship program. All meetings are
subject to cancellation. Time of meeting is subject to
change. Contact the department for confirmation.
Persons desiring to participate in the meeting and
requiring special accommodations or interpreter services
should contact the department at least 10 days prior to
the meeting so that suitable arrangements can be made.
The department fully complies with the Americans with
Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director,
Department of Professional and Occupational Regulation,
3600 W. Broad St., 4th Floor, Richmond, VA 23230-4917,
telephone (804) 367-8590, FAX (804) 367-2474 or (804)
367-9753/TTY 

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **July 20, 1999 - 8 a.m.** -- Open Meeting
Old Dominion University, 5115 Hampton Boulevard, Norfolk,
Virginia.  (Interpreter for the deaf provided upon request)

Committees will meet as follows:

Planning Committee - 8 a.m.
Resources Committee - 9:45 a.m.
Outreach Committee - 11 a.m.

The council meeting will begin at 11:45 a.m. Times may
vary depending on time needed for discussion.

Contact: Pamela H. Landrum, Administrative Staff
Assistant, State Council of Higher Education, James Monroe
Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219,
telephone (804) 225-2602 or FAX (804) 371-7911.

HOPEWELL INDUSTRIAL SAFETY COUNCIL


August 3, 1999 - 9 a.m. -- Open Meeting
September 7, 1999 - 9 a.m. -- Open Meeting
Hopewell Community Center, 100 West 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.

Calendar of Events


BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

† **July 26, 1999 - 10 a.m.** -- Open Meeting
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, First Floor Board Room, Richmond, Virginia. 


A regular monthly business meeting of the board. Public comment will be received.

Contact: Stephen W. Calhoun, CPA, Senior Policy Analyst, Board of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090 or (804) 371-7089/TTY 

VIRGINIA HOUSING DEVELOPMENT AUTHORITY


July 20, 1999 - 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 the authority's various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as it may deem appropriate. Various committees of the board may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll-free 1-800-968-7837, or (804) 783-6705/TTY 

DEPARTMENT OF LABOR AND INDUSTRY


Virginia Apprenticeship Council

† **July 22, 1999 - 10 a.m.** -- Open Meeting
Confederate Hills Recreation Building, 302 Lee Avenue, Highland Springs, Virginia.  (Interpreter for the deaf provided upon request)

A special meeting of the council to approve the Optician Distant Learning Program and approve revised apprenticeship standards.

Contact: Bev Donati, Assistant Program Director, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418 or (804) 786-2376/TTY 


STATE LAND EVALUATION ADVISORY COUNCIL

August 17, 1999 - 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 9, 1999 - 10:30 a.m.** -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 


An orientation meeting for the 1999-2000 Library Board to discuss matters pertaining to The Library of Virginia and the Library Board.


Contact: Jean H. Taylor, Executive Secretary to the State Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-8000, telephone (804) 692-3535, FAX (804) 692-3594 or (804) 692-3976/TTY 

COMMISSION ON LOCAL GOVERNMENT

July 21, 1999 - 10:30 a.m. -- Open Meeting
July 22, 1999 - 9 a.m. -- Open Meeting
Prices Fork Grange Hall, 4308 Prices Fork Road, Blacksburg, Virginia.  (Interpreter for the deaf provided upon request)

Oral presentations regarding the proposed incorporation of the Prices Fork community as a town in Montgomery County. 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, Pocahontas Bldg., 900 E. Main St., Suite 103, Richmond, VA 23219-3513, telephone (804) 786-6508, FAX (804) 371-7999 or toll-free 1-800-828-1120/TTY 

July 21, 1999 - 7 p.m. -- Public Hearing
Prices Fork Grange Hall, 4308 Prices Fork Road, Blacksburg, Virginia.  (Interpreter for the deaf provided upon request)

A public hearing regarding the proposed incorporation of the Prices Fork community as a town in Montgomery County. 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, Pocahontas Bldg., 900 E. Main St., Suite 103, Richmond, VA 23219-3513, telephone (804) 786-6508, FAX (804) 371-7999 or toll-free 1-800-828-1120/TTY ☎

VIRGINIA MANUFACTURED HOUSING BOARD

† **July 27, 1999 - 1 p.m.** -- Open Meeting
The Homestead, Hot Springs, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular monthly meeting held in conjunction with the association's annual conference.

Contact: Curtis L. McIver, Associate Director, Department of Housing and Community Development, Manufactured Housing Office, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160 or (804) 371-7089/TTY ☎

MARINE RESOURCES COMMISSION

July 27, 1999 - 9:30 a.m. -- Open Meeting
August 24, 1999 - 9:30 a.m. -- Open Meeting
September 28, 1999 - 9:30 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, Room 403, Newport News, Virginia. ♿ (Interpreter for the deaf provided upon request)

The commission will hear and decide the following marine environmental matters beginning at 9:30 a.m.: permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; and policy and regulatory issues. The commission will hear and decide the following fishery management items beginning at approximately noon: regulatory proposals; fishery management plans; fishery conservation issues; licensing; and shellfish leasing. Meetings are open to the public. Testimony will be taken under oath from parties addressing agenda items on permits and licensing. Public comments will be taken on resource matters, regulatory issues and items scheduled for public hearing.

Contact: LaVerne Lewis, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (757) 247-2261, toll-free 1-800-541-4646 or (757) 247-2292/TTY ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

August 18, 1999 - 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 30-50-10 et seq., Amount, Duration, and Scope of Medical and Remedial Care Services; 12 VAC 30-60-10 et seq., Standards Established and Methods Used to Assure High Quality Care; 12 VAC 30-80-10 et seq., Methods and Standards for Establishing Payment Rates; Other Types of Care; and 12 VAC 30-130-10 et seq., Amount, Duration and Scope of Selected Services.** This regulatory action realigns the Title XIX Medicaid hospice services with those of the Title XVIII Medicare hospice services. The benefits periods will be the same across the two programs, payments for services will be based on location of service delivery and not the agency's home office address, and hospices will be permitted to contract out their physician services.

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

Public comments may be submitted until August 18, 1999, to Vivian Horn, Division of Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854.

BOARD OF MEDICINE

August 6, 1999 -- 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 amend regulations entitled: **18 VAC 85-20-10 et seq. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic and Physician Acupuncture.** The purpose of the proposed amendments is to require evidence of continuing competency in order to renew a license to practice medicine, osteopathy, podiatry, chiropractic and physician acupuncture. Amendments are also proposed to establish an inactive license, a fee to renew an inactive license, and requirements for reactivation.

Statutory Authority: §§ 54.1-2400 and 54.1-2912.1 of the Code of Virginia.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or FAX (804) 662-9943.

August 20, 1999 - 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

Calendar of Events


intends to amend regulations entitled: **18 VAC 85-101-10 et seq. Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited.** Amendments are proposed to set minimal qualifications for instructors in an educational program and to require passage of an examination for licensure as a radiologic technologist-limited. Proposed amendments also require a radiologic technologist-limited to notify the board of the anatomical area in which he practices, clarify that a person with a limited license is not qualified to perform mammography, and specify that a traineeship for an unlicensed graduate must terminate 14 days after receipt of examination results.

Statutory Authority: §§ 54.1-2400, 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., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908.

August 6, 1999 - 8 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Executive Committee will meet in open and closed session to (i) review disciplinary files requiring administrative action, (ii) adopt amendments, (iii) approve for promulgation regulations as presented, (iv) interview applicants, and (v) act on other issues that come before the board. The chairman will entertain public comments on agenda items for 15 minutes following adoption of the agenda.

Contact: Warren W. Koontz, M.D., Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TTY 

Informal Conference Committee

July 22, 1999 - 11 a.m. -- Open Meeting

August 18, 1999 - 8:30 a.m. -- Open Meeting

† **September 15, 1999 - 8:30 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

July 23, 1999 - 8:30 a.m. -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

August 5, 1999 - 9 a.m. -- Open Meeting
Sheraton Inn, 2801 Plank Road, Fredericksburg, Virginia.

August 12, 1999 - 9:30 a.m. -- Open Meeting
Days Inn, 3320 Candler's Mountain Road, Lynchburg, Virginia.


† **August 19, 1999 - 9:30 a.m.** -- Open Meeting

† **September 9, 1999 - 9:30 a.m.** -- Open Meeting

† **September 15, 1999 - 8:30 a.m.** -- Open Meeting


Roanoke Airport Marriott, 2801 Hershberger Road, Roanoke, Virginia.

A meeting to 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) 662-7332, FAX (804) 662-9517 or (804) 662-7197/TTY 

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **July 21, 1999 - Time to be announced** -- Open Meeting


† **July 22, 1999 - Time to be announced** -- Open Meeting
Southwest Virginia Training Center, Hillsville, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting. There will be a public comment period at the beginning of the meeting.

Contact: Marlene Butler, State Board Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-7945 or FAX (804) 371-2308.

VIRGINIA MILITARY INSTITUTE

† **August 28, 1999 - 8:30 a.m.** -- Open Meeting


Virginia Military Institute, Turman Room, Preston Library, Lexington, Virginia. 

A regular meeting of the Board of Visitors to elect a president, vice presidents, and a secretary. Committee reports will be received. Public comment will be received immediately after the superintendent's comments (approximately 9 a.m.)

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board of Visitors, Virginia Military Institute, Superintendent's Office, Lexington, VA 24450, telephone (540) 464-7206 or FAX (540) 464-7660.

STATE MILK COMMISSION

† **August 11, 1999 - 11 a.m.** -- Open Meeting

General Assembly Building, 9th and Broad Streets, 1st Floor, Senate Room A, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting to discuss industry issues, distributor licensing, Virginia base transfers, Virginia baseholding license amendments, regulations, fiscal matters and to review reports from staff of the Milk Commission. The

commission may consider regulatory action on 2 VAC 15-20-70, 2 VAC 15-20-80, and 2 VAC 15-20-81 following a public hearing held on the same date. The commission in making their decision will rely on the public comment submitted to the agency in regard to these amendments, the testimony and evidence submitted at the public hearing and the following documents: (i) agency notice of intended regulatory action, (ii) copy of correspondence from the Assistant Attorney General that the commission may promulgate these regulations, (iii) copies of all transmittals to the Registrar of Regulations for publication, (iv) copy of memorandum to all cooperatives concerning meeting to solicit input into amendments due to federal regulatory changes, (v) copy of memorandum to cooperatives attending meeting with copy of minutes, (vi) copy of memorandum to Virginia processors concerning meeting to solicit input into amendments due to federal regulatory changes, (vii) copy of memorandum to Virginia processors attending meeting with copy of minutes, (viii) copy of the current Regulations for the Control and Supervision of Virginia's Milk Industry, effective July 1, 1974, reprinted with amendments October 15, 1997, and (ix) copy of the Federal Milk Marketing Order Reform-New England, et al. final decision dated March 1999 issued by U.S. Department of Agriculture, Marketing and Regulatory programs, Agricultural Marketing Service Dairy programs. All of these documents are available for inspection at the offices of the State Milk Commission. Copies of all documents except item (ix) can be requested from the commission. Due to the voluminous size of that document the commission suggests that it be obtained from USDA. Persons who require accommodations in order to participate at this meeting should contact Edward C. Wilson, Jr., Deputy Administrator, at least five days prior to the meeting date so that suitable arrangements can be made.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200 N. 9th St., Suite 915, Richmond, VA 23219-3414, telephone (804) 786-2013, FAX (804) 786-3779 or (804) 786-2013/TTY ☎

† **August 11, 1999 - 1 p.m.** – Public Hearing
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.

August 10, 1999 - 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 Milk Commission intends to amend 2 VAC 15-20-70, repeal 2 VAC 15-20-80, and add 2 VAC 15-20-81 to the regulations entitled: **2 VAC 15-20-10 et seq. Regulations for the Control and Supervision of Virginia's Milk Industry.** The amendments (i) change the classification of eggnog from a Class II product to a Class I product and (ii)

modify Class I pricing components, definitions of adjacent markets, price issuance dates, formula methodology, and producer settlement dates. The changes are in response to federal changes scheduled to be implemented in the Federal Milk Marketing Order Reform Final Decision. Should the commission not promulgate these corresponding changes, competitive disadvantages would occur that would result in market disruption with adjacent markets. The amendment will become effective with the implementation of the Federal Milk Marketing Order Reform Final Decision in accordance with § 143 of the federal Agriculture Improvement and Reform Act of 1996 (Farm Bill), 7 USC § 7253.

Statutory Authority: §§ 3.1-430 and 3.1-437 of the Code of Virginia.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200 N. 9th St., Suite 915, Richmond, VA 23219-3414, telephone (804) 786-2013, FAX (804) 786-3779 or (804) 786-2013/TTY ☎

† **August 11, 1999 - 1 p.m.** – Public Hearing
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.

August 10, 1999 - 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 Milk Commission intends to amend 2 VAC 15-20-80 of the regulations entitled: **2 VAC 15-20-10 et seq. Regulations for the Control and Supervision of Virginia's Milk Industry.** The amendment changes the definition of adjacent markets. This change better aligns Southwestern Virginia's markets with the West Virginia adjacent markets for pricing purposes. The amendment will more accurately utilize West Virginia adjacent market pricing in the Virginia formula to yield producer prices in Virginia. Payment times are also changed. Virginia producer prices will better correspond to West Virginia markets adjacent to the Southwestern Virginia markets. This amendment will be repealed with the implementation of the federal Milk Marketing Order Reform in final decision implementation in accordance with § 143 of the federal Agriculture Improvement and Reform Act of 1996 (Farm Bill) 7 USC § 7253.


Statutory Authority: §§ 3.1-430 and 3.1-437 of the Code of Virginia.

Public comments may be submitted until August 10, 1999.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200 N. 9th St., Suite 915, Richmond, VA 23219-3414, telephone (804) 786-2013, FAX (804) 786-3779 or (804) 786-2013/TTY ☎

Calendar of Events

MOTOR VEHICLE DEALER BOARD


July 19, 1999 - 9 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, 7th Floor, Room 702, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Committees will meet as follows:

Transaction Recovery Fund Committee - 9 a.m.
Licensing Committee - 10 a.m.
Dealer Practices Committee - 1 p.m.
Advertising Committee - 3 p.m.

Any person who needs any accommodation in order to participate in the meeting should contact the board at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053 or toll free 1-877-270-0203.

July 20, 1999 - 9:30 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, 7th Floor, Room 702, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A meeting of the full board. Prior to the meeting the following committees will meet:

Finance Committee - 8:30 a.m. -- Room 702
Franchise Law Committee - 9 a.m. -- 7th Floor, Executive Conference Room

Any person who needs any accommodation in order to participate in the meeting should contact the board at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053 or toll free 1-877-270-0203.


VIRGINIA MUSEUM OF FINE ARTS

† **July 20, 1999 - 8 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Main Lobby Conference Room, Richmond, Virginia. 


The Executive Committee will hold a monthly briefing with the staff. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553 or FAX (804) 367-2633.


VIRGINIA MUSEUM OF NATURAL HISTORY

† **August 7, 1999 - 9 a.m.** -- Open Meeting
English Inn, 2000 Morton Drive, Charlottesville, Virginia. 


A meeting of the Board of Trustees to receive reports from the development, executive, finance, legislative, marketing, nominating, outreach, personnel, planning and facilities, and research and collections committees. Public comment will be received following approval of the minutes of the April meeting.


Contact: Rhonda J. Knighton, Executive Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8600 or (540) 666-8616, or (540) 666-8638/TTY 

BOARD OF NURSING

July 20, 1999 - 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 consider guidelines for training of public school employees in the administration of insulin and glucagon. Public comments 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) 662-9512 or (804) 662-7197/TTY 

July 20, 1999 - 1:30 p.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A public hearing on proposed regulations to replace emergency regulations on delegation.

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) 662-9512 or (804) 662-7197/TTY 

July 19, 1999 - 8:30 a.m. -- Open Meeting
July 21, 1999 - 8:30 a.m. -- Open Meeting
July 22, 1999 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A panel of the board will conduct formal hearings with licensees and certificate holders. Public comments 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) 662-9512 or (804) 662-7197/TTY 


BOARD FOR OPTICIANS

August 10, 1999 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Room 4


West, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Opticians Volunteer Network Training Project to train optician volunteers to assist in examination administration, public relations, writing and speaking assignments.


Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., 4th Floor, Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TTY 

† **August 20, 1999 - 9 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, disciplinary cases and other matters requiring board action. All meetings are subject to cancellation. Call board office at least 24 hours in advance for possible changes. 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 interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., 4th Floor, Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TTY 

BOARD OF OPTOMETRY

† **July 21, 1999 - 8:30 p.m.** -- Open Meeting
Holiday Inn Crossroads, 2000 Staples Mill Road, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

An informal conference hearing. This is a public meeting; however, public comment will not be received.

Contact: Carol Stamey, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910, FAX (804) 662-7098 or (804) 662-7197/TTY 

BOARD OF PHARMACY

July 23, 1999 -- 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 Pharmacy intends to amend regulations entitled: **18 VAC 110-20-10 et seq. Regulations Governing the Practice of Pharmacy.** The proposed amendments are in response to Chapters 470 and 490 of the 1998 Acts of Assembly

which required the board to promulgate regulations for continuation of pharmacy services and appropriate transfer of records in a pharmacy closing or acquisition. In a change of hours lasting more than one week, the Code of Virginia requires notification to consumers and to the board. The amendments establish an exemption from the notice requirement if the change is the result of an emergency situation or results in an expansion of hours. The amendments also provide for the issuance of controlled substance registration to entities, such as emergency medical services agencies, which may need to stock quantities of scheduled drugs.

Statutory Authority: §§ 54.1-2400, 54.1-3307, 54.1-3423, 54.1-3434 and 54.1-3434.01 of the Code of Virginia.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911 or FAX (804) 662-9943.


VIRGINIA RACING COMMISSION

July 21, 1999 - 9:30 a.m. -- Open Meeting
August 18, 1999 - 9:30 a.m. -- Open Meeting
Tyler Building, 1300 East Main Street, Richmond, Virginia. 


A monthly meeting of the commission including a segment for public participation.


Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, 10700 Horsemen's Rd., New Kent, VA 23124, telephone (804) 966-7404 or FAX (804) 966-7418.

REAL ESTATE BOARD

† **July 20, 1999 - 9 a.m.** -- Open Meeting
† **July 21, 1999 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to conduct informal fact finding conferences pursuant to § 9-6.14:11 of the Administrative Process Act. 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: Debbie A. Amaker, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8582, FAX (804) 367-2179 or (804) 367-9753/TTY 

† **August 12, 1999 - 8 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A general business meeting of the Education Committee. Persons desiring to participate in the meeting and requiring special accommodations or

Calendar of Events

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) 367-8526, FAX (804) 367-2475, or (804) 367-9753/TTY ☎

† **August 12, 1999 - 8 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A general business meeting of the Fair Housing Committee. 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/TTY ☎

† **August 12, 1999 - 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) 367-8526, FAX (804) 367-2475, or (804) 367-9753/TTY ☎

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† **July 27, 1999 - 10 a.m.** -- Open Meeting
Department of Business Assistance, 707 East Main Street, 3rd Floor, Main Board Room, Richmond, Virginia. ♿

A meeting of the Loan Committee to review applications for loans submitted to the authority for approval. The time will be moved to 8:30 a.m. if the VSBFA Board of Directors decides to combine meeting dates with the VSBFA Loan Committee.

Contact: Cathleen M. Surface, Executive Director, Virginia Small Business Financing Authority, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8254 or FAX (804) 225-3384.

STATE BOARD OF SOCIAL SERVICES

August 9, 1999 - 1 p.m. -- Public Hearing
Department of Social Services, 730 East Broad Street, Richmond, Virginia.

September 17, 1999 - 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 Social Services intends to amend regulations entitled: **22 VAC 40-60-10 et seq. Standards and Regulations for Licensed Adult Day Care Centers.** The purpose of the proposed amendment is to comply with Code of Virginia mandates and to reflect the current needs of participants in adult day care centers.

Statutory Authority: §§ 63.1-25 and 63.1-194.2 of the Code of Virginia.

Contact: Kathryn Thomas, Program Development Supervisor, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., 7th Floor, Richmond, VA 23219, telephone (804) 692-1793 or FAX (804) 692-2370.

* * * * *

September 17, 1999 - 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 Social Services intends to repeal regulations entitled: **22 VAC 40-710-10 et seq. Child Protective Services Client Appeals.** The Child Protective Services Client Appeals regulation is no longer necessary because its provisions are currently available to appellants through 22 VAC 40-705-10 et seq., Child Protective Services, which combines both programmatic and appeals regulations.

Statutory Authority: §§ 63.1-25 and 63.1-248.6:1 of the Code of Virginia.

Contact: Janice M. Sigler, Appeals and Fair Hearings Program Manager, Department of Social Services, 730 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 692-1832 or FAX (804) 692-1804.

* * * * *

September 17, 1999 - 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 Social Services intends to repeal regulations entitled: **22 VAC 40-820-10 et seq. Policy Regarding Purchased Services.** The purpose of the chapter being repealed was to establish uniform policies and procedures for the purchase of services within local departments of social services. The chapter is no longer needed because the local departments currently follow regulations for each

program area when purchasing services for their customers.

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

Contact: Marjorie L. Marker, Adult Services Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1262 or FAX (804) 692-2215.


DEPARTMENT OF SOCIAL SERVICES

July 27, 1999 - 9 a.m. -- Public Hearing
Department of Social Services, Theater Row Building, 730 East Broad Street, Richmond, Virginia. 

A public hearing to receive comments on the proposed use of funds for the Low Income Home Energy Assistance Program (LIHEAP) block grant.

Contact: Patricia Snead, Human Services Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1752 or FAX (804) 692-1709.


TREASURY BOARD

July 21, 1999 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Room, Richmond, Virginia. 


A regular business meeting.

Contact: Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.


BOARD FOR THE VISUALLY HANDICAPPED

July 20, 1999 - 1 p.m. -- Open Meeting
Department for the Visually Handicapped Headquarters, 397 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A meeting to receive information regarding department activities and operations, review expenditures from the board's institutional fund, and discuss other issues raised by board members.

Contact: Katherine C. Proffitt, Executive Secretary Senior, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, FAX (804) 371-3157 or (804) 371-3140/TTY 

DEPARTMENT FOR THE VISUALLY HANDICAPPED

August 4, 1999 - 10 a.m. -- Open Meeting
Virginia Rehabilitation Center for the Blind and Visually Impaired, 401 Azalea Avenue, Gymnasium, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The department was directed by the 1999 General Assembly in House Joint Resolution 571 to examine all statutory language currently in use which refers to those persons with some level of visual impairment. The department is soliciting input from consumers, organizations, state agencies, and other entities that may have an interest in or be affected by any language changes. The department will receive public comments, recommendations and suggestions. Persons not able to attend are encouraged to submit written summaries of their remarks to Susan Buckland.

Contact: Susan Buckland, Chief Deputy Commissioner, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, FAX (804) 371-3157, toll-free 1-800-662-2155 or (804) 371-3140/TTY 

VIRGINIA VOLUNTARY FORMULARY BOARD

July 30, 1999 - 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 revision to the formulary adds drugs and drug products to the formulary revision that became effective on July 27, 1998, and its most recent supplement. Copies of the proposed additions to the formulary are available for inspection at the Department of Health, Bureau of Pharmacy Services, 101 North 14th Street, Room S-45. Written comments received prior to 5 p.m. on July 30, 1999, will be made a part of the hearing record and considered by the formulary board.

Contact: James K. Thomson, Director, Bureau of Pharmacy, Virginia Voluntary Formulary Board, Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326 or FAX (804) 371-0236.

STATE WATER CONTROL BOARD


July 20, 1999 - 7 p.m. -- Public Hearing
Mountain Empire Community College, Dalton-Cantrell Hall Auditorium, Big Stone Gap, Virginia.


A public hearing to receive comments on the proposed issuance of a VPDES permit for the Watkins Glen Subdivision Wastewater Treatment Plant located in southern Wise County, approximately three miles west of Big Stone Gap.

Contact: Fred Wyatt, Department of Environmental Quality, Southwest Regional Office, 355 Deadmore St., Abingdon, VA 24212, telephone (540) 676-4810.


Calendar of Events

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **July 21, 1999 - 8:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5E, Richmond, Virginia. 


† **August 12, 1999 - 8:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 4W, Richmond, Virginia. 

A meeting to conduct regulatory review.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2475 or (804) 367-9753/TTY 

INDEPENDENT

STATE LOTTERY BOARD


† **August 4, 1999 - 9:30 a.m.** -- Open Meeting
State Lottery Department, 900 East Main Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting of the board. Public comment will be received at the beginning of the meeting. This meeting replaces the meeting originally scheduled for July 28.


Contact: Barbara L. Robertson, Board, Legislative and Regulatory Coordinator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7105 or FAX (804) 692-7775.

LEGISLATIVE


JOINT SUBCOMMITTEE ON BLOCK GRANTS

July 29, 1999 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Individuals requiring interpreter services or other accommodations should call or write Senate Committee Operations.

Contact: Thomas C. Gilman, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY 


VIRGINIA CODE COMMISSION

July 19, 1999 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A meeting to continue with the recodification of Titles 2.1 and 9.


Contact: Jane D. Chaffin, Registrar of Regulations, General Assembly Building, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625 or e-mail jchaffin@leg.state.va.us.

COMMISSION ON THE CONDITION AND FUTURE OF VIRGINIA'S CITIES (HJR 432, 1998)


September 9, 1999 - Time be announced -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Jeff Sharp or Nikki Rovner, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the Committee Operations Office at least 10 working days prior to the meeting.

Contact: Barbara Regen, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 


September 17, 1999 - 10 a.m. -- Open Meeting
Kiptopeke State Park, Eastern Shore, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be directed Shannon Varner, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact Lois Johnson at least 10 working days prior to the meeting. You can also access information on the Internet at <http://legis.state.va.us/jchc/jchchome.htm>.

Contact: Lois Johnson, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 

COMMISSION ON THE FUTURE OF VIRGINIA'S ENVIRONMENT

Vision and Plan Subcommittee

† **July 19, 1999 - 6:30 p.m.** -- Open Meeting
Reston Regional Public Library, 11925 Bowman Towne Drive, Public Meeting Room, Reston, Virginia.  (Interpreter for the deaf provided upon request)

The subcommittee will receive comments from the public on the discussion draft vision for the future of

Virginia's environment and other issues under consideration at approximately 7:30 p.m. Copies of the draft vision may be obtained by calling Shannon Varner, Nikki Rovner or Iris Kincaid of the Division of Legislative Services at (804) 786-3591. Those interested in addressing the subcommittee are encouraged to contact Lois Johnson in House Committee Operations at (804) 698-1540. Any questions regarding the agenda for the meeting should be directed to Shannon Varner, Division of Legislative Services, (804) 786-3591. For further assistance, or if you are unable to attend please call committee operations.

Contact: Lois Johnson, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

† **August 10, 1999 - 10:15 a.m.** -- Open Meeting
Omni Hotel, 235 West Main Street, Charlottesville, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting hosted by the Virginia Association of Counties as part of the Annual Virginia Local Government Officials Conference. Any questions regarding the agenda for the meeting should be directed to Shannon Varner, Division of Legislative Services, (804) 786-3591. For further assistance, or if you are unable to attend please call committee operations.

Contact: Lois Johnson, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

JOINT COMMISSION ON HEALTH CARE

July 27, 1999 - 10 a.m. -- Open Meeting

September 15, 1999 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting. Individuals requiring interpreter services or other special assistance should contact Kimberly Rockhold at least 10 working days prior to the meeting. You can also access information on the Internet at <http://legis.state.va.us/jchc/jchchome.htm>.

Contact: Kimberly Rockhold, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

Drug Switching Subcommittee (HJR 734)

August 12, 1999 - 10 a.m. -- Open Meeting

September 29, 1999 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting of the subcommittee. Individuals requiring interpreter services or other special assistance should contact Kimberly Rockhold at least 10 working

days prior to the meeting. You can also access information on the Internet at <http://legis.state.va.us/jchc/jchchome.htm>.

Contact: Kimberly Rockhold, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

Long-Term Care Subcommittee

July 27, 1999 - ½ hour after adjournment of the full joint commission meeting -- Open Meeting

August 16, 1999 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting. Individuals requiring interpreter services or other special assistance should contact Kimberly Rockhold at least 10 working days prior to the meeting. You can also access information on the Internet at <http://legis.state.va.us/jchc/jchchome.htm>.

Contact: Kimberly Rockhold, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

Midwifery Subcommittee (HJR 646)

July 19, 1999 - 10 a.m. -- Open Meeting

August 6, 1999 - 10 a.m. -- Open Meeting
September 15, 1999 - ½ hour after adjournment of the full joint commission meeting -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting. Individuals requiring interpreter services or other special assistance should contact Kimberly Rockhold at least 10 working days prior to the meeting. You can also access information on the Internet at <http://legis.state.va.us/jchc/jchchome.htm>.

Contact: Kimberly Rockhold, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

Medicaid Carve-Out Work Group

August 12, 1999 - 10 am. -- Open Meeting

September 9, 1999 - 10 a.m. -- Open Meeting

October 14, 1999 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, 7th Floor West Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Gayle Vergara or Nancy Roberts, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the committee

Calendar of Events

operations office at least 10 working days prior to the meeting.

Contact: Anne R. Howard, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

JOINT SUBCOMMITTEE STUDYING LAND DEVELOPMENT PATTERNS AND WAYS TO ADDRESS DEMANDS RESULTING FROM RESIDENTIAL GROWTH

† **August 17, 1999 - 9:30 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, 6th Floor Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting and working session. Questions regarding the meeting should be addressed to Jeff Sharp, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

Contact: Anne R. Howard, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

COMMISSION ON COORDINATION OF SERVICES TO FACILITATE SELF-SUFFICIENCY AND SUPPORT OF PERSONS WITH PHYSICAL AND SENSORY DISABILITIES

† **August 10, 1999 - 9 a.m.** -- Open Meeting
† **September 14, 1999 - 9 a.m.** -- Open Meeting
† **November 8, 1999 - 9 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Brian Parsons or Barbara Etnner, Virginia Board for People with Disabilities, (804) 786-0016. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

Contact: W. Travis Varner, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

JOINT SUBCOMMITTEE TO STUDY PRISON INDUSTRIES IN VIRGINIA

† **August 4, 1999 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Amigo Wade, Staff Attorney,

Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact Kimberly Rockhold at least 10 working days prior to the meeting.

Contact: Kimberly Rockhold, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

JOINT SUBCOMMITTEE ON STATE GOVERNMENT PROCUREMENT PROCEDURES

† **July 29, 1999 - 2 p.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Amigo Wade, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other accommodations should call or write Senate Committee Operations at least seven days prior to the meeting.

Contact: John McE. Garrett, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY ☎

CHRONOLOGICAL LIST

OPEN MEETINGS

July 19

Accountancy, Board of
Code Commission, Virginia
† Environment, Commission on the Future of Virginia's
- Vision and Plan Subcommittee
Health Care, Joint Commission on
- Midwifery Subcommittee
Motor Vehicle Dealer Board
- Advertising Committee
- Dealer Practices Committee
- Licensing Committee
- Transaction Recovery Fund Committee
Nursing, Board of

July 20

† Conservation and Recreation, Department of
- Fall River Renaissance Planning Committee
- Virginia Land Conservation Foundation
Environmental Quality, Department of
- Ground Water Protection Steering Committee
† Higher Education, State Council of
- Outreach Committee
- Planning Committee
- Resources Committee
Housing Development Authority, Virginia
- Board of Commissioners
Motor Vehicle Dealer Board
- Finance Committee
- Franchise Law Committee

† Museum of Fine Arts, Virginia
- Executive Committee
Nursing, Board of
† Real Estate Board
Visually Handicapped, Board for the

July 21

Agriculture and Consumer Services, Department of
- Virginia Winegrowers Advisory Board
Community Colleges, State Board for
- Academic and Students Affairs Committee
- Audit Committee
- Budget and Finance Committee
- Facilities Committee
- Personnel Committee
† Conservation and Recreation, Department of
Local Government, Commission on
- Prices Fork-Montgomery County
† Mental Health, Mental Retardation and Substance
Abuse Services Board, State
Nursing, Board of
† Optometry, Board of
Racing Commission, Virginia
† Real Estate Board
Treasury Board
† Waterworks and Wastewater Works Operators, Board
for

July 22

† Agriculture and Consumer Services, Department of
- Virginia Peanut Board
† Coal Surface Mining Reclamation Fund Advisory
Board
Community Colleges, State Board for
Conservation and Recreation, Department of
- Virginia State Parks Foundation
Education, Board of
† Health, State Board of
† Labor and Industry, Department of
- Virginia Apprenticeship Council
Local Government, Commission on
- Prices Fork-Montgomery County
Medicine, Board of
- Informal Conference Committee
† Mental Health, Mental Retardation and Substance
Abuse Services Board, State
Nursing, Board of

July 23

† Dentistry, Board of
- Examination Committee
- Special Conference Committee
† Health, State Board of
Medicine, Board of
- Informal Conference Committee

July 26

Alcoholic Beverage Control Board, Virginia
Barbers, Board for
Cosmetology, Board for
† Housing and Community Development, Board of

July 27

Agriculture and Consumer Services, Board of
Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
† Compensation Board
† Conservation and Recreation, Department of
Health Care, Joint Commission on
- Long-Term Care Subcommittee
† Health Professions, Board of
- Ad Hoc Committee on Independent Boards
† Manufactured Housing Board, Virginia
Marine Resources Commission
† Small Business Financing Authority, Virginia
- Loan Committee

July 28

† Child Fatality Review Team, State
† Eastern Shore Tributary Strategy Team
† Economic Development Partnership, Virginia
- Virginia Tourism Corporation
Environmental Quality, Department of
- Citizens Wetlands Advisory Committee

July 29

Agriculture and Consumer Services, Department of
- Virginia Small Grains Board
Audiology and Speech-Language Pathology, Board of
Block Grants, Joint Subcommittee on
† Procurement Procedures, Joint Subcommittee on
State Government

July 30

Comprehensive Services for At-Risk Youth and Their
Families
- State Executive Council

August 2

Branch Pilots, Board for

August 3

Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
Hopewell Industrial Safety Council

August 4

† Agriculture and Consumer Services, Department of
- Virginia Egg Board
† Deaf and Hard-of-Hearing, Virginia Department for the
† Lottery Board, State
† Prison Industries in Virginia, Joint Subcommittee to
Study
Visually Handicapped, Department for the

August 5

† Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
† Emergency Planning Committee, Local - City of
Winchester
Hearing Aid Specialists, Board for
- Apprenticeship Committee
Medicine, Board of
- Informal Conference Committee

Calendar of Events

August 6

Health Care, Joint Commission on
- Midwifery Subcommittee
Medicine, Board of
- Executive Committee

August 7

† Museum of Natural History, Virginia
- Board of Trustees

August 8

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers, and Landscape Architects,
Board for
- Interior Design Section

August 9

Alcoholic Beverage Control Board, Virginia
† Library Board

August 10

Opticians, Board for
- Opticians Volunteer Network Training Project
† Physical and Sensory Disabilities, Commission on
Coordination of Services to Facilitate Self-Sufficiency
and Support of Persons with

August 11

Alzheimer's Disease and Related Disorders Commission
Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers, and Landscape Architects,
Board for
- Architect Section
† Milk Commission, State

August 12

Child Day-Care Council
† Fire Services Board, Virginia
- Fire/EMS Education and Training Committee
- Fire Prevention and Control Committee
- Legislative/Liaison Committee
Health Care, Joint Commission on
- Drug Switching Subcommittee
Medicine, Board of
- Informal Conference Committee
Mental Health, Mental Retardation and Substance Abuse
Services, Joint Subcommittee Studying the Future
Delivery of Publicly Funded
- Medicaid Carve-Out Work Group
† Real Estate Board
- Education Committee
- Fair Housing Committee
† Waterworks and Wastewater Works Operators, Board
for

August 13

† Fire Services Board, Virginia
Health Professions, Department of
- Health Practitioner's Intervention Program

August 15

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers, and Landscape Architects,
Board for

August 16

Health Care, Joint Commission on
- Long-Term Care Subcommittee

August 17

Asbestos and Lead, Virginia Board for
† Land Development Patterns and Ways to Address
Demands Resulting from Residential Growth, Joint
Subcommittee Studying
Land Evaluation Advisory Council, State

August 18

† Agriculture and Consumer Services, Department of
- Virginia Charity Food Assistance Advisory Board
Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers, and Landscape Architects,
Board for
- Professional Engineers Section
† Cemetery Board
- Delivery Committee
Medicine, Board of
- Informal Conference Committee
Racing Commission, Virginia

August 19

† Audiology and Speech-Language Pathology, Board of
Game and Inland Fisheries, Board of
† Medicine, Board of
- Informal Conference Committee

August 20

† Emergency Services Advisory Board, State
Game and Inland Fisheries, Board of
† Opticians, Board for

August 23

Alcoholic Beverage Control Board, Virginia

August 24

Marine Resources Commission

August 25

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers, and Landscape Architects,
Board for
- Land Surveyors Section

August 27

Comprehensive Services for At-Risk Youth and Their
Families
- State Executive Council

August 28

† Military Institute, Virginia
- Board of Visitors

September 1

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers, and Landscape Architects,
Board for
- Landscape Architect Section

September 2

† Agriculture and Consumer Services, Department of
- Virginia Charity Food Assistance Advisory Board

September 7

Hopewell Industrial Safety Council

September 8

Alcoholic Beverage Control Board, Virginia
† Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers, and Landscape Architects,
Board for
- Certified Interior Designers Section

September 9

Cities, Commission on the Condition and Future of
Virginia's
† Medicine, Board of
- Informal Conference Committee
Mental Health, Mental Retardation and Substance Abuse
Services, Joint Subcommittee Studying the Future
Delivery of Publicly Funded
- Medicaid Carve-Out Work Group

September 14

Agriculture and Consumer Services, Department of
- Virginia Irish Potato Board
† Physical and Sensory Disabilities, Commission on
Coordination of Services to Facilitate Self-Sufficiency
and Support of Persons with

September 15

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers, and Landscape Architects,
Board for
Health Care, Joint Commission on
- Midwifery Subcommittee
† Medicine, Board of
- Informal Conference Committee

September 17

Environment, Commission Studying the Future of
Virginia's

September 20

Alcoholic Beverage Control Board, Virginia

September 28

Marine Resources Commission

September 29

Health Care, Joint Commission on
- Drug Switching Subcommittee

October 14

Mental Health, Mental Retardation and Substance Abuse
Services, Joint Subcommittee Studying the Future
Delivery of Publicly Funded
- Medicaid Carve-Out Work Group

November 8

† Physical and Sensory Disabilities, Commission on
Coordination of Services to Facilitate Self-Sufficiency
and Support of Persons with

PUBLIC HEARINGS**July 20**

Nursing, Board of
Water Control Board, State

July 21

Local Government, Commission on
- Prices Fork in Montgomery County

July 22

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers, and Landscape Architects,
Board for

July 27

Social Services, Department of

July 28

Audiology and Speech-Language Pathology, Board of

July 30

Voluntary Formulary Board, Virginia

August 9

† Social Services, Board of

August 11

† Milk Commission, State

August 20

† Education; Juvenile Justice; Mental Health, Mental
Retardation and Substance Abuse Services; and
Social Services, Boards of
† Social Services, Board of