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CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED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printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 2002 VAC Supplement includes final regulations published through *Virginia Register* Volume 18, Issue 11, dated February 11, 2002). 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.

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Title 2. Agriculture			
2 VAC 5-400-10	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-20	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-30	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-50	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-80	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-90	Added	18:21 VA.R. 2768	8/1/02
2 VAC 5-610-10 through 2 VAC 5-610-80	Amended	18:21 VA.R. 2768	8/1/02
Title 3. Alcoholic Beverages			
3 VAC 5-20-10	Amended	18:23 VA.R. 3094	8/28/02
3 VAC 5-20-60	Amended	18:23 VA.R. 3095	8/28/02
3 VAC 5-30-60	Amended	18:23 VA.R. 3095	8/28/02
3 VAC 5-50-170	Amended	18:23 VA.R. 3096	8/28/02
3 VAC 5-60-80	Amended	18:23 VA.R. 3096	8/28/02
3 VAC 5-70-20	Amended	18:23 VA.R. 3097	8/28/02
3 VAC 5-70-90	Amended	18:23 VA.R. 3097	8/28/02
Title 4. Conservation and Natural Resources			
4 VAC 5-35-10 through 4 VAC 5-35-50	Repealed	18:14 VA.R. 1800	4/25/02
4 VAC 5-36-10 through 4 VAC 5-36-210	Added	18:14 VA.R. 1800-1827	4/25/02
4 VAC 15-380-60 emer	Repealed	18:23 VA.R. 3102	7/1/02-6/30/03
4 VAC 15-380-120 emer	Added	18:23 VA.R. 3102	7/1/02-6/30/03
4 VAC 20-252-150	Amended	18:21 VA.R.	5/29/02-6/27/02
4 VAC 20-252-150	Amended	18:22 VA.R. 2927	6/19/02
4 VAC 20-270-30	Amended	18:14 VA.R. 1827	3/5/02
4 VAC 20-270-40	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-270-55	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-270-56	Added	18:14 VA.R. 1828	3/5/02
4 VAC 20-430-50	Amended	18:18 VA.R. 2287	5/1/02
4 VAC 20-430-60	Amended	18:18 VA.R. 2287	5/1/02
4 VAC 20-560-20	Erratum	18:14 VA.R. 1911	--
4 VAC 20-560-20 emer	Amended	18:14 VA.R. 1904	3/4/02-3/31/02
4 VAC 20-560-20	Amended	18:16 VA.R. 2054	4/1/02
4 VAC 20-560-50 emer	Amended	18:14 VA.R. 1905	3/4/02-3/31/02
4 VAC 20-560-50	Amended	18:16 VA.R. 2055	4/1/02
4 VAC 20-620-20	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-620-40	Amended	18:12 VA.R. 1646	1/31/02
4 VAC 20-620-50	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-620-50	Amended	18:21 VA.R.	6/1/02-6/30/02
4 VAC 20-620-50	Amended	18:22 VA.R. 2927	6/19/02
4 VAC 20-620-60	Amended	18:14 VA.R. 1829	3/5/02
4 VAC 20-620-60	Erratum	18:21 VA.R. 2846	--
4 VAC 20-620-60	Amended	18:21 VA.R.	6/1/02-6/30/02
4 VAC 20-620-60	Amended	18:22 VA.R. 2928	6/19/02
4 VAC 20-620-70	Amended	18:14 VA.R. 1829	3/5/02
4 VAC 20-620-70	Amended	18:21 VA.R.	6/1/02-6/30/02

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4 VAC 20-620-70	Amended	18:22 VA.R. 2928	6/19/02
4 VAC 20-670-30 emer	Amended	18:22 VA.R. 2935	6/20/02-7/20/02
4 VAC 20-720-47 emer	Added	18:12 VA.R. 1697	2/1/02-2/28/02
4 VAC 20-752-10	Amended	18:21 VA.R. 2769	6/1/02
4 VAC 20-752-20	Amended	18:21 VA.R. 2769	6/1/02
4 VAC 20-752-30	Amended	18:21 VA.R. 2769	6/1/02
4 VAC 20-910-45	Amended	18:21 VA.R. 2769	6/1/02
4 VAC 20-910-45	Erratum	18:21 VA.R. 2846	--
4 VAC 20-950-30	Amended	18:14 VA.R. 1829	3/4/02
4 VAC 20-950-40	Amended	18:14 VA.R. 1829	3/4/02
4 VAC 20-950-45	Amended	18:12 VA.R. 1647	1/31/02
4 VAC 20-950-45	Amended	18:14 VA.R. 1830	3/4/02
4 VAC 20-950-45	Amended	18:16 VA.R. 2055	4/1/02
4 VAC 50-20-30	Amended	18:14 VA.R. 1831	7/1/02
4 VAC 50-20-50	Amended	18:14 VA.R. 1832	7/1/02
4 VAC 50-20-50	Erratum	18:17 VA.R. 2183	--
4 VAC 50-20-70	Amended	18:14 VA.R. 1832	7/1/02
4 VAC 50-20-120	Amended	18:14 VA.R. 1834	7/1/02
4 VAC 50-20-220	Amended	18:14 VA.R. 1834	7/1/02
4 VAC 50-20-320	Amended	18:14 VA.R. 1835	7/1/02
Title 6. Criminal Justice and Corrections			
6 VAC 15-40-10	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-40	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-90 through 6 VAC 15-40-130	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-150	Amended	18:20 VA.R. 2584	7/17/02
6 VAC 15-40-155	Added	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-160	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-280	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-290	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-360 through 6 VAC 15-40-390	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-393	Added	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-395	Added	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-400	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-410	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-450	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-460	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-470	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-490	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-520	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-540 through 6 VAC 15-40-580	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-620	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-640 through 6 VAC 15-40-670	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-690	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-740	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-800 through 6 VAC 15-40-830	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-833	Added	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-835	Added	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-840	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-870	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-900	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-910	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-920	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-940 through 6 VAC 15-40-970	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1020	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1030	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1040	Amended	18:20 VA.R. 2583	7/17/02

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6 VAC 15-40-1070	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1080	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1100	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1110	Repealed	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1130	Repealed	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1190	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1193	Added	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-1195	Added	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-1200	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-1330	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1350	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 20-171-10	Amended	18:15 VA.R. 1955	5/10/02
6 VAC 20-171-50	Amended	18:15 VA.R. 1957	5/10/02
6 VAC 20-171-120	Amended	18:15 VA.R. 1958	5/10/02
6 VAC 20-171-200	Amended	18:15 VA.R. 1958	5/10/02
6 VAC 20-171-220	Amended	18:15 VA.R. 1959	5/10/02
6 VAC 20-171-230	Amended	18:15 VA.R. 1960	5/10/02
6 VAC 20-171-240	Amended	18:15 VA.R. 1961	5/10/02
6 VAC 20-171-250	Amended	18:15 VA.R. 1961	5/10/02
6 VAC 20-171-260	Amended	18:15 VA.R. 1962	5/10/02
6 VAC 20-171-280	Amended	18:15 VA.R. 1963	5/10/02
6 VAC 20-171-310	Amended	18:15 VA.R. 1964	5/10/02
6 VAC 20-171-320	Amended	18:15 VA.R. 1964	5/10/02
6 VAC 20-171-330	Amended	18:15 VA.R. 1965	5/10/02
6 VAC 20-171-340	Amended	18:15 VA.R. 1965	5/10/02
6 VAC 20-171-350	Amended	18:15 VA.R. 1966	5/10/02
6 VAC 20-171-350	Erratum	18:20 VA.R. 2680	--
6 VAC 20-171-445	Amended	18:15 VA.R. 1968	5/10/02
6 VAC 20-171-450	Amended	18:15 VA.R. 1968	5/10/02
6 VAC 20-171-480	Amended	18:15 VA.R. 1968	5/10/02
6 VAC 20-171-520	Amended	18:15 VA.R. 1969	5/10/02
6 VAC 20-171-530	Amended	18:15 VA.R. 1969	5/10/02
6 VAC 20-171-540	Amended	18:15 VA.R. 1969	5/10/02
Title 8. Education			
8 VAC 20-21-10	Amended	18:12 VA.R. 1648	3/28/02
8 VAC 20-21-40	Amended	18:12 VA.R. 1649	3/28/02
8 VAC 20-21-50	Amended	18:12 VA.R. 1650	3/28/02
8 VAC 20-21-90	Amended	18:12 VA.R. 1651	3/28/02
8 VAC 20-21-100	Amended	18:12 VA.R. 1651	3/28/02
8 VAC 20-21-120	Amended	18:12 VA.R. 1652	3/28/02
8 VAC 20-21-170	Amended	18:12 VA.R. 1653	3/28/02
8 VAC 20-21-590	Amended	18:12 VA.R. 1653	3/28/02
8 VAC 20-21-660	Amended	18:12 VA.R. 1655	3/28/02
8 VAC 20-21-680	Amended	18:12 VA.R. 1656	3/28/02
8 VAC 20-80-30	Amended	18:12 VA.R. 1657	3/27/02
8 VAC 20-80-40	Amended	18:12 VA.R. 1660	3/27/02
8 VAC 20-80-54	Amended	18:12 VA.R. 1661	3/27/02
8 VAC 20-80-56	Amended	18:12 VA.R. 1664	3/27/02
8 VAC 20-80-60	Amended	18:12 VA.R. 1666	3/27/02
8 VAC 20-80-66	Amended	18:12 VA.R. 1668	3/27/02
8 VAC 20-80-70	Amended	18:12 VA.R. 1671	3/27/02
8 VAC 20-80-76	Amended	18:12 VA.R. 1676	3/27/02
8 VAC 20-630-10 through 8 VAC 20-630-70	Added	18:12 VA.R. 1683-1684	3/28/02
8 VAC 40-70-10 through 8 VAC 40-70-50	Amended	18:21 VA.R. 2770-2773	7/1/02
8 VAC 40-120-10 through 8 VAC 40-120-50	Amended	18:21 VA.R. 2774-2778	7/31/02
8 VAC 40-120-55	Added	18:21 VA.R. 2778	7/31/02

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
8 VAC 40-120-60 through 8 VAC 40-120-140	Amended	18:21 VA.R. 2778-2787	7/31/02
8 VAC 40-120-190	Amended	18:21 VA.R. 2787	7/31/02
8 VAC 40-120-210 through 8 VAC 40-120-230	Amended	18:21 VA.R. 2787-2788	7/31/02
8 VAC 40-120-250	Amended	18:21 VA.R. 2788	7/31/02
8 VAC 40-120-270	Amended	18:21 VA.R. 2788	7/31/02
8 VAC 40-120-280	Amended	18:21 VA.R. 2788	7/31/02
8 VAC 40-130-10	Amended	18:21 VA.R. 2789	7/1/02
8 VAC 40-130-25	Added	18:21 VA.R. 2790	7/1/02
8 VAC 40-130-30	Amended	18:21 VA.R. 2790	7/1/02
8 VAC 40-130-50	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-70	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-90	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-100	Repealed	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-120	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-130	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-140	Repealed	18:21 VA.R. 2792	7/1/02
8 VAC 40-130-150 through 8 VAC 40-130-180	Amended	18:21 VA.R. 2792	7/1/02
8 VAC 40-130-200	Amended	18:21 VA.R. 2792	7/1/02
8 VAC 40-130-220	Amended	18:21 VA.R. 2793	7/1/02
Title 9. Environment			
9 VAC 5-10-10	Amended	18:21 VA.R. 2793	8/1/02
9 VAC 5-10-20	Amended	18:21 VA.R. 2794	8/1/02
9 VAC 5-20-180	Amended	18:21 VA.R. 2800	8/1/02
9 VAC 5-40-10	Amended	18:21 VA.R. 2802	8/1/02
9 VAC 5-40-20	Amended	18:21 VA.R. 2803	8/1/02
9 VAC 5-40-30	Amended	18:21 VA.R. 2807	8/1/02
9 VAC 5-40-40	Amended	18:21 VA.R. 2808	8/1/02
9 VAC 5-40-50	Amended	18:21 VA.R. 2809	8/1/02
9 VAC 5-40-160 through 9 VAC 5-40-230	Repealed	18:14 VA.R. 1836-1840	5/1/02
9 VAC 5-50-10	Amended	18:21 VA.R. 2810	8/1/02
9 VAC 5-50-20	Amended	18:21 VA.R. 2810	8/1/02
9 VAC 5-50-30	Amended	18:21 VA.R. 2813	8/1/02
9 VAC 5-50-40	Amended	18:21 VA.R. 2814	8/1/02
9 VAC 5-50-50	Amended	18:21 VA.R. 2815	8/1/02
9 VAC 5-50-160 through 9 VAC 5-50-230	Repealed	18:14 VA.R. 1840-1844	5/1/02
9 VAC 5-50-240	Amended	18:20 VA.R. 2586	9/1/02
9 VAC 5-50-250	Amended	18:20 VA.R. 2586	9/1/02
9 VAC 5-50-260	Amended	18:20 VA.R. 2587	9/1/02
9 VAC 5-50-320	Amended	18:20 VA.R. 2587	9/1/02
9 VAC 5-50-390	Amended	18:20 VA.R. 2587	9/1/02
9 VAC 5-60-10	Amended	18:21 VA.R. 2816	8/1/02
9 VAC 5-60-20	Amended	18:21 VA.R. 2816	8/1/02
9 VAC 5-60-30	Amended	18:21 VA.R. 2817	8/1/02
9 VAC 5-60-200 through 9 VAC 5-60-270	Added	18:14 VA.R. 1836-1840	5/1/02
9 VAC 5-60-200	Erratum	18:17 VA.R. 2183	--
9 VAC 5-60-300 through 9 VAC 5-60-370	Added	18:14 VA.R. 1840-1844	5/1/02
9 VAC 5-60-300	Erratum	18:17 VA.R. 2183	--
9 VAC 5-80-10	Repealed	18:20 VA.R. 2587	9/1/02
9 VAC 5-80-11	Repealed	18:20 VA.R. 2608	9/1/02
9 VAC 5-80-1100 through 9 VAC 5-80-1320	Added	18:20 VA.R. 2587-2612	9/1/02
9 VAC 5-80-1250	Erratum	18:23 VA.R. 3136	--
9 VAC 5-80-2000 through 9 VAC 5-80-2090	Amended	18:14 VA.R. 1845-1852	5/1/02
9 VAC 5-80-2100	Repealed	18:14 VA.R. 1852	5/1/02
9 VAC 5-80-2110	Amended	18:14 VA.R. 1852	5/1/02
9 VAC 5-80-2120	Amended	18:14 VA.R. 1852	5/1/02
9 VAC 5-80-2150	Amended	18:14 VA.R. 1853	5/1/02

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-80-2160	Repealed	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2180	Amended	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2190	Amended	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2200	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2210	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2220	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2230	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2240	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-91-20	Amended	18:20 VA.R. 2613	10/1/02
9 VAC 5-91-30	Amended	18:20 VA.R. 2619	10/1/02
9 VAC 5-91-41	Repealed	18:20 VA.R. 2621	10/1/02
9 VAC 5-91-50	Amended	18:20 VA.R. 2621	10/1/02
9 VAC 5-91-70	Amended	18:20 VA.R. 2622	10/1/02
9 VAC 5-91-120	Amended	18:20 VA.R. 2622	10/1/02
9 VAC 5-91-160 through 9 VAC 5-91-230	Amended	18:20 VA.R. 2622-2623	10/1/02
9 VAC 5-91-260	Amended	18:20 VA.R. 2623	10/1/02
9 VAC 5-91-270	Amended	18:20 VA.R. 2623	10/1/02
9 VAC 5-91-290 through 9 VAC 5-91-340	Amended	18:20 VA.R. 2623-2625	10/1/02
9 VAC 5-91-360	Amended	18:20 VA.R. 2625	10/1/02
9 VAC 5-91-370	Amended	18:20 VA.R. 2625	10/1/02
9 VAC 5-91-380	Amended	18:20 VA.R. 2626	10/1/02
9 VAC 5-91-410 through 9 VAC 5-91-450	Amended	18:20 VA.R. 2626-2636	10/1/02
9 VAC 5-91-460	Repealed	18:20 VA.R. 2636	10/1/02
9 VAC 5-91-470	Repealed	18:20 VA.R. 2636	10/1/02
9 VAC 5-91-480 through 9 VAC 5-91-620	Amended	18:20 VA.R. 2636-2639	10/1/02
9 VAC 5-91-650 through 9 VAC 5-91-720	Amended	18:20 VA.R. 2639-2641	10/1/02
9 VAC 5-91-680	Erratum	18:23 VA.R. 3136	--
9 VAC 5-91-740	Amended	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-750	Amended	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-770	Repealed	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-780	Repealed	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-790	Amended	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-800	Amended	18:20 VA.R. 2642	10/1/02
9 VAC 5-140-10 through 9 VAC 5-140-940	Added	18:20 VA.R. 2654-2657	7/1/02
9 VAC 5-140-20	Erratum	18:22 VA.R. 2953	--
9 VAC 5-140-60	Erratum	18:22 VA.R. 2953	--
9 VAC 5-140-430	Erratum	18:22 VA.R. 2953	--
9 VAC 5-140-860	Erratum	18:22 VA.R. 2953	--
9 VAC 5-140-870	Erratum	18:22 VA.R. 2953	--
9 VAC 10-20-40	Erratum	18:13 VA.R. 1763	--
9 VAC 10-20-130	Erratum	18:13 VA.R. 1764	--
9 VAC 10-20-181	Erratum	18:13 VA.R. 1764	--
9 VAC 10-20-191	Erratum	18:13 VA.R. 1764	--
9 VAC 20-60	Erratum	18:12 VA.R. 1714	--
9 VAC 20-60-1285	Amended	18:21 VA.R.	7/1/02-6/30/03
Appendix 3.1 of 9 VAC 20-90	Amended	18:21 VA.R.	7/1/02-6/30/03
9 VAC 20-120-10	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-20	Repealed	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-40 through 9 VAC 20-120-100	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-120	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-130	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-150 through 9 VAC 20-120-180	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-200 through 9 VAC 20-120-310	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-330	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-340	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-360	Amended	18:18 VA.R. 2287	6/19/02

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 20-120-370	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-380	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-390	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-410 through 9 VAC 20-120-480	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-500	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-530	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-540	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-560	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-590	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-640	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-680 through 9 VAC 20-120-760	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-770 through 9 VAC 20-120-800	Repealed	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-810	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-835	Added	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-840	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-880	Amended	18:18 VA.R. 2287	6/19/02
Appendix 10.1	Repealed	18:18 VA.R. 2287	6/19/02
Appendix 10.4	Repealed	18:18 VA.R. 2287	6/19/02
9 VAC 20-160-10 through 9 VAC 20-160-40	Amended	18:18 VA.R. 2288-2290	7/1/02
9 VAC 20-160-50	Repealed	18:18 VA.R. 2290	7/1/02
9 VAC 20-160-60 through 9 VAC 20-160-120	Amended	18:18 VA.R. 2290-2292	7/1/02
9 VAC 20-160-130	Repealed	18:18 VA.R. 2292	7/1/02
9 VAC 25-20-110	Amended	18:21 VA.R.	7/1/02-6/30/03
9 VAC 25-20-120	Amended	18:21 VA.R.	7/1/02-6/30/03
9 VAC 25-20-130	Amended	18:21 VA.R.	7/1/02-6/30/03
9 VAC 25-60	Repealed	18:20 VA.R. 2657	7/17/02
9 VAC 25-194-10	Amended	18:19 VA.R. 2452	10/15/02
9 VAC 25-194-40 through 9 VAC 25-194-70	Amended	18:19 VA.R. 2452	10/15/02
9 VAC 25-194-80	Repealed	18:19 VA.R. 2452	10/15/02
9 VAC 25-260-5	Amended	18:20 VA.R. 2658	*
9 VAC 25-260-50	Amended	17:16 VA.R. 2381	6/5/02**
9 VAC 25-260-55	Added	17:16 VA.R. 2381	6/5/02**
9 VAC 25-260-160	Amended	18:20 VA.R. 2658	*
9 VAC 25-260-170	Amended	18:20 VA.R. 2658	*
9 VAC 25-260-310	Amended	18:20 VA.R. 2659	*
9 VAC 25-260-390	Amended	18:20 VA.R. 2661	*
Title 10. Finance and Financial Institutions			
10 VAC 5-160-50	Added	18:19 VA.R. 2453	5/15/02
Title 11. Gaming			
11 VAC 10-20-260 through 11 VAC 10-20-310	Amended	18:20 VA.R. 2661-2664	5/22/02
11 VAC 10-20-330	Amended	18:20 VA.R. 2664	5/22/02
11 VAC 10-20-340	Amended	18:20 VA.R. 2671	5/22/02
11 VAC 10-100-80	Amended	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-100	Amended	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-110	Repealed	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-140	Repealed	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-150	Amended	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-150	Erratum	18:23 VA.R. 3136	--
11 VAC 10-100-151	Added	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-152	Added	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-170	Amended	18:23 VA.R. 3097	7/1/02

* 30 days after notice in the *Virginia Register* of EPA approval.

** Notice of effective date published in 18:17 VA.R. 2174

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
11 VAC 10-100-190	Amended	18:23 VA.R. 3097	7/1/02
11 VAC 10-110-10	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-20	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-40	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-60	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-80	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-90	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-150	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-180	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-20	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-40	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-50	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-80	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-90	Repealed	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-100	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-130-10	Amended	18:20 VA.R. 2672	5/22/02
11 VAC 10-130-20	Amended	18:20 VA.R. 2673	5/22/02
11 VAC 10-130-51	Amended	18:20 VA.R. 2674	5/22/02
11 VAC 10-130-52	Added	18:20 VA.R. 2674	5/22/02
11 VAC 10-130-60	Amended	18:20 VA.R. 2674	5/22/02
11 VAC 10-140-10	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-30	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-40	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-60	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-130	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-140	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-170	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-180	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-310	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-150-130	Amended	18:23 VA.R. 3099	7/1/02
11 VAC 10-150-130	Erratum	18:23 VA.R. 3136	--
11 VAC 10-150-140	Amended	18:23 VA.R. 3099	7/1/02
11 VAC 10-150-190	Added	18:23 VA.R. 3099	7/1/02
11 VAC 10-150-200	Added	18:23 VA.R. 3099	7/1/02
11 VAC 10-160-10	Amended	18:23 VA.R. 3099	7/1/02
11 VAC 10-160-20	Amended	18:23 VA.R. 3099	7/1/02
11 VAC 10-160-90	Repealed	18:23 VA.R. 3099	7/1/02
11 VAC 10-160-120 through 11 VAC 10-160-150	Amended	18:23 VA.R. 3099	7/1/02
11 VAC 10-180-10	Amended	18:19 VA.R. 2453	5/10/02
11 VAC 10-180-20	Amended	18:19 VA.R. 2454	5/10/02
11 VAC 10-180-40 through 11 VAC 10-180-90	Amended	18:19 VA.R. 2455-2462	5/10/02
11 VAC 10-180-60	Erratum	18:20 VA.R. 2681	--
Title 12. Health			
12 VAC 5-65	Repealed	18:12 VA.R. 1685	3/27/02
12 VAC 5-66-10 through 12 VAC 5-66-80	Added	18:12 VA.R. 1685-1688	3/27/02
12 VAC 5-66-10 through 12 VAC 5-66-80	Erratum	18:13 VA.R. 1764	--
12 VAC 5-120-10 through 12 VAC 5-120-90	Added	18:16 VA.R. 2057-2058	5/22/02
12 VAC 5-475-10 through 12 VAC 5-475-90	Added	18:12 VA.R. 1691	3/27/02
12 VAC 5-520-10	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-20	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-30	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-30	Erratum	18:18 VA.R. 2369	--
12 VAC 5-520-40 through 12 VAC 5-520-70	Repealed	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-80	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-90 through 12 VAC 5-520-120	Repealed	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-130 through 12 VAC 5-520-210	Added	18:15 VA.R. 1969	5/8/02

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-590-10	Amended	18:19 VA.R. 2462	7/3/02
12 VAC 5-590-370	Amended	18:19 VA.R. 2468	7/3/02
12 VAC 5-590-370	Erratum	18:22 VA.R. 2953	--
12 VAC 5-590-410	Amended	18:19 VA.R. 2474	7/3/02
12 VAC 5-590-420	Amended	18:19 VA.R. 2477	7/3/02
12 VAC 5-590-420	Erratum	18:22 VA.R. 2954	--
12 VAC 5-590-440	Amended	18:19 VA.R. 2490	7/3/02
12 VAC 5-590-500	Amended	18:19 VA.R. 2496	7/3/02
12 VAC 5-590-530	Amended	18:19 VA.R. 2496	7/3/02
12 VAC 5-590-540	Amended	18:19 VA.R. 2502	7/3/02
12 VAC 5-590-550	Amended	18:19 VA.R. 2504	7/3/02
12 VAC 5-590 Appendix B	Amended	18:19 VA.R. 2505	7/3/02
12 VAC 5-590 Appendix F	Amended	18:19 VA.R. 2506	7/3/02
12 VAC 5-615-10 through 12 VAC 5-615-470	Added	18:18 VA.R. 2293-2300	7/1/02
12 VAC 30-40-220	Amended	18:18 VA.R. 2304	7/1/02
12 VAC 30-40-280	Amended	18:18 VA.R. 2307	7/1/02
12 VAC 30-40-280	Amended	18:23 VA.R. 3099	9/1/02
12 VAC 30-40-290	Amended	18:18 VA.R. 2307	7/1/02
12 VAC 30-40-345	Amended	18:18 VA.R. 2308	7/1/02
12 VAC 30-50-190	Amended	18:18 VA.R. 2309	7/1/02
12 VAC 30-50-210	Amended	18:18 VA.R. 2310	7/1/02
12 VAC 30-60-300	Amended	18:18 VA.R. 2312	6/20/02
12 VAC 30-60-303	Added	18:18 VA.R. 2313	6/20/02
12 VAC 30-60-307	Added	18:18 VA.R. 2315	6/20/02
12 VAC 30-60-312	Added	18:18 VA.R. 2315	6/20/02
12 VAC 30-60-316	Added	18:18 VA.R. 2316	6/20/02
12 VAC 30-60-318	Added	18:18 VA.R. 2316	6/20/02
12 VAC 30-70-221 emer	Amended	18:22 VA.R. 2936	7/1/02-6/30/03
12 VAC 30-70-281 emer	Amended	18:22 VA.R. 2938	7/1/02-6/30/03
12 VAC 30-70-351 emer	Amended	18:22 VA.R. 2939	7/1/02-6/30/03
12 VAC 30-80-20	Amended	18:21 VA.R. 2818	8/1/02
12 VAC 30-80-20 emer	Amended	18:22 VA.R. 2939	7/1/02-6/30/03
12 VAC 30-80-25	Added	18:21 VA.R. 2820	8/1/02
12 VAC 30-80-40 emer	Amended	18:22 VA.R. 2941	7/1/02-6/30/03
12 VAC 30-90-10	Amended	18:18 VA.R. 2319	7/1/02
12 VAC 30-90-20	Amended	18:18 VA.R. 2320	7/1/02
12 VAC 30-90-38	Amended	18:18 VA.R. 2321	7/1/02
12 VAC 30-90-40	Amended	18:18 VA.R. 2321	7/1/02
12 VAC 30-90-41	Amended	18:18 VA.R. 2321	7/1/02
12 VAC 30-90-41.1 emer	Added	18:23 VA.R. 3103	7/1/02-6/30/03
12 VAC 30-90-60	Amended	18:18 VA.R. 2324	7/1/02
12 VAC 30-90-271	Amended	18:18 VA.R. 2324	7/1/02
12 VAC 30-90-272	Amended	18:18 VA.R. 2325	7/1/02
12 VAC 30-90-280	Amended	18:18 VA.R. 2325	7/1/02
12 VAC 30-90-300	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-301	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-302	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-303	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-304	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-305	Added	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-306	Added	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-306	Erratum	18:20 VA.R. 2681	--
12 VAC 30-90-307	Added	18:18 VA.R. 2328	7/1/02
12 VAC 30-110-720	Amended	18:21 VA.R. 2821	8/1/02
12 VAC 30-110-741	Amended	18:21 VA.R. 2823	8/1/02
12 VAC 30-110-831	Added	18:21 VA.R. 2823	8/1/02

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-120-10 emer	Amended	18:12 VA.R. 1698	2/1/02-1/31/03
12 VAC 30-120-40 emer	Amended	18:12 VA.R. 1699	2/1/02-1/31/03
12 VAC 30-120-50 emer	Amended	18:12 VA.R. 1701	2/1/02-1/31/03
12 VAC 30-120-55 emer	Added	18:12 VA.R. 1702	2/1/02-1/31/03
12 VAC 30-120-60 emer	Amended	18:12 VA.R. 1704	2/1/02-1/31/03
12 VAC 30-141-90	Erratum	18:18 VA.R. 2369	--
12 VAC 30-150-10 through 12 VAC 30-150-100	Added	18:17 VA.R. 2174	6/6/02
12 VAC 30-150	Erratum	18:18 VA.R. 2370	--
12 VAC 35-20	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-102	Repealed	18:18 VA.R. 2330	9/19/02
12 VAC 35-105-10 through 12 VAC 35-105-1410	Added	18:18 VA.R. 2331-2365	9/19/02
12 VAC 35-140	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-150	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-160	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-170	Repealed	18:18 VA.R. 2330	9/19/02
12 VAC 35-200-10	Amended	18:16 VA.R. 2059	5/22/02
12 VAC 35-200-20	Amended	18:16 VA.R. 2060	5/22/02
12 VAC 35-200-30	Amended	18:16 VA.R. 2061	5/22/02
Title 13. Housing			
13 VAC 5-51-11	Amended	18:22 VA.R. 2928	8/15/02
13 VAC 5-51-180	Amended	18:22 VA.R. 2929	8/15/02
13 VAC 5-51-181	Amended	18:22 VA.R. 2929	8/15/02
13 VAC 5-51-182	Amended	18:22 VA.R. 2930	8/15/02
Title 14. Insurance			
14 VAC 5-70-10 through 14 VAC 5-70-40	Amended	18:22 VA.R. 2931-2932	7/1/02
14 VAC 5-70-80	Amended	18:22 VA.R. 2932	7/1/02
14 VAC 5-70-130	Amended	18:22 VA.R. 2933	7/1/02
14 VAC 5-80-160 through 14 VAC 5-80-190	Repealed	18:14 VA.R. 1896	3/31/02
14 VAC 5-140-20 through 14 VAC 5-140-90	Amended	18:21 VA.R. 2824	7/1/02
14 VAC 5-390-20	Amended	18:12 VA.R. 1692	2/1/02
14 VAC 5-390-30	Amended	18:12 VA.R. 1692	2/1/02
14 VAC 5-390-40	Amended	18:12 VA.R. 1692	2/1/02
14 VAC 5-395-20	Amended	18:21 VA.R. 2825	6/3/02
14 VAC 5-395-30 through 14 VAC 5-395-60	Amended	18:21 VA.R. 2825	6/3/02
Title 18. Professional and Occupational Licensing			
18 VAC 41-20-10 through 18 VAC 41-20-280 emer	Added	18:23 VA.R. 3103-3113	7/2/02-7/1/03
18 VAC 45-10-10	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 45-10-20	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 45-10-30	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 45-10-50	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 45-10-90	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 85-20-280 emer	Amended	18:22 VA.R. 2943	6/19/02-6/18/03
18 VAC 85-20-285 emer	Added	18:22 VA.R. 2944	6/19/02-6/18/03
18 VAC 85-20-290 emer	Amended	18:22 VA.R. 2944	6/19/02-6/18/03
18 VAC 85-20-300 emer	Amended	18:22 VA.R. 2944	6/19/02-6/18/03
18 VAC 85-50-35	Added	18:21 VA.R. 2826	7/31/02
18 VAC 85-50-56	Amended	18:21 VA.R. 2826	7/31/02
18 VAC 85-50-115	Amended	18:21 VA.R. 2826	7/31/02
18 VAC 85-50-170	Repealed	18:21 VA.R. 2826	7/31/02
18 VAC 90-20-200	Amended	18:21 VA.R. 2826	7/31/02
18 VAC 90-20-210	Amended	18:21 VA.R. 2826	7/31/02
18 VAC 90-30-20	Amended	18:15 VA.R. 1970	5/8/02
18 VAC 90-30-100	Amended	18:15 VA.R. 1970	5/8/02
18 VAC 90-30-105	Added	18:15 VA.R. 1970	5/8/02
18 VAC 90-30-220	Amended	18:15 VA.R. 1970	5/8/02
18 VAC 90-40-20	Amended	18:15 VA.R. 1977	5/8/02

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 90-40-50	Amended	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-55	Added	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-60	Amended	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-130	Amended	18:15 VA.R. 1977	5/8/02
18 VAC 110-20-20	Amended	18:12 VA.R. 1693	3/27/02
18 VAC 110-20-270	Amended	18:12 VA.R. 1693	3/27/02
18 VAC 110-20-280	Amended	18:12 VA.R. 1693	3/27/02
18 VAC 110-20-285	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 110-20-430	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 125-10-10	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 125-10-20	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 125-10-30	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-40	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-60	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-70	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-80	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-100	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-30 (Forms)	Amended	18:15 VA.R. 1985	--
18 VAC 125-30-10 through 18 VAC 125-30-50	Amended	18:13 VA.R. 1753-1754	4/10/02
18 VAC 125-30-60	Repealed	18:13 VA.R. 1754	4/10/02
18 VAC 125-30-80	Amended	18:13 VA.R. 1755	4/10/02
18 VAC 125-30-90	Amended	18:13 VA.R. 1755	4/10/02
Title 20. Public Utilities and Telecommunications			
20 VAC 5-300-90	Amended	18:21 VA.R. 2832	6/7/02
20 VAC 5-312-90	Erratum	18:23 VA.R. 3136	--
20 VAC 5-423-10 through 20 VAC 5-423-90	Added	18:14 VA.R. 1899-1902	3/6/02
Title 22. Social Services			
22 VAC 15-10-10	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-30	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-40	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-50	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-60	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-70	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 40-41-10	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-20	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-40	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-50	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-55	Added	18:12 VA.R. 1696	4/1/02
22 VAC 40-690 (Forms)	Amended	18:22 VA.R. 2945	--
22 VAC 40-880-10	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-30	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-60	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-80	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-110	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-120	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-130	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-170	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-190	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-200 through 22 VAC 40-880-300	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-270	Erratum	18:17 VA.R. 2183	--
22 VAC 40-880-290	Erratum	18:17 VA.R. 2183	--
22 VAC 40-880-320	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-330	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-340	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-360	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-380	Amended	18:14 VA.R. 1903	4/24/02

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-880-385	Added	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-410	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-430	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-440	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-480 through 22 VAC 40-880-520	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-550	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-560	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-650	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-670	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-680	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-700	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-720	Added	18:14 VA.R. 1903	4/24/02
Title 24. Transportation and Motor Vehicles			
24 VAC 15-100	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-110	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-120	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-130	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-140	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-150	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-160	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-170	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-180	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-190	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-200	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-210	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 30-550-10	Amended	18:23 VA.R. 3100	7/2/02

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 1. ADMINISTRATION

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Human Resource Management intends to consider amending regulations entitled: **1 VAC 55-20. Commonwealth of Virginia Health Benefits Program.** Section 2.2-2818 B (4) of the Code of Virginia mandates the health benefits program for state employees contract with one or more impartial health entities to review adverse medical claim decisions. The purpose of this proposed action is to set standards to assure that the impartial health entity conducting the reviews has adequate credentials and expertise.

The agency does not intend to hold a public hearing on the proposed action after publication in the *Virginia Register*.

Statutory Authority: §§ 2.2-1204 and 2.2-2818 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on August 14, 2002.

Contact: Charles Reed, Associate Director, Department of Human Resource Management, 101 N. 14th St., Richmond, VA 23219, telephone (804) 786-3124, FAX (804) 371-0231 or e-mail creed@dhrm.state.va.us.

VA.R. Doc. No. R02-219; Filed June 21, 2002, 11:35 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Human Resource Management intends to consider amending regulations entitled: **1 VAC 55-20. Commonwealth of Virginia Health Benefits Program.** The purpose of the proposed action is to comply with the Code of Virginia by (i) incorporating an independent medical review program, (ii) changing the agency name from the Department of Personnel and Training to the Department of Human Resource Management, (iii) extending active coverage for surviving spouses of employees, and (iv) eliminating references to a Health Benefits Advisory Council and a Local Advisory Council. The proposed action will comply with the Health Insurance Portability and Accountability ACT (HIPAA) by amending the way coverage effective dates are set and eliminating any pre-existing condition or evidence of insurability provisions, and will also require the plan participants to make plan election changes on a prospective basis as required by the IRS. Electronic enrollment procedures will be added and the plans administrative procedures will be clarified.

The agency does not intend to hold a public hearing on the proposed action after publication in the *Virginia Register*.

Statutory Authority: §§ 2.2-1204 and 2.2-2818 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on August 14, 2002.

Contact: Charles Reed, Associate Director, Department of Human Resource Management, 101 N. 14th St., Richmond, VA 23219, telephone (804) 786-3124, FAX (804) 371-0231 or e-mail creed@dhrm.state.va.us.

VA.R. Doc. No. R02-220; Filed June 21, 2002, 11:35 a.m.

TITLE 2. AGRICULTURE

PESTICIDE CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Pesticide Control Board intends to consider amending regulations entitled: **2 VAC 20-30. Rules and Regulations Governing the Pesticide Fees Charged By the Department of Agriculture and Consumer Services Under the Virginia Pesticide Control Act.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, including amendments relating to pesticide fees charged. The agency invites comment on whether there should be an advisor.

The agency intends to hold a public hearing on the proposed action after publication in the *Virginia Register*.

Statutory Authority: §§ 3.1-249.30, 3.1-249.35, 3.1-249.36, 3.1-249.47, and 3.1-249.55 of the Code of Virginia.

Public comments may be submitted until October 14, 2002.

Contact: Marvin A. Lawson, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 401, Richmond, VA 23219, telephone (804) 371-6558, FAX (804) 371-8598, or e-mail mlawson@vdacs.state.va.us.

VA.R. Doc. No. R02-298; Filed July 23, 2002, 1:28 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Pesticide Control Board intends to consider amending regulations entitled: **2 VAC 20-40. Rules and Regulations Governing Licensing of Pesticide Businesses Operating Under Authority of the Department of Agriculture and Consumer Services Operating Under the Authority of the Virginia Pesticide Control Act.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, including making the

Notices of Intended Regulatory Action

regulation up to date and consistent with statute. The agency invites comment on whether there should be an advisor.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 3.1-249.30, 3.1-249.46, 3.1-249.49, and 3.1-249.50 of the Code of Virginia.

Public comments may be submitted until October 14, 2002.

Contact: Marvin A. Lawson, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 401, Richmond, VA 23219, telephone (804) 371-6558, FAX (804) 371-8598, or e-mail mlawson@vdacs.state.va.us.

VA.R. Doc. No. R02-299; Filed July 23, 2002, 1:28 p.m.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF MINES, MINERALS AND ENERGY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled: **4 VAC 25-10. Public Participation Guidelines.** The purpose of the proposed action is to amend the Department of Mines, Minerals and Energy's Public Participation Guidelines. This regulation states how the department, the Board of Coal Mining Examiners, the Board of Mineral Mining Examiners and the Virginia Gas and Oil Board will (i) respond to petitions for rulemaking; (ii) maintain a regulatory mailing list; (iii) notify and include interested persons in the regulatory development process; and (iv) comply with the requirements for adopting regulations under the Administrative Process Act.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 2.2-4007, 45.1-161.3, 45.1-361.15, 45.1-161.28, and 45.1-161.292:19 of the Code of Virginia.

Public comments may be submitted until September 12, 2002.

Contact: Stephen A. Walz, Regulatory Coordinator, Department of Mines, Minerals and Energy, 202 N. Ninth St., 8th Floor, Richmond, VA 23219-3402, telephone (804) 692-3211, FAX (804) 692-3237, or e-mail saw@mme.state.va.us.

VA.R. Doc. No. R02-293; Filed July 19, 2002, 3:39 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled: **4 VAC 25-20. Board of Coal Mining Examiners Certification Requirements.** The purpose of the proposed action is to amend and update the regulation to be consistent with federal requirements and current industry practices. These regulations help to ensure that there are

knowledgeable and qualified miners employed to perform specialized tasks required to mine coal in the coal mining industry. The amended subject matter will improve current instructor requirements. It will also amend miner application and examination requirements, certification requirements necessary of miners, operators and engineers in specific positions, reciprocity between states, continuing education, certification renewals, and first aid requirements of miners employed at underground and surface coal mines.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 45.1-161.28, 45.1-161.29, 45.1-161.34, and 45.1-161.35 of the Code of Virginia.

Public comments may be submitted until September 12, 2002.

Contact: Stephen A. Walz, Regulatory Coordinator, Department of Mines, Minerals and Energy, 202 N. Ninth St., 8th Floor, Richmond, VA 23219-3402, telephone (804) 692-3211, FAX (804) 692-3237 or e-mail saw@mme.state.va.us.

VA.R. Doc. No. R02-266; Filed July 18, 2002, 3:54 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled: **4 VAC 25-35. Certification Requirements for Mineral Miners.** The purpose of the proposed action is to amend and update the regulations to be consistent with federal requirements and current industry practices. These regulations help to ensure that there are knowledgeable and qualified miners employed in the mineral mining industry. The amended subject matter will improve current mineral mining application and examination requirements, certification requirements necessary of miners in specific positions, reciprocity between states, certification renewals, and first aid requirements of miners employed at underground and surface mineral mines.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until September 12, 2002.

Contact: Stephen A. Walz, Regulatory Coordinator, Department of Mines, Minerals and Energy, 202 N. Ninth St., 8th Floor, Richmond, VA 23219-3402, telephone (804) 692-3211, FAX (804) 692-3237 or e-mail saw@mme.state.va.us.

VA.R. Doc. No. R02-267; Filed July 18, 2002, 3:56 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to consider promulgating regulations entitled: **4 VAC 25-125. Regulations Governing Coal Stockpiles and Bulk Storage and Handling Facilities.** The purpose of the proposed action is to develop regulations that will serve to protect mine workers from potential health and safety hazards through the implementation of equipment use procedures and

Notices of Intended Regulatory Action

by controlling the use of heavy equipment around coal and material stockpiles and bulk storage and handling facilities located at coal mine facilities that use underlying coal feeders.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 45.1-161.3, 45.1-106, 45.1-161.107, and 45.1-254 of the Code of Virginia.

Public comments may be submitted until September 12, 2002.

Contact: Stephen A. Walz, Regulatory Coordinator, Department of Mines, Minerals and Energy, 202 N. Ninth St., 8th Floor, Richmond, VA 23219-3402, telephone (804) 692-3211, FAX (804) 692-3237, or e-mail saw@mme.state.va.us.

VA.R. Doc. No. R02-268; Filed July 18, 2002, 3:55 p.m.

TITLE 8. EDUCATION

BOARD OF EDUCATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Education intends to consider amending regulations entitled: **8 VAC 20-350. Regulations Governing the Operation of Proprietary Schools and the Issuing of Agent Permits.** The purpose of the proposed action is to amend the current regulation to remove the language dealing with proprietary schools for the disabled. New regulations specific to proprietary schools for students with disabilities will be promulgated as 8 VAC 20-670. The current action also proposes to (i) revise the regulations for proprietary schools to make them current and responsive to the needs of the schools; (ii) bring them into compliance with the Code of Virginia; and (iii) remove excess regulatory language not required in the Code of Virginia.

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

Statutory Authority: § 22.1-321 of the Code of Virginia.

Public comments may be submitted until September 2, 2002.

Contact: Robert Sine, Specialist, Proprietary School Programs, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2848, FAX (804) 225-2524 or e-mail rsine@mail.vak12ed.edu.

VA.R. Doc. No. R02-251; Filed July 8, 2002, 10:58 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Education intends to consider promulgating regulations entitled: **8 VAC 20-670. Regulations Governing the Operation of Private Day Schools for Students with Disabilities.** The purpose of the proposed action is to give clear, orderly requirements for the establishment and conduct of such schools. There have been several changes in the Code of Virginia and in applicable standards that need to be updated in the regulations. There

are inconsistencies that need to be addressed including academic standards, behavior management and the elimination of fees for such schools.

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

Statutory Authority: § 22.1-321 of the Code of Virginia.

Public comments may be submitted until September 2, 2002.

Contact: Carolyn Hodgins, Specialist, Private Day School Programs, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-4551, FAX (804) 225-2524 or e-mail chodgins@mail.vak12ed.edu.

VA.R. Doc. No. R02-252; Filed July 8, 2002, 10:58 a.m.

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled: **9 VAC 5-40. Existing Stationary Sources.** Section 111(d) of the Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to establish procedures under which states submit plans to control certain existing sources of certain pollutants. EPA implemented § 111(d) by promulgating Subpart B of 40 CFR Part 60, which establishes procedures and requirements for adoption and submittal of state plans for control of "designated pollutants" from "designated facilities." Designated pollutants are pollutants that are not included on a list published under § 108(a) of the Clean Air Act (National Ambient Air Quality Standards) or § 112(b)(1)(A) (hazardous air pollutants), but for which standards of performance for new sources have been established under § 111(b). A designated facility is an existing facility that emits a designated pollutant and that would be subject to a standard of performance for that pollutant if the existing facility were new.

Subpart B of 40 CFR Part 60 provides that EPA publish guideline documents for development of state emission standards after promulgation of any standards of performance for designated pollutants. The documents must specify emission guidelines and times for compliance and include other information such as discussion of the pollutant's effects on public health and welfare and description of control techniques and their effectiveness and costs. The emission guidelines reflect the degree of emission reduction attainable with the best adequately demonstrated systems of emission reduction, considering costs as applied to existing facilities.

After publication of a final guideline document for the pollutant in question, the states must develop and submit plans for control of that pollutant from designated facilities. After the final plan submittal date, EPA approves or disapproves each plan (or portion thereof). If a state plan (or portion thereof) is disapproved, EPA promulgates a federal plan (or portion thereof). These and related provisions of Subpart B are

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basically patterned after § 110 of the Clean Air Act and 40 CFR Part 51 (concerning adoption and submittal of state implementation plans under § 110).

Because failure to develop an adequate regulation will result in imposition of a federal program, meeting the basic requirements of the law and its associated regulations will ensure that Virginia retains its rights to govern Virginia sources and result in the efficient and economical performance of an important governmental function.

Control of designated pollutant controls is important for two reasons. First, only a limited number of air pollutants potentially harmful to human health are regulated at the federal level. Second, health risks from small exposures to designated air pollutants can be high, depending on the substances involved. The primary components of municipal solid waste landfill (MSWL) emissions are nonmethane organic compounds (NMOC), which include volatile organic compounds (VOCs), hazardous air pollutants, and odorous compounds, and methane, both of which are capable of causing serious adverse health and welfare effects.

Regulating MSWL emissions for new sources under § 111(b) of the Act (NSPSS) establishes MSWL emissions as a designated pollutant, and requires EPA to promulgate guidelines for states to use in developing regulations to control pollutants from existing MSWLs. The specific emissions guidelines for existing MSWLs (that commenced construction, reconstruction or modification before May 30, 1991) have been promulgated in subpart Cc of Part 60 of the Code of Federal Regulations. State regulations must be no less stringent than the guidelines.

On January 7, 1999, the State Air Pollution Control Board approved a final regulation implementing the requirements of subpart Cc, which was then submitted to EPA on August 11, 2000, as part of the state's § 111(d) plan. EPA notified the state on February 7, 2001, that the plan is not approvable due to a number of deficiencies, including several associated with the regulation. Therefore, it is necessary to initiate a new regulatory action in order to amend the regulation in such a way as to address deficiencies identified by EPA.

Potential Issues:

1. Revise the regulation in order to meet deficiencies identified by EPA in their review of the state § 111(d) plan.
2. Revise the regulation in order to address any subsequent requirements that may be promulgated by EPA during the regulatory development process.

Alternatives: Alternatives to the proposed regulation amendments are being considered by the department. The department has tentatively determined that the first alternative is appropriate, as it is the least burdensome and least intrusive alternative that fully meets the purpose of the regulatory action. The alternatives being considered by the department, along with the reasoning by which the department has rejected any of the alternatives being considered, are discussed below.

1. Amend the regulations to satisfy the provisions of the law and associated regulations and policies. This option is being selected because it meets the stated purpose of the

regulatory action: to comply with the requirements of the federal Clean Air Act.

2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option is not being selected because it will not ensure consistency with federal requirements.

3. Take no action to amend the regulations. This option is not being selected because it will result in the imposition of a federal program.

Public Participation: The department is soliciting comments on (i) the intended regulatory action, to include ideas to assist the department in the development of the proposal, (ii) the impacts of the proposed regulation on farm and forest lands, and (iii) the costs and benefits of the alternatives stated in this notice or other alternatives. All comments must be received by the department by 4:30 p.m. on the first business day after public meeting (see information below) in order to be considered. It is preferred that all comments be provided in writing to the department, along with any supporting documents or exhibits. However, oral comments will be accepted at the meeting. Comments may be submitted by mail, facsimile transmission, e-mail, or by personal appearance at the meeting, but must be submitted to Karen G. Sabastanski, Policy Analyst, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240 (e-mail: kgsabastea@deq.state.va.us) (fax number: 804-698-4510). Comments by facsimile transmission will be accepted only if followed by receipt of the signed original within one week. Comments by e-mail will be accepted only if the name, address and phone number of the commenter are included. All testimony, exhibits and documents received are a matter of public record. Only comments (i) related to the potential issues, alternatives, and costs and benefits (see supporting information below) as specified in this notice and (ii) provided in accordance with the procedures specified in this notice will be given consideration in the development of the proposed regulation amendments.

A public meeting will be held on September 11, 2002, at 9 a.m., at the Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, to receive comments on and to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Ad Hoc Advisory Group: The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. The primary function of any group, committee or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue must be submitted to the agency contact in writing by 4:30 p.m. the last day of the comment period.

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Statutory Authority: § 10.1-1308 of the Code of Virginia and §§ 110, 111, 123, 129, 171, 172 and 182 of the Clean Air Act, 40 CFR Parts 51 and 60.

Public comments may be submitted until September 11, 2002.

Contact: Karen G. Sabasteanski, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, or e-mail kgsabastea@deq.state.va.us.

VA.R. Doc. No. R02-294; Filed July 22, 2002, 2:28 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled: **9 VAC 5-40. Existing Stationary Sources**. The purpose of the proposed action is to achieve the necessary VOC emissions reductions to stay within the budget limit in order to safeguard federal approval of transportation projects in Northern Virginia.

Among the primary goals of the federal Clean Air Act are the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) and the prevention of significant deterioration (PSD) of air quality in areas cleaner than required by the NAAQS.

The NAAQS, developed and promulgated by the U.S. Environmental Protection Agency (EPA), establish the maximum limits of pollutants that are permitted in the outside ambient air. EPA requires that each state submit a plan (called a State Implementation Plan or SIP), including any laws and regulations necessary to enforce the plan, that shows how the air pollution concentrations will be reduced to levels at or below these standards (attainment). Once the pollution levels are within the standards, the SIP must also demonstrate how the state will maintain the air pollution concentrations at the reduced levels (maintenance).

A SIP is the key to the state's air quality programs. The Clean Air Act is specific concerning the elements required for an acceptable SIP. If a state does not prepare such a plan, or EPA does not approve a submitted plan, then EPA itself is empowered to take the necessary actions to attain and maintain the air quality standards—that is, it would have to promulgate and implement an air quality plan for that state. EPA is also, by law, required to impose sanctions in cases where there is no approved plan or the plan is not being implemented, the sanctions consisting of loss of federal funds for highways and other projects and/or more restrictive requirements for new industry. Generally, the plan is revised, as needed, based upon changes in the federal Clean Air Act and its requirements.

The basic approach to developing a SIP is to examine air quality across the state, delineate areas where air quality needs improvement, determine the degree of improvement necessary, inventory the sources contributing to the problem, develop a control strategy to reduce emissions from contributing sources enough to bring about attainment of the air quality standards, implement the strategy, and take the steps necessary to ensure that the air quality standards are not violated in the future.

The heart of the SIP is the control strategy. The control strategy describes the emission reduction measures to be used by the state to attain and maintain the air quality standards. There are three basic types of measures: stationary source control measures, mobile source control measures, and transportation source control measures. Stationary source control measures are directed at limiting emissions primarily from commercial/industrial facilities and operations and include the following: emission limits, control technology requirements, preconstruction permit programs for new industry and expansions, and source-specific control requirements. Stationary source control measures also include area source control measures that are directed at small businesses and consumer activities. Mobile source control measures are directed at tailpipe and other emissions primarily from motor vehicles and include the following: Federal Motor Vehicle Emission Standards, fuel volatility limits, reformulated gasoline, emissions control system anti-tampering programs, and inspection and maintenance programs. Transportation source control measures limit the location and use of motor vehicles and include the following: carpools, special bus lanes, rapid transit systems, commuter park and ride lots, bicycle lanes, signal system improvements, and many others.

Federal guidance on states' approaches to the inclusion of control measures in the SIP has varied considerably over the years, ranging from very general in the early years of the Clean Air Act to very specific in more recent years. Many regulatory requirements were adopted in the 1970s when no detailed guidance existed. The legally binding federal mandate for these regulations is general, not specific, consisting of the Clean Air Act's broad-based directive to states to attain and maintain the air quality standards. However, in recent years, the Clean Air Act, along with EPA regulations and policy, has become much more specific, thereby removing much of the states' discretion to craft their own air quality control programs.

Generally, a SIP is revised as needed, based upon changes in air quality or statutory requirements. For the most part the SIP has worked, and the standards have been attained for most pollutants in most areas. However, attainment of NAAQS for one pollutant--ozone--has proven problematic. While ozone is needed at the earth's outer atmospheric layer to shield out harmful rays from the sun, excess concentrations at the surface have an adverse effect on human health and welfare. Ozone is formed by a chemical reaction between volatile organic compounds (VOCs), nitrogen oxides (NO_x), and sunlight. When VOC and NO_x emissions from mobile sources and stationary sources are reduced, ozone is reduced.

Congress enacted the 1977 Amendments to the Clean Air Act in order to address unsuccessful SIPs and areas that had not attained the NAAQS (that is, nonattainment areas). Although SIP revisions submitted pursuant to the requirements of the 1977 amendments did achieve some progress in eliminating nonattainment areas, some areas remained.

In 1990 Congress once again enacted comprehensive amendments to the Act to address SIP requirements for nonattainment areas. The new Act established a process for evaluating the air quality in each region and identifying and

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classifying each nonattainment area according to the severity of its air pollution problem. Nonattainment areas are classified as marginal, moderate, serious, severe and extreme. Marginal areas are subject to the least stringent requirements and each subsequent classification (or class) is subject to successively more stringent control measures. Areas in a higher classification of nonattainment must meet the mandates of the lower classifications plus the more stringent requirements of their class. In addition to the general SIP-related sanctions, nonattainment areas have their own unique sanctions. If a particular area fails to attain the federal standard by the legislatively mandated attainment date, EPA is required to reassign it to the next higher classification level (denoting a worse air quality problem), thus subjecting the area to more stringent air pollution control requirements. The Clean Air Act includes specific provisions requiring these sanctions to be issued by EPA if so warranted.

The new Act required EPA, based on the air quality data from each state, to propose geographic boundaries and pollution classification levels for all nonattainment areas to each state's governor. If states disagreed with EPA's proposals, they had the opportunity to propose different boundaries; however, EPA had the authority to make the final decision.

The process provided in the new Act yielded three nonattainment areas for Virginia. The classifications for Virginia's nonattainment areas were marginal for the Hampton Roads Nonattainment Area, moderate for the Richmond Nonattainment Area, and serious for the Northern Virginia Nonattainment Area. Since that time, air quality has improved. Although Northern Virginia remains a nonattainment area, Richmond and Hampton Roads have achieved the one-hour ozone standard and are now considered maintenance areas-- that is, specific strategies that were implemented must continue. However, no additional new requirements are necessary provided the areas do not measure ozone concentrations in levels high enough to reclassify them into nonattainment.

Once the nonattainment areas were defined, each state was then obligated to submit a SIP demonstrating how it would attain the air quality standards in each nonattainment area. First, the new Act requires that certain specific control measures and other requirements be adopted and included in the SIP; a list of those that necessitated the adoption of state regulations is provided below. In addition, the state had to demonstrate that it would achieve a VOC emission reduction of 15%. Finally, the SIP had to include an attainment demonstration by photochemical modeling (including annual emission reductions of 3% from 1996 to 1999) in addition to the 15% emission reduction demonstration. In cases where the specific control measures shown below were inadequate to achieve the emission reductions or attain the air quality standard, the state was obligated to adopt other control measures as necessary to achieve this end.

ALL AREAS

1. Correct existing VOC regulatory program (controls on certain sources identified in EPA control technology guidelines)

2. Requirement for annual statements of emissions from industries
3. Permit program for new industry and expansions (with variable major source definition, variable offset ratio for addition of new pollution, and special requirements for expansions to existing industry in serious areas)
4. Procedures to determine if systems level highway plans and other federally financed projects are in conformity with air quality plans

MODERATE AND ABOVE AREAS

1. Requirement for controls for all major (100 tons per year) VOC sources
2. Requirement for vapor recovery controls for emissions from filling vehicles with gasoline (stage II)
3. Requirement for controls for all major (100 tons per year) NO_x sources
4. Case-by-case control technology determinations for all major VOC and NO_x sources not covered by an EPA control technology guideline

SERIOUS AND ABOVE AREAS

1. Requirement for controls for all major (50 tons per year) VOC sources
2. Requirement for controls for all major (50 tons per year) NO_x sources
3. Enhanced monitoring (source emissions) program
4. Correct existing motor vehicle emissions inspection and maintenance (I&M) program
5. Enhanced motor vehicle emissions I&M program
6. Clean fuel fleet vehicle program
7. Oxygenated fuels program

Virginia has submitted for federal approval a plan for the Northern Virginia area (classified Serious) that meets all the requirements for the Serious and Above areas. The plan includes an emissions budget that allows transportation conformity determinations to be made through 2005. Transportation conformity is a Clean Air Act requirements to ensure that federally supported highway and transit activities are consistent with ("conform to") the SIP. Conformity to a DIP means that a transportation activity will not cause or contribute to new air pollution violations, worsen existing violations, or delay timely attainment of federal air quality standards.

Virginia's transportation conformity regulation (9 VAC 5 Chapter 150) requires MPOs and DOT to make conformity determinations on metropolitan transportation plans and transportation improvement programs (TIPs) before they are adopted, approved, or accepted. In addition, highway or transit projects which are funded or approved by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA) must be found to conform before they are approved or funded by DOT or an MPO.

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The federal transportation conformity rule (40 CFR part 93) requires that conformity analyses be based on the latest motor vehicle emissions model approved by EPA. In January 2002, EPA released a major revision of this model. This model, MOBILE, is used to calculate current and future inventories of motor vehicle emissions at the national and local level. Inventories based on MOBILE are also used to meet the federal Clean Air Act's state implementation plan (SIP) and transportation conformity requirements. The revised model, MOBILE6, is based on new and improved data as well as an updated understanding of vehicle emissions processes. EPA strongly encourages areas to use the interagency consultation process to examine how MOBILE6 will affect future transportation conformity determinations so that SIPs and motor vehicle emissions budgets can be revised as necessary prior to the end of the MOBILE6 conformity grace period (January 29, 2004).

For the Northern Virginia area, the interagency group in charge of recommending emissions levels for EPA approval is the Metropolitan Washington Air Quality Committee (MWAQC), formed by the governors of Virginia and Maryland and the mayor of Washington, D.C. At the January 23, 2002, meeting of MWAQC, it was decided to proceed with revising the regional SIPs to incorporate the latest mobile emissions estimates using MOBILE6. The effect of this action will be to project Virginia's mobile emissions above the current budget limits. In order to ensure that Northern Virginia stays in attainment and that Virginia can continue to make conformity determinations, MWAQC also decided to revise the emissions budgets.

Potential Issues: The regulations to be developed will apply to several source categories: (i) mobile equipment repair and refinishing; (ii) solvent cleaning; (iii) portable fuel container spillage control, (iv) consumer products; (v) architectural and industrial maintenance coatings; and (vi) additional NOx sources (industrial boilers, stationary combustion turbines, stationary reciprocating engines, emergency generators, load shaving units, cement kilns).

Alternatives: Alternatives to the proposed amendments are being considered by the department. The department has tentatively determined that the first alternative is appropriate, as it is the least burdensome and least intrusive alternative that fully meets the purpose of the regulatory action. The alternatives being considered by the department, along with the reasoning by which the department has rejected any of the alternatives being considered, are discussed below.

1. Amend the regulations to satisfy the provisions of the law and associated regulations and policies. This option is being selected because it meets the stated purpose of the regulatory action: to achieve the necessary VOC emissions reductions to stay within the budget limit in order to safeguard federal approval of transportation projects in Northern Virginia.

2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option is not being selected because it does not meet the stated purpose of the regulatory action.

3. Take no action to amend the regulations. This option is not being selected because failure to act will result in federal sanctions, including disapproval of transportation projects in the Northern Virginia area.

Public Participation: The department is soliciting comments on (i) the intended regulatory action, to include ideas to assist the department in the development of the proposal, (ii) the impacts of the proposed regulation on farm and forest lands, and (iii) the costs and benefits of the alternatives stated in this notice or other alternatives. All comments must be received by the department by 4:30 p.m. on the first business day after public meeting (see information below) in order to be considered. It is preferred that all comments be provided in writing to the department, along with any supporting documents or exhibits; however, oral comments will be accepted at the meeting. Comments may be submitted by mail, facsimile transmission, e-mail, or by personal appearance at the meeting, but must be submitted to Dr. Kathleen Sands, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia, 23240 (e-mail: krsands@deq.state.va.us) (fax number: 804-698-4510). Comments by facsimile transmission will be accepted only if followed by receipt of the signed original within one week. Comments by e-mail will be accepted only if the name, address and phone number of the commenter are included. All testimony, exhibits and documents received are a matter of public record. Only comments (i) related to the potential issues, alternatives, and costs and benefits (see supporting information below) as specified in this notice and (ii) provided in accordance with the procedures specified in this notice will be given consideration in the development of the proposed regulation amendments.

A public meeting will be held on September 11, 2002, at 9 a.m., at the Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, to receive comments on and to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Ad Hoc Advisory Group: The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. The primary function of any group, committee or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue must be submitted to the agency contact in writing by 4:30 p.m. the last day of the comment period.

Statutory Authority: § 10.1-1308 of the Code of Virginia and §§ 110, 111, 123, 129, 171, 172 and 182 of the Clean Air Act, 40 CFR Parts 51 and 60.

Public comments may be submitted until September 11, 2002.

Contact: Kathleen R. Sands, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone

(804) 698-4413, FAX (804) 698-4510, or e-mail krsands@deq.state.va.us.

VA.R. Doc. No. R02-295; Filed July 22, 2002, 2:28 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to consider promulgating regulations entitled: **9 VAC 5-230. Regulation for On-Road Heavy-Duty Diesel Engines.** The purpose of the proposed action is to establish testing and certification procedures for manufacturers of on-road heavy-duty diesel engines sold in Virginia. This action is being taken pursuant to Virginia's gubernatorial commitment to the other states of the Ozone Transport Commission for the Northeast United States.

Need: Among the primary goals of the federal Clean Air Act are the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) and the prevention of significant deterioration (PSD) of air quality in areas cleaner than the NAAQS.

The NAAQS, developed and promulgated by the U.S. Environmental Protection Agency (EPA), establish the maximum limits of pollutants that are permitted in the outside ambient air. EPA requires that each state submit a plan (called a State Implementation Plan or SIP), including any laws and regulations necessary to enforce the plan, that shows how the air pollution concentrations will be reduced to levels at or below these standards (attainment). Once the pollution levels are within the standards, the SIP must also demonstrate how the state will maintain the air pollution concentrations at the reduced levels (maintenance).

A SIP is the key to the state's air quality programs. The Clean Air Act is specific concerning the elements required for an acceptable SIP. If a state does not prepare such a plan, or EPA does not approve a submitted plan, then EPA itself is empowered to take the necessary actions to attain and maintain the air quality standards--that is, it would have to promulgate and implement an air quality plan for that state. EPA is also, by law, required to impose sanctions in cases where there is no approved plan or the plan is not being implemented, the sanctions consisting of loss of federal funds for highways and other projects and/or more restrictive requirements for new industry. Generally, the plan is revised, as needed, based upon changes in the federal Clean Air Act and its requirements.

The basic approach to developing a SIP is to examine air quality across the state, delineate areas where air quality needs improvement, determine the degree of improvement necessary, inventory the sources contributing to the problem, develop a control strategy to reduce emissions from contributing sources enough to bring about attainment of the air quality standards, implement the strategy, and take the steps necessary to ensure that the air quality standards are not violated in the future.

The heart of the SIP is the control strategy. The control strategy describes the emission reduction measures to be used by the state to attain and maintain the air quality standards. There are three basic types of measures:

stationary source control measures, mobile source control measures, and transportation source control measures. Stationary source control measures are directed at limiting emissions primarily from commercial/industrial facilities and operations and include the following: emission limits, control technology requirements, preconstruction permit programs for new industry and expansions, and source-specific control requirements. Stationary source control measures also include area source control measures which are directed at small businesses and consumer activities. Mobile source control measures are directed at tailpipe and other emissions primarily from motor vehicles and include the following: Federal Motor Vehicle Emission Standards, fuel volatility limits, reformulated gasoline, emissions control system anti-tampering programs, and inspection and maintenance programs. Transportation source control measures limit the location and use of motor vehicles and include the following: carpools, special bus lanes, rapid transit systems, commuter park and ride lots, bicycle lanes, signal system improvements, and many others.

Generally, a SIP is revised, as needed, based upon changes in air quality or statutory requirements. For the most part the SIP has worked, and the standards have been attained for most pollutants in most areas. However, attainment of NAAQS for one pollutant--ozone--has proven problematic. While ozone is needed at the earth's outer atmospheric layer to shield out harmful rays from the sun, excess concentrations at the surface have an adverse effect on human health and welfare. Ozone is formed by a chemical reaction between volatile organic compounds (VOCs), nitrogen oxides (NOX), and sunlight. When VOC and NOX emissions from mobile sources and stationary sources are reduced, ozone is reduced.

Congress enacted the 1977 Amendments to the Clean Air Act in order to address unsuccessful SIPs and areas that had not attained the NAAQS (that is, nonattainment areas). Although SIP revisions submitted pursuant to the requirements of the 1977 amendments did achieve some progress in eliminating nonattainment areas, some areas remained.

In 1990 Congress once again enacted comprehensive amendments to the Act to address SIP requirements for nonattainment areas. The new Act established a process for evaluating the air quality in each region and identifying and classifying each nonattainment area according to the severity of its air pollution problem. Nonattainment areas are classified as marginal, moderate, serious, severe and extreme. Marginal areas are subject to the least stringent requirements and each subsequent classification (or class) is subject to successively more stringent control measures. Areas in a higher classification of nonattainment must meet the mandates of the lower classifications plus the more stringent requirements of their class. In addition to the general SIP-related sanctions, nonattainment areas have their own unique sanctions. If a particular area fails to attain the federal standard by the legislatively mandated attainment date, EPA is required to reassign it to the next higher classification level (denoting a worse air quality problem), thus subjecting the area to more stringent air pollution control requirements. The Clean Air Act includes specific provisions requiring these sanctions to be issued by EPA if so warranted.

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The new Act required EPA, based on the air quality data from each state, to propose geographic boundaries and pollution classification levels for all nonattainment areas to each state's governor. If states disagreed with EPA's proposals, they had the opportunity to propose different boundaries; however, EPA had the authority to make the final decision.

The process provided in the new Act yielded three nonattainment areas for Virginia. The classifications for Virginia's nonattainment areas were marginal for the Hampton Roads Nonattainment Area, moderate for the Richmond Nonattainment Area, and serious for the Northern Virginia Nonattainment Area. Since that time, air quality has improved. Although Northern Virginia remains as a nonattainment area, Richmond and Hampton Roads have achieved the one-hour ozone standard and are now considered maintenance areas—that is, specific strategies that were implemented must continue; however, no additional new requirements are necessary provided the areas do not measure ozone concentrations in levels high enough to reclassify them into nonattainment.

Once the nonattainment areas were defined, each state was then obligated to submit a SIP demonstrating how it will attain the air quality standards in each nonattainment area. First, the new Act requires that certain specific control measures and other requirements be adopted and included in the SIP. In addition, the state had to demonstrate that it would achieve a VOC emission reduction of 15%. Finally, the SIP had to include an attainment demonstration by photochemical modeling (including annual emission reductions of 3% from 1996 to 1999) in addition to the 15% emission reduction demonstration. In cases where the specific control measures were inadequate to achieve the emission reductions or attain the air quality standard, the state was obligated to adopt other control measures as necessary to achieve this end. The attainment demonstration was based on the assumption that on-road heavy-duty diesel engines would meet the federal standards.

Federal guidance on states' approaches to the inclusion of control measures in the SIP has varied considerably over the years, ranging from very general in the early years of the Clean Air Act to very specific in more recent years. Many regulatory requirements were adopted in the 1970s when no detailed guidance existed. In recent years, the Clean Air Act, along with EPA regulations and policy, has become much more specific, thereby removing much of the states' discretion to craft their own air quality control programs. However, the legally binding federal mandate for this regulation is general, not specific, consisting of the Clean Air Act's broad-based directive to states to attain and maintain the air quality standards.

In the 1990s, seven large manufacturers of heavy-duty diesel engines (HDDEs) violated federal certification regulations by turning off, or defeating, emissions control equipment during in-use highway driving. To address this violation, the Department of Justice, the EPA, and the California Air Resources Board (CARB) signed consent decrees with the seven engine manufacturers. In the consent decrees, the settling manufacturers are required, among other things, to produce HDDEs that comply with prescribed emission

standards that are lower than those currently required by CARB and EPA regulations, as measured by the Federal Test Procedure (FTP), no later than October 1, 2002. (These standards are about 50% cleaner than those for currently available engines). In addition, because it was found that the FTP was not adequate to ensure that exhaust emissions were controlled during all in-use driving, it was agreed that compliance with supplemental test procedures would be necessary. Thus, the majority of the settling manufacturers agreed to produce engines by October 1, 2002, that would meet supplemental test procedures including the Not-To-Exceed (NTE) test and the EURO III European Stationary Cycle (ESC) test. The consent decrees state that these requirements must be met for a period of two years. Together with the FTP test, the supplemental test procedures will require control of emissions during the majority of real world operating conditions, ensuring that in the future defeat devices will no longer be employed. The consent decrees would cover about 80% of engines manufactured for sale in the United States.

Recognizing the effectiveness of the supplemental tests, on October 29, 1999, the EPA published a Notice of Proposed Rulemaking (64 FR 58472) proposing to adopt similar supplemental test procedures for 2004 and subsequent model year HDDEs. However, because of statutory federal timing constraints, the NTE and ESC test procedures will not be required until the 2007 model year for federally-certified HDDEs (65 FR 59896, October 6, 2000). Therefore, once the consent decree requirements expire in 2004, the settling manufacturers will not be obligated to comply with the supplemental test procedures for model years 2005 or 2006. Not until the 2007 model year, when the federal rule comes into effect, will HDDE manufacturers be required to comply with the supplemental test procedures, federally.

In order to assure continued compliance during model years 2005 and 2006 by the settling manufacturers and to begin compliance by all other manufacturers with model year 2005, California adopted rules on December 8, 2000, to include the NTE and ESC tests in the required California certification process for 2005 and subsequent model year HDDEs. California's supplemental test procedures parallel those in the consent decrees and the EPA's Final Rule for 2007 and subsequent model year HDDEs, but differ by adding options for flexibility and by exempting "ultra-small volume manufacturers" and "urban buses" until the 2007 model year in order to allow additional lead time for compliance. (Urban buses are already subject to more stringent standards for model years 2002 through 2007 in California.) Thus California's rulemaking closes the two-year gap, for vehicles sold in that state, between the termination of the consent decrees and the effective date of the new federal standards, during which time engine manufacturers would only have been required to satisfy the FTP test procedure currently required under the EPA's regulations. By adopting California's NTE standards, Virginia, like California, would address the regulatory temporal gap for heavy-duty diesel engines sold in its jurisdiction between the end date for standards established by the consent decrees discussed above (in effect until 2004) and the start date of the EPA's new heavy-duty diesel engine standards (not in effect until model year 2007).

Virginia's failure to adopt the limits could result in an additional 2216 tons of NO_x for 2005 and 4296 tons for 2006. When the models that predict ozone formation were run to make the attainment demonstration for the Northern Virginia area, these emissions were unaccounted for since it was assumed the engines in question would be meeting the NTE limits. If the limits are not adopted and defeat devices are used, these emissions would have to be added to the estimates originally used in the planning process, thus increasing the amount of NO_x emission reductions Virginia would need in order to make the attainment demonstration. These emission reductions would have to come from other sources of NO_x, including industrial sources.

The proposed regulatory action is essential to protect the health, safety, and welfare of Virginia's citizens. NO_x reductions of the magnitude described above will play an important role not only in ameliorating ambient levels of ground-level ozone, but in addressing various other serious air quality and environmental problems, as well. States that adopt the California NTE and ESC test procedures will also experience such important environmental benefits as the following:

(1) Reduced particulate matter levels. NO_x in the atmosphere is transformed into substances known as nitrates. These nitrates take the form of dangerous fine particulate matter, which is breathed deep into the lungs. By decreasing NO_x emissions, the formation of these harmful fine particles is reduced. Therefore, adopting the California requirements will reduce ambient levels of particulate matter.

(2) Reduced acid rain. Through complex atmospheric chemical reactions, some of the NO_x emitted by mobile sources is transformed into nitric acid and nitrates. Precipitation causes these harmful substances to wash out of the atmosphere and be deposited on the land and in water bodies. The nitric acid lowers pH levels in lakes and streams and turns many of these water bodies into dead zones. It also damages forests and crops, as well as man-made objects, such as buildings and statues. Lowering NO_x emissions by opting in to the California requirements will reduce these impacts.

(3) Reduced eutrophication. Excess NO_x in the atmosphere provides too much nitrogen to lakes, streams, and larger water bodies. This overabundance of nitrogen promotes a proliferation of aquatic plant life (especially algae) in a process known as eutrophication that reduces the dissolved oxygen content of the water, thereby killing other aquatic life. Airborne emissions of NO_x are responsible for much of the eutrophication in the Chesapeake Bay and other important water bodies. Decreased NO_x emissions through adoption of the California NTE and ESC test procedures will reduce these harmful effects.

States across the nation have joined Virginia and the other states of the Ozone Transport Commission in committing to adopt the standards promulgated by California, bringing the total of committed states to about 15 at this time. Once a sufficient number of states have adopted these standards to reach a critical level of new engines that must meet these

standards, the NTE standards are expected to become de facto national in character, since engine manufacturers will almost certainly find it less economical to produce two different engines. This should result in an even greater emission reduction benefit to states such as Virginia, which play host to many heavy-duty diesel vehicles purchased and registered in other states.

Potential Issues: The primary issue to be addressed during regulatory development will be deciding which of three options would best accomplish the purpose of the regulatory action. These three options differ from each other in complexity and projected completion time. Option 1 would require that vehicles equipped with heavy-duty diesel engines for model years 2005 and 2006 (or 2005 and beyond) be certified by the California Air Resources Board (CARB) before being registered, imported, sold, leased, or purchased in Virginia. Option 2 would explicitly incorporate by reference the CARB requirements (both existing requirements and future amendments) into the Virginia Administrative Code. Option 3, which would be more complex and time-consuming than either Option 1 or Option 2, would necessitate Virginia's development of laws, regulatory language, and test procedures equivalent in stringency (and perhaps other aspects) to the California rules.

Regardless of which regulatory approach is chosen, cost should not be a major issue. Based on the EPA's calculations for the new federal standards, the California Air Resources Board (CARB) projects the average manufacturer's cost of compliance with its rules to be less than \$800 per engine, resulting in a lifetime reduction of 2.41 tons of NO_x, at a cost of \$0.17 per pound.

Alternatives: Alternatives to the proposed regulation amendments are being considered by the department. The department has tentatively determined that the first alternative is appropriate, as it is the least burdensome and least intrusive alternative that fully meets the purpose of the regulatory action. The alternatives being considered by the department, along with the reasoning by which the department has rejected any of the alternatives being considered, are discussed below.

1. Amend the regulations to ensure that adequate reductions are achieved from on-road heavy-duty diesel engines in order to meet the requirements of Virginia's attainment demonstration.
2. Make alternative regulatory changes to those suggested by the provisions of the law and associated regulations and policies. This option is not being selected because such alternatives would require Virginia to achieve the necessary emissions reductions from industrial sources, a process that would be more expensive, difficult, burdensome, and time-consuming than establishing the subject test procedures for on-road heavy-duty diesel engines.
3. Take no action to amend the regulations. This option is not being selected because Virginia's failure to achieve emissions reductions sufficient to make the required attainment demonstration would result in sanctions being levied by the federal government.

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Public Participation: The department is soliciting comments on (i) the intended regulatory action, to include ideas to assist the department in the development of the proposal, (ii) the impacts of the proposed regulation on farm and forest lands, and (iii) the costs and benefits of the alternatives stated in this notice or other alternatives. All comments must be received by the department by 4:30 p.m. on the first business day after public meeting (see information below) in order to be considered. It is preferred that all comments be provided in writing to the department, along with any supporting documents or exhibits; however, oral comments will be accepted at the meeting. Comments may be submitted by mail, facsimile transmission, e-mail, or by personal appearance at the meeting, but must be submitted to Dr. Kathleen Sands, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240 (e-mail: krsands@deq.state.va.us) (fax number: 804-698-4510). Comments by facsimile transmission will be accepted only if followed by receipt of the signed original within one week. Comments by e-mail will be accepted only if the name, address and phone number of the commenter are included. All testimony, exhibits and documents received are a matter of public record. Only comments (i) related to the potential issues, alternatives, and costs and benefits (see supporting information below) as specified in this notice and (ii) provided in accordance with the procedures specified in this notice will be given consideration in the development of the proposed regulation amendments.

A public meeting will be held on September 11, 2002, at 9 a.m., at the Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, to receive comments on and to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Ad Hoc Advisory Group: The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. The primary function of any group, committee or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue must be submitted to the agency contact in writing by 4:30 p.m. the last day of the comment period.

Statutory Authority: § 10.1-1308 of the Code of Virginia and §§ 110, 111, 123, 129, 171, 172 and 182 of the Clean Air Act, 40 CFR Parts 51 and 60.

Public comments may be submitted until September 11, 2002.

Contact: Kathleen R. Sands, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, FAX (804) 698-4510, or e-mail krsands@deq.state.va.us.

VA.R. Doc. No. R02-296; Filed July 22, 2002, 2:28 p.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-40. Eligibility Conditions and Requirements.** The purpose of the proposed action is to simplify Medicaid eligibility requirements for counting income for aged, blind, and disabled individuals and by conforming methods for counting certain resources of Qualified Medicare Beneficiaries (QMBs), Specified Low-Income Medicare Beneficiaries (SLMBs) and Qualified Individuals (Qis) with the methods for counting the resources of other Medicaid aged, blind, and disabled recipients. Current Medicaid policy requires that the value of in-kind support and maintenance be counted as income in determining the financial eligibility of individuals under the Aged, Blind, or Disabled Categorically Needy and Medically Needy groups. This regulatory change would eliminate the difficulty in and subjective nature of determining the fair market value of in-kind support and maintenance for all aged, blind, and disabled covered groups with the exception of the special income level group for institutionalized individuals, simplifying and more accurately assessing the financial eligibility criteria for such groups. In addition, the methods for counting specific types of real and personal property differ depending on the covered group for which the aged, blind, or disabled individual qualifies. This regulatory action proposes to remove this disparity. Also, the regulatory amendments will clarify exemptions for the former home of an institutionalized recipient, household goods and personal effects, and cemetery plots. Additionally, the regulations will clarify that financial eligibility can be met anytime during a month if resources are within the applicable limits on any day in such month.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until September 11, 2002.

Contact: Patricia Sykes, Manager, Policy Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23239, telephone (804) 786-7958, FAX (804) 786-1680 or e-mail psykes@dmass.state.va.us.

VA.R. Doc. No. R02-262; Filed July 11, 2002, 12:02 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-70. Methods and Standards for Establishing Payment Rates; Inpatient Hospital Services, and 12 VAC 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care.** The purpose of this regulatory

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action is to retain the Medicare methodology for reimbursing for outpatient hospital services in effect prior to August 1, 2000. This methodology provided for a 10% reduction in capital costs and a 5.8% reduction in operating costs. This action will also provide appropriate reimbursement for direct graduate medical education costs to those hospitals that operate such programs.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until August 28, 2002, to Peterson Epps, Manager, Division of Reimbursement and Cost Settlement, 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 23239, telephone (804) 786-7959, FAX (804) 786-1680 or e-mail vsimmons@dmas.state.va.us.

VA.R. Doc. No. R02-229; Filed June 26, 2002, 2:46 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care.** The purpose of this action is to revise the estimated acquisition cost used by the agency (the Average Wholesale Price) to discount it by 10.25% and to redefine the Virginia Maximum Allowable Cost. Both of these changes respond to legislative mandates contained in the appropriation act.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia; Chapter 899 of the 2002 Acts of Assembly.

Public comments may be submitted until August 28, 2002, to Marianne Rollings, R.Ph., Division of Program Operators, 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 23239, telephone (804) 786-7959, FAX (804) 786-1680 or e-mail vsimmons@dmas.state.va.us.

VA.R. Doc. No. R02-230; Filed June 26, 2002, 2:48 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-90. Methods and Standards for Establishing Payment Rates; Long-Term Care.** The purpose of this action is to revise the formula used to reimburse nursing facilities for indirect costs.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until August 28, 2002.

Contact: William Reid, Financial and Auditing Services Practitioner III, 600 E. Broad St., Suite 500, Richmond, VA 23219, telephone (804) 786-5379, FAX (804) 786-0729 or e-mail breid@dmas.state.va.us.

VA.R. Doc. No. R02-236; Filed July 1, 2002, 4:21 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider promulgating regulations entitled: **12 VAC 30-135. Demonstration Waivers.** The purpose of this regulatory action is to provide family planning (only) services for 24 months post-delivery for women who were Medicaid eligible for their prenatal care and deliveries. Currently, DMAS is permitted by federal law to only extend Medicaid eligibility (for all covered services) for only 60 days postpartum for these women.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until August 14, 2002.

Contact: Deborah Sprang, Analyst, Policy Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-2364, FAX (804) 786-1680 or e-mail dsprang@dmas.state.va.us.

VA.R. Doc. No. R02-216; Filed June 18, 2002, 2:22 p.m.

TITLE 16. LABOR AND EMPLOYMENT

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Safety and Health Codes Board intends to consider promulgating regulations entitled: **16 VAC 25-145. Safety Standards for Fall Protection in Steel Erection, Construction Industry.** The purpose of the proposed action is to establish in regulation the current VOSH administrative policy regarding fall protection for steel erection workers from falls at or above 10 feet.

The agency intends to hold a public hearing on the proposed regulation after publication in the Virginia Register.

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

Public comments may be submitted until September 12, 2002.

Notices of Intended Regulatory Action

Contact: Regina P. Cobb, Agency Management Analyst Senior, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-0610, FAX (804) 786-8418 or e-mail rlc@doli.state.va.us.

VA.R. Doc. No. R02-257; Filed July 11, 2002, 2:39 p.m.

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TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR GEOLOGY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Professional and Occupational Regulation intends to consider amending regulations entitled: **18 VAC 70-20. Rules and Regulations for the Virginia Board for Geology.** The purpose of the proposed action is to make clarifying changes, review renewal and reinstatement requirements and review fees.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 54.1-201 and 54.1-1402 of the Code of Virginia

Public comments may be submitted until September 11, 2002.

Contact: Karen W. O'Neal, Deputy Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, or e-mail oneal@dpor.state.va.us.

VA.R. Doc. No. R02-265; Filed July 18, 2002, 11:46 a.m.

DEPARTMENT OF HEALTH PROFESSIONS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Health Professions intends to consider adopting regulations entitled: **18 VAC 76-20. Regulations Governing the Prescription Monitoring Program.** The purpose of the proposed action is to promulgate regulations for implementation of the prescription monitoring program as mandated in Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 of the Code of Virginia. The proposed regulatory action will establish rules for granting waivers of the reporting requirements and additional exemptions for dispensing of covered substances, for reporting of additional nonclinical information, and for setting the format and schedule for reporting. Rules are also necessary for the director's disclosure of reported information to ensure that confidentiality is maintained and that any disclosure is in accordance with the restrictions set forth in law.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until August 14, 2002.

Contact: Robert Nebiker, Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9919, FAX (804) 662-9114 or e-mail robert.nebiker@dhp.state.va.us.

VA.R. Doc. No. R02-226; Filed June 26, 2002, 9:26 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Health Professions intends to consider adopting regulations entitled: **18 VAC 76-30. Regulations Governing the Public Participation Guidelines.** The purpose of the proposed action is to promulgate regulations to establish public participation guidelines in accordance with the Administrative Process Act.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 2.2-4007 of the Code of Virginia.

Public comments may be submitted until September 11, 2002.

Contact: Robert Nebiker, Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9919, FAX (804) 662-9114 or e-mail robert.nebiker@dhp.state.va.us.

VA.R. Doc. No. R02-261; Filed July 11, 2002, 3:38 p.m.

BOARD OF DENTISTRY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Health Professions intends to consider amending regulations entitled: **18 VAC 60-20. Virginia Board of Dentistry Regulations.** The purpose of the proposed action is to amend regulations for an out-of-state practitioner to be licensed to volunteer services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world. The regulations will set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute. The proposed amendments will also expand the use of temporary permits to allow eligible graduates to serve as clinicians in public and charitable dental clinics. The board is replacing emergency regulations currently in effect.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until September 11, 2002.

Contact: Sandra Reen, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906, FAX (804) 662-9943, or e-mail sandra.reen@dhp.state.va.us.

VA.R. Doc. No. R02-281; Filed July 19, 2002, 10:46 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Health Professions intends to consider amending regulations entitled: **18 VAC 60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene.** The purpose of the proposed action is to amend regulations to implement provisions of Chapter 170 of the 2002 Acts of Assembly, permitting certain practices of a dental hygienist to be performed under general supervision. The enactment clause requires the board to adopt regulations within 280 days, which authorizes the adoption of emergency regulations, and it is the board's intent to replace those regulations with permanent regulations.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until September 11, 2002.

Contact: Sandra Reen, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906, FAX (804) 662-9943, or e-mail sandra.reen@dhp.state.va.us.

VA.R. Doc. No. R02-279; Filed July 19, 2002, 10:46 a.m.

BOARD OF MEDICINE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic.** The purpose of the proposed action is to promulgate regulations for an out-of-state practitioner to be licensed to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world. The regulations will set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 54.1-2400 and 54.1-2901 of the Code of Virginia.

Public comments may be submitted until September 11, 2002.

Contact: Dr. William Harp, Executive Director, Board of Medicine, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9512 or e-mail william.harp@dhp.state.va.us.

VA.R. Doc. No. R02-282; Filed July 19, 2002, 10:45 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-20.**

Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic. The purpose of the proposed action is to amend the regulations to comply with a statutory mandate in § 54.1-2910.1 of the Code of Virginia as amended by Chapter 38 of the 2002 Session of the General Assembly. The statute requires changes to the practitioner profile system for doctors of medicine, osteopathy and podiatry to include the addition of telephone numbers, e-mail and fax for dissemination of emergency information and information on felony convictions. The amended regulations would replace emergency regulations required by the second enactment clause of the bill.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m., August 14, 2002.

Contact: Dr. William Harp, Executive Director, Board of Medicine, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or e-mail william.harp@dhp.state.va.us.

VA.R. Doc. No. R02-215; Filed June 19, 2002, 2:20 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-40. Regulations Governing the Practice of Respiratory Care.** The purpose of the proposed action is to promulgate regulations for an out-of-state practitioner to be licensed to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world. The regulations will set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 54.1-2400 and 54.1-2901 of the Code of Virginia.

Public comments may be submitted until September 11, 2002.

Contact: Dr. William Harp, Executive Director, Board of Medicine, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9512 or e-mail william.harp@dhp.state.va.us.

VA.R. Doc. No. R02-283; Filed July 19, 2002, 10:45 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-50. Regulations Governing the Practice of Physician Assistants.** The purpose of the proposed action is to promulgate regulations for an out-of-state practitioner to be licensed to volunteer his services to a nonprofit organization

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that has no paid employees and offers health care to underprivileged populations throughout the world. The regulations will set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute. The board also intends to amend the regulations to implement provisions related to the supervision of a physician assistant and the protocol between the assistant and the physician. In accordance with the statute, the regulations provide for continuous supervision but do not require the physical presence of the physician. Enactment clauses in both chapters required the board to adopt emergency regulations, and it is the board's intent to replace those regulations with permanent regulations.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until September 11, 2002.

Contact: Dr. William Harp, Executive Director, Board of Medicine, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9512 or e-mail william.harp@dhp.state.va.us.

VA.R. Doc. No. R02-284; Filed July 19, 2002, 10:45 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-80. Regulations Governing the Practice of Occupational Therapy.** The purpose of the proposed action is to amend the regulations for an out-of-state practitioner to be licensed to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world. The regulations will set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 54.1-2400 and 54.1-2901 of the Code of Virginia.

Public comments may be submitted until September 11, 2002.

Contact: Dr. William Harp, Executive Director, Board of Medicine, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9512 or e-mail william.harp@dhp.state.va.us.

VA.R. Doc. No. R02-285; Filed July 19, 2002, 10:46 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-101. Regulations Governing the Practice of Radiologic Technology.** The purpose of the proposed action is to amend the regulations for an out-of-state practitioner to be licensed to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged

populations throughout the world. The regulations will set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 54.1-2400 and 54.1-2901 of the Code of Virginia.

Public comments may be submitted until September 11, 2002.

Contact: Dr. William Harp, Executive Director, Board of Medicine, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9512 or e-mail william.harp@dhp.state.va.us.

VA.R. Doc. No. R02-286; Filed July 19, 2002, 10:46 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-110. Regulations Governing the Practice of Licensed Acupuncturists.** The purpose of the proposed action is to amend the regulations for an out-of-state practitioner to be licensed to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world. The regulations will set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 54.1-2400 and 54.1-2901 of the Code of Virginia.

Public comments may be submitted until September 11, 2002.

Contact: Dr. William Harp, Executive Director, Board of Medicine, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9512 or e-mail william.harp@dhp.state.va.us.

VA.R. Doc. No. R02-287; Filed July 19, 2002, 10:46 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-120. Regulations Governing the Certification of Athletic Trainers.** The purpose of the proposed action is to amend the regulations for an out-of-state practitioner to be licensed to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world. The regulations will set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 54.1-2400 and 54.1-2901 of the Code of Virginia.

Notices of Intended Regulatory Action

Public comments may be submitted until September 11, 2002.

Contact: Dr. William Harp, Executive Director, Board of Medicine, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9512 or e-mail william.harp@dhp.state.va.us.

VA.R. Doc. No. R02-288; Filed July 19, 2002, 10:46 a.m.

BOARD OF NURSING

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to consider amending regulations entitled: **18 VAC 90-20. Regulations Governing the Practice of Nursing.** The purpose of the proposed action is to amend the regulations for an out-of-state practitioner to be licensed to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world. The regulations will set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until September 11, 2002.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or e-mail nancy.durrett@dhp.state.va.us.

VA.R. Doc. No. R02-289; Filed July 19, 2002, 10:45 a.m.

BOARD OF OPTOMETRY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Optometry intends to consider amending regulations entitled: **18 VAC 105-20. Regulations Governing the Practice of Optometry.** The purpose of the proposed action is to amend the regulations for an out-of-state practitioner to be licensed to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world. The regulations will set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 54.1-2400 and 54.1-3202 of the Code of Virginia.

Public comments may be submitted until September 11, 2002.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 6606 W. Broad St., Richmond, VA 23230-1717,

telephone (804) 662-9910, FAX (804) 662-7098 or e-mail elizabeth.carter@dhp.state.va.us.

VA.R. Doc. No. R02-290; Filed July 19, 2002, 10:46 a.m.

BOARD OF PHARMACY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to consider amending regulations entitled: **18 VAC 110-20. Regulations Governing the Practice of Pharmacy.** The purpose of the proposed action is to facilitate current pharmacy practice by providing more appropriate methods of practice and eliminating unnecessary barriers to best care and efficiencies in practice. The amendments implement the changes in requirements for pharmacy practice to allow chart orders for hospice or home infusion, to permit different methods of keeping dispensing records and to allow for delivery of prescription drugs to alternative sites. The amendments will also expand the availability of drugs to indigent patients by allowing a nursing home to donate unused drugs or a physician to dispense donated drugs provided basis requirements for security, storage, labeling and recordkeeping have been observed to protect the safety, integrity and efficacy of the drugs.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until September 11, 2002.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9911, FAX (804) 662-9943 or e-mail scottl.russell@dhp.state.va.us.

VA.R. Doc. No. R02-280; Filed July 19, 2002, 10:46 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to consider amending regulations entitled: **18 VAC 110-20. Regulations Governing the Practice of Pharmacy.** The purpose of the proposed action is to amend the regulations for an out-of-state practitioner to be licensed to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world. The regulations will set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 54.1-2400 and 54.1-3301 of the Code of Virginia.

Public comments may be submitted until September 11, 2002.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., Richmond, VA 23230-1717,

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telephone (804) 662-9911, FAX (804) 662-9943 or e-mail scotti.russell@dhp.state.va.us.

VA.R. Doc. No. R02-291; Filed July 19, 2002, 10:46 a.m.

BOARD OF COUNSELING

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Counseling intends to consider amending regulations entitled: **18 VAC 115-20. Regulations Governing the Practice of Counseling.** The purpose of the proposed action is to develop continuing competency requirements for licensure renewal of professional counselors, marriage and family therapists, and licensed substance abuse treatment practitioners.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until September 11, 2002.

Contact: Ben Foster, Deputy Executive Director, Board of Counseling, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9575, FAX (804) 662-7250 or e-mail ben.foster@dhp.state.va.us.

VA.R. Doc. No. R02-259; Filed July 11, 2002, 3:38 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Counseling intends to consider amending regulations entitled: **18 VAC 115-50. Regulations Governing the Practice of Marriage and Family Therapy.** The purpose of the proposed action is to develop continuing competency requirements for licensure renewal of professional counselors, marriage and family therapists, and licensed substance abuse treatment practitioners.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until September 11, 2002.

Contact: Ben Foster, Deputy Executive Director, Board of Counseling, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9575, FAX (804) 662-7250 or e-mail ben.foster@dhp.state.va.us.

VA.R. Doc. No. R02-260; Filed July 11, 2002, 3:38 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Counseling intends to consider amending regulations entitled: **18 VAC 115-60. Regulations Governing the Practice of Licensed Substance Abuse Treatment Professionals.** The purpose of the proposed action is to develop continuing competency requirements for licensure renewal of professional counselors,

marriage and family therapists, and licensed substance abuse treatment practitioners.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until September 11, 2002.

Contact: Ben Foster, Deputy Executive Director, Board of Counseling, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9575, FAX (804) 662-7250 or e-mail ben.foster@dhp.state.va.us.

VA.R. Doc. No. R02-258; Filed July 11, 2002, 3:38 p.m.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLAND PROFESSIONALS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Professional Soil Scientists and Wetland Professionals intends to consider promulgating regulations entitled: **18 VAC 145-30. Wetland Delineators Certification Regulations.** The purpose of the proposed action is to promulgate regulations to implement a regulatory program for wetland professionals in accordance with Chapter 784 of the 2002 Acts of Assembly.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until September 12, 2002.

Contact: Karen W. O'Neal, Deputy Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, or e-mail oneal@dpor.state.va.us.

VA.R. Doc. No. R02-264; Filed July 18, 2002, 11:46 a.m.

BOARD OF VETERINARY MEDICINE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Veterinary Medicine intends to consider amending regulations entitled: **18 VAC 150-20. Regulations Governing the Practice of Veterinary Medicine.** The purpose of the proposed action is to amend the regulations for an out-of-state practitioner to be licensed to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world. The regulations will set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 54.1-2400 and 54.1-3801 of the Code of Virginia.

Notices of Intended Regulatory Action

Public comments may be submitted until September 11, 2002.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9915, FAX (804) 662-7098 or e-mail elizabeth.carter@dhp.state.va.us.

VA.R. Doc. No. R02-292; Filed July 19, 2002, 10:46 a.m.

TITLE 22. SOCIAL SERVICES

DEPARTMENT OF REHABILITATIVE SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Rehabilitative Services intends to consider amending regulations entitled: **22 VAC 30-20. Provision of Vocational Rehabilitation Services.** The purpose of the proposed action is to allow the department to enter into an Order of Selection to provide services to eligible individuals in an efficient and economical manner. This will allow for an Order of Selection to be implemented in the event that the full range of vocational rehabilitation services cannot be provided to all persons determined to be eligible because of unavailable resources.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 51.5-14 of the Code of Virginia.

Public comments may be submitted until September 12, 2002, to Elizabeth E. Smith, Department of Rehabilitative Services, 8004 Franklin Farms Drive, P.O. Box K300, Richmond, VA 23288-0300, telephone (804) 662-7612, FAX (804) 662-7696 or toll-free 1-800-552-5019.

VA.R. Doc. No. R02-297; Filed July 22, 2002, 3:33 p.m.

STATE BOARD OF SOCIAL SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled: **22 VAC 40-250. Agency Placement Adoptions - AREVA.** The purpose of the proposed action is to make the criteria of children to be registered with AREVA consistent with that for adoption assistance eligibility. Amendments are also necessary to delete obsolete language, and include reference to the automated, web-based adoption exchange.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until August 14, 2002.

Contact: Karin S. Clark, Adoption Program Consultant, Department of Social Services, 730 E. Broad St., Richmond,

VA 23219, telephone (804) 692-1251, FAX (804) 692-1284 or e-mail kac900@email1.dss.state.va.us.

VA.R. Doc. No. R02-223; Filed June 25, 2002, 12:04 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled: **22 VAC 40-260. Agency Placement Adoptions - Subsidy.** The purpose of the proposed action is to revise the special needs eligibility criteria for adoption assistance. Amendments are also necessary to delete obsolete language and improve overall clarity.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 63.1-25 and 63.1-238.5 of the Code of Virginia.

Public comments may be submitted until August 14, 2002.

Contact: Karin S. Clark, Adoption Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1251, FAX (804) 692-1284 or e-mail kac900@email1.dss.state.va.us.

VA.R. Doc. No. R02-224; Filed June 25, 2002, 12:04 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider repealing regulations entitled: **22 VAC 40-270. Agency Placement Adoptions - Appeals.** The purpose of the proposed action is to repeal this regulation which addresses appeal rights of adoptive parents and applicants. Appeal provisions will be incorporated into another regulation, 22 VAC 40-260, Agency Placement Adoptions - Subsidy, which is also currently under review and recommended for amendments.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 63.1-25 and 63.1-238.5 of the Code of Virginia.

Public comments may be submitted until August 14, 2002.

Contact: Karin S. Clark, Adoption Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1251, FAX (804) 692-1284 or e-mail kac900@email1.dss.state.va.us.

VA.R. Doc. No. R02-225; Filed June 25, 2002, 12:04 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider promulgating regulations entitled: **22 VAC 40-685. Home Energy Assistance Program Regulations.** The purpose of the proposed action is to promulgate regulations to implement the Home Energy Assistance

Notices of Intended Regulatory Action

Program. The Home Energy Assistance Program was established pursuant to Chapter 676 of the 2001 Acts of Assembly (House Bill 2473). These regulations replace emergency regulations.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 63.1-25 and Chapter 22 (§ 63.1-336 et seq.) of Title 63.1 of the Code of Virginia.

Public comments may be submitted until September 11, 2002.

Contact: Margaret Friedenbergh, Energy Assistance Program Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1728, FAX (804) 692-1704 or e-mail mjf900@dcse.dss.state.va.us.

VA.R. Doc. No. R02-300; Filed July 24, 2002, 9:17 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Social Services intends to consider adopting regulations entitled: **22 VAC 40-910. General Provisions for Maintaining and Disclosing Confidential Information of Public Assistance and Social Services Records.** The purpose of the proposed action is to establish a regulation in accordance with Chapter 518 of the 2001 Acts of Assembly that establishes separate sections for the confidentiality of public assistance and social services programs administered by the Department of Social Services and local departments of social services. Except as provided by federal and state law and regulation, no records or information concerning applicants for and recipients of public assistance are accessible except for purposes directly connected with the administration of the public assistance program. Social services records and information are confidential except that they are accessible to persons having a legitimate interest in accordance with federal and state law and regulation.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 63.1-25, 63.1-53, 63.1-209, and 63.1-209.1 of the Code of Virginia.

Public comments may be submitted until September 11, 2002.

Contact: Lynette Isbell, Policy and Planning Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1821, FAX (804) 692-1694 or e-mail lwi2@email1.dss.state.va.us.

VA.R. Doc. No. R02-301; Filed July 24, 2002, 9:18 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Social Services intends to consider amending regulations entitled: **22 VAC 40-11. Public Participation Guidelines.** The purpose of the proposed action is to make editorial changes throughout the regulation to improve clarity. Code of Virginia citations will be corrected to reflect the recodification of Title 2.2 and Title 63.2. Amendments will be proposed to (i) reflect the provisions

of Chapter 241 of the 2002 Acts of Assembly; (ii) provide for electronic transmission of information to include e-mail notifications, receiving public comment by e-mail and use of the Internet for dissemination and collection of comment on regulatory actions; and (iii) reflect the statutory changes of Chapter 717 of the 1995 Acts of Assembly, which make publication of proposed regulations in a newspaper of general circulation discretionary rather than mandatory.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 2.2-4007 and 63.1-25 of Code of Virginia.

Public comments may be submitted until September 11, 2002.

Contact: Richard Martin, Regulatory Coordinator, Department of Social Services, Legislative Affairs, 730 E. Broad St., Room 930, Richmond, VA 23219-1849, telephone (804) 692-1825, FAX (804) 692-1814, or e-mail lrm2@email1.dss.state.va.us.

VA.R. Doc. No. R02-302; Filed July 24, 2002, 9:18 a.m.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates proposed new text.
Language which has been stricken indicates proposed text for deletion.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF GAME AND INLAND FISHERIES

REGISTRAR'S NOTICE: The Board of Game and Inland Fisheries is exempt from the Administrative Process Act pursuant to subdivision A 3 of § 2.2-4002 of the Code of Virginia when promulgating regulations regarding the management of wildlife. The department is required by § 2.2-4031 of the Code of Virginia to publish all proposed and final wildlife management regulations, including length of seasons and bag limits allowed on the wildlife resources within the Commonwealth of Virginia.

Title of Regulations: 4 VAC 15-20-10 et seq. Definitions and Miscellaneous: In General (amending 4 VAC 15-20-160).

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Agency Contact: Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 W. Broad Street, Richmond, VA 23230, telephone (804) 367-1000, FAX (804) 367-0488 or e-mail regcomments@dgif.state.va.us.

Public Notice:

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed amendment to board regulations. A public comment period on the proposed regulation opened July 18, 2002, and remains open until August 22, 2002. Comments submitted must be in writing; must be accompanied by the name, address and telephone number of the party offering the comments; should state the regulatory action desired; and should state the justification for the desired action. Comments should be sent to Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia 23230, and need to be received no later than August 15, 2002, in order to be assured that the board will have opportunity to review them before taking final action.

A public hearing on the advisability of adopting or amending and adopting the proposed regulation, or any parts thereof, will be held during a meeting of the board to take place at the Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia, beginning at 9 a.m. on Thursday, August 22, 2002, at which time any interested citizen present shall be heard. If the board is satisfied that the proposed regulation, or any parts thereof, is advisable in the form in which published or as amended after receipt of

the public's comments, the board may adopt regulation amendments as final at the August 22 meeting. The regulation or regulation amendment adopted may be either more liberal or more restrictive than that proposed and being advertised under this notice.

Summary:

The proposed amendment removes mute swan from the list of wildlife species designated as nuisance species in Virginia, so as to put state regulation in compliance with a federal court ruling and U.S. Fish and Wildlife Service notification that mute swans are afforded protection under the federal Migratory Bird Treaty Act.

4 VAC 15-20-160. Nuisance species designated.

A. The board hereby designates the following species as nuisance species pursuant to § 29.1-100 of the Code of Virginia.

1. Mammals.
 - a. House mouse (*Mus musculus*);
 - b. Norway rat (*Rattus norvegicus*);
 - c. Black rat (*Rattus rattus*);
 - d. Coyote (*Canis latrans*);
 - e. Feral hog (*Sus scrofa*);
 - f. Nutria (*Myocastor coypus*); and
 - g. Woodchuck (*Marmota monax*).
2. Birds.
 - a. European starling (*Sturnus vulgaris*);
 - b. English (house) sparrow (*Passer domesticus*); and
 - c. Pigeon (Rock Dove) (*Columba livia*); and
 - d. ~~Mute swan (*Cygnus olor*).~~

B. It shall be unlawful to take, possess, transport, or sell all other wildlife species not classified as game, furbearer or nuisance, or otherwise specifically permitted by law or regulation.

VA.R. Doc. No. R02-305; Filed July 24, 2002, 10:49 a.m.



Proposed Regulations

TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 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: 10 VAC 5-20. Banking and Savings Institutions (adding 10 VAC 5-20-50).

Statutory Authority: §§ 6.1-58.1 and 12.1-13 of the Code of Virginia.

Public Hearing Date: Hearing will be scheduled if requested.

Public comments may be submitted until September 9, 2002.

Agency Contact: John Crockett, Deputy Commissioner, Bureau of Financial Institutions, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9704, FAX (804) 371-9416, toll free 1-800-552-7945 or e-mail jrcrockett@scc.state.va.us.

Summary:

The proposed regulation authorizes, subject to application and approval, state-chartered banks to acquire controlled subsidiary corporations that engage in real estate brokerage activities. The proposed regulation prescribes an application process, including the factors that are to be considered by the Commissioner of Financial Institutions when investigating an application.

AT RICHMOND, JULY 12, 2002

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2002-00014

Ex Parte: In re: proposed regulation relating to bank acquisitions of real estate brokerage subsidiaries

ORDER TO TAKE NOTICE

WHEREAS, subdivision B 3 of § 6.1-58.1 of the Virginia Banking Act, § 6.1-3 et seq. of the Code of Virginia, authorizes the State Corporation Commission ("Commission") to allow a controlled subsidiary corporation of a state-chartered bank to engage in any business that is authorized by statute, regulation, or official interpretation for a subsidiary of (i) a national bank or (ii) an out-of-state state bank; and

WHEREAS, it has been reported that numerous states currently permit banks or bank subsidiaries to engage in real estate brokerage activities; and

WHEREAS, the Bureau of Financial Institutions has proposed a regulation that will authorize, subject to application and approval, state-chartered banks to acquire controlled

subsidiary corporations engaging in real estate brokerage activities;

IT IS THEREFORE ORDERED THAT:

(1) The proposed regulation is appended hereto and made a part of the record herein.

(2) On or before September 9, 2002, any person desiring a hearing or to comment on the proposed regulation shall file a written request for hearing or written comments containing a reference to Case No. BFI-2002-00014 with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218.

(3) The proposed regulation shall be posted on the Commission's website at the following address: <http://www.state.va.us/scc/caseinfo.orders.htm>.

(4) An attested copy hereof, together with a copy of the proposed regulation, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions.

10 VAC 5-20-50. Authority for banks to invest in real estate brokerage corporations.

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

"Bureau" means the Bureau of Financial Institutions.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of Financial Institutions.

"Control" has the meaning set forth in section 2 of the Bank Holding Company Act of 1956 (12 USC § 1841 et seq.).

"Real estate brokerage activities" means selling or offering for sale, buying or offering to buy, or negotiating the purchase or sale or exchange of real estate, including units or interest in condominiums, cooperative interest as defined in § 55-426 of the Code of Virginia, or time-shares in a time-share program even though they may be deemed to be securities, or leasing or offering to lease, or renting or offering for rent, any real estate or the improvements thereon for others.

"Real estate brokerage corporation" means a controlled subsidiary corporation, as defined in subdivision B 1 of § 6.1-58.1 of the Code of Virginia, which is or will be engaging in real estate brokerage activities.

B. Pursuant to subdivision B 3 of § 6.1-58.1 of the Code of Virginia, the commission may authorize banks to acquire, own, and hold the stock, securities, or obligations of a real estate brokerage corporation. Such authorization is hereby delegated to the commissioner subject to review by the commission in accordance with the commission's Rules of Practice and Procedure (5 VAC 5-20). Before any bank, whether acting alone or in conjunction with one or more other banks, acquires control of a real estate brokerage corporation, it shall obtain approval from the commissioner.

C. Except as provided in this regulation, no bank shall acquire control of a real estate brokerage corporation unless such bank first:

- 1. Files an application with the bureau in such form as the bureau may prescribe from time to time;
- 2. Delivers such other information to the bureau as the bureau may require regarding the proposed acquisition; and
- 3. Pays a nonrefundable application fee of \$3,000.

D. Upon the filing of an application, the commissioner shall be empowered to conduct an investigation in order to evaluate the following:

- 1. The financial resources, capital adequacy, overall condition, and latest CAMELS rating of the applicant and the impact of the proposed acquisition on the applicant's safety and soundness;
- 2. Detailed information regarding the operations of the real estate brokerage corporation and the structure of the proposed acquisition, along with any controls designed to manage the applicant's exposure to risk;
- 3. Revenue, earnings, and other financial projections of the real estate brokerage corporation for three years and the anticipated effects on the applicant;
- 4. The financial, managerial, and legal history of the real estate brokerage corporation and whether the financial responsibility, character, and experience of the applicant, its directors and officers, and any directors and officers of the real estate brokerage corporation are such as to warrant belief that the real estate brokerage business will be operated efficiently and in accordance with applicable laws and regulations; and
- 5. Such other factors as the commissioner deems appropriate under the circumstances.

E. Acquisitions shall be subject to such conditions as the commissioner may impose, the terms and conditions set forth in § 6.1-58.1 of the Code of Virginia, and compliance by the applicant and real estate brokerage corporation with all other applicable state and federal laws and regulations. In the case of a real estate brokerage corporation, which is neither a domestic corporation nor a foreign corporation qualified to do business in Virginia, such real estate brokerage corporation shall maintain a registered agent in the Commonwealth of Virginia upon whom any process or notice may be served. If such real estate brokerage corporation fails to appoint or maintain a registered agent in the Commonwealth, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the clerk of the commission shall be an agent of the corporation upon whom service may be made.

F. The commissioner shall approve or deny an application within 60 days from the date a completed application, accompanied by the required fee, is filed unless the period is extended by the commissioner and the reasons for such extension are communicated to the applicant. If the application is denied, the commissioner shall notify the applicant of the denial and the reasons for such denial.

Title of Regulation: 10 VAC 5-200. Payday Lending (adding 10 VAC 5-200-75).

Statutory Authority: §§ 6.1-454 and 12.1-13 of the Code of Virginia.

Public Hearing Date: Hearing will be scheduled if requested. Public comments may be submitted until August 26, 2002.

Agency Contact: Susan Hancock, Deputy Commissioner, Bureau of Financial Institutions, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9701, toll-free (800) 552-7945, FAX (804) 371-9416 or e-mail shancock@scc.state.va.us.

Summary:
The proposed regulation sets forth the contents of the annual report required by the Payday Loan Act (§ 6.1-444 et seq. of the Code of Virginia) to be filed by payday lending licensees during each calendar year.

AT RICHMOND, JULY 18, 2002
COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION
CASE NO. BFI-2002-00012

Ex Parte: In re: proposed payday lending regulations

ORDER TO TAKE NOTICE

On June 26, 2002, this matter came on for hearing pursuant to an Order entered by the State Corporation Commission ("Commission") on May 28, 2002. During the hearing, Ms. Jean Ann Fox, testifying on behalf of the Consumer Federation of America and the Virginia Citizens Consumer Council, proposed that the Commission, pursuant to § 6.1-454 of the Code of Virginia, publish an annual report detailing certain aggregate data relating to payday loans made by licensees during each calendar year. The Commission, in accordance with a finding in this case set forth in another Order entered this day, deems it proper to afford other interested parties an opportunity to comment on this proposal.

Accordingly, IT IS ORDERED THAT:

- (1) An amendment designated 10 VAC 5-200-75 is appended hereto and made part of the record herein.
- (2) On or before August 26, 2002, any person desiring to comment on the proposed amendment shall file written comments containing a reference to Case No. BFI-2002-00012 with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218.
- (3) The proposed amendment shall be posted on the Commission's website at: <http://www.state.va.us/scc/caseinfo/orders.htm>.

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(4) An attested copy hereof, together with a copy of the proposed amendment, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

(5) This case is continued generally on the Commission's docket.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Reginald N. Jones, Williams, Mullen, Clark & Dobbins, 1021 East Cary Street, P.O. Box 1320, Richmond, Virginia 23218-1320; James W. Speer, Virginia Poverty Law Center, 201 West Broad Street, Suite 302, Richmond, Virginia 23220; David B. Irvin, Office of Attorney General, 900 East Main Street, Richmond, Virginia 23219; Commander Janet R. Donovan, Assistant Staff Judge Advocate, Staff Judge Advocate's Office, 6506 Hampton Boulevard, Norfolk, Virginia 23508-1273; Robert M. Buell, Bowman and Brooke LLP, 901 East Byrd Street, Suite 1500, Richmond, Virginia 23219; and to the Commissioner of Financial Institutions.

10 VAC 5-200-75. Annual reporting requirements.

When making the annual report required by § 6.1-454 of the Code of Virginia, in addition to other information required by the commissioner, licensees shall provide the following data:

- 1. The total number and dollar amount of payday loans made.*
- 2. The total number of individual borrowers to whom loans were made.*
- 3. The minimum, maximum, and average dollar amount of payday loans made.*
- 4. The average annual percentage rate, and range of annual percentage rates, charged on payday loans made.*
- 5. The average number of days, and the range of number of days, of the term of payday loans made.*
- 6. The total number and dollar amount of borrower checks returned unpaid by the drawee depository institution.*
- 7. The total number and dollar amount of returned checks ultimately paid.*
- 8. The total number and dollar amount of returned checks charged off as uncollectible.*
- 9. The total number and dollar amount of returned check fees collected from borrowers whose checks are returned for insufficient funds.*
- 10. The total number and amount of borrowers' checks written on joint accounts.*
- 11. The number of borrower defaults on loans secured by checks written on joint accounts.*
- 12. The total number of individual borrowers against whom legal action was taken.*
- 13. The total number and percentage of customers unable to read English and identification of the language and, if applicable, the dialect in which each group of such customers is literate.*

VA.R. Doc. No. R02-278; Filed July 19, 2002, 2:22 p.m.

TITLE 14. INSURANCE

STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 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: 14 VAC 5-71. Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers (amending 14 VAC 5-71-10, 14 VAC 5-71-20, 14 VAC 5-71-30, 14 VAC 5-71-40, 14 VAC 5-71-50, 14 VAC 5-71-60, 14 VAC 5-71-70, 14 VAC 5-71-80, 14 VAC 5-71-90, and 14 VAC 5-71-100).

Statutory Authority: §§ 12.1-13 and 38.2-223 of the Code of Virginia.

Public Hearing Date: Hearing will be scheduled if requested. Public comments may be submitted until August 27, 2002.

Agency Contact: Raquel Pino-Moreno, Senior Insurance Analyst, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond VA 23218, telephone (804) 371-9499, FAX (804) 371-9511, toll-free 1-800-552-7945 or e-mail rpinomoreno@scc.state.va.us.

Summary:

The proposed revisions update filing dates and references to the Code of Virginia in 14 VAC 5-71-40 C, E, and F. These revisions are necessary as a result of the passage of Senate Bill 913 (Chapter 706 of the 2001 Acts of Assembly) during the 2001 General Assembly Session, which repealed the viatical settlement broker licensing section located at § 38.2-5702 of the Code of Virginia and replaced it with § 38.2-1865.1, effective September 1, 2002. Additional revisions to reporting requirements in 14 VAC 5-71-70 A and technical/grammatical revisions throughout the rules are also proposed.

AT RICHMOND, JULY 12, 2002

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2002-00167

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code.

The Bureau of Insurance has submitted to the Commission proposed revisions to Chapter 71 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers," which amend the rules at 14 VAC 5-71-10 through 14 VAC 5-71-100.

The proposed revisions reflect the relocation of the viatical settlement broker licensing section from § 38.2-5702 to § 38.2-1865.1 of the Code of Virginia due to the passage of SB 913 by the General Assembly during its 2001 Session, which is effective September 1, 2002.

In addition, there are proposed revisions to filing dates and references to the Code of Virginia in 14 VAC 5-71-40 C, E, and F, proposed revisions to 14 VAC 5-71-70 A that are unrelated to SB 913, and numerous proposed nonsubstantive and "clean up" revisions to various sections.

The Commission is of the opinion that the proposed revisions submitted by the Bureau of Insurance should be considered for adoption with an effective date of September 1, 2002.

IT IS THEREFORE ORDERED THAT:

(1) The proposed revisions to the "Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers," which amend the rules at 14 VAC 5-71-10 through 14 VAC 5-71-100, be attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed revisions shall file such comments or hearing request on or before August 27, 2002, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2002-00167.

(3) If no written request for a hearing on the proposed revisions is filed on or before August 27, 2002, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revisions, may adopt the revisions proposed by the Bureau of Insurance.

(4) AN ATTESTED COPY hereof, together with a copy of the proposed revisions, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the proposed adoption of the revisions to the rules by mailing a copy of this Order, together with the proposed revisions, to all viatical settlement providers and viatical settlement brokers licensed by the Commission, and

certain interested parties designated by the Bureau of Insurance.

(5) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposed revisions, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(6) On or before July 19, 2002, the Commission's Division of Information Resources shall make available this Order and the attached proposed revisions on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

(7) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

14 VAC 5-71-10. Purpose.

A. The purpose of this chapter (~~14 VAC 5-71-40 et seq.~~) is to implement the Viatical Settlements Act, Chapter 57 (§ 38.2-5700 et seq.) of Title 38.2 of the Code of Virginia.

B. This chapter is designed to:

1. Regulate persons in the business of offering, advertising, negotiating, contracting for, providing or doing any act in this Commonwealth in furtherance of making or proposing to make a viatical settlement contract;

2. Provide required standards of disclosure;

3. Protect policyholders and the public against the adverse effects of excessive, inadequate or unfairly discriminatory rates which could result if persons transacting the business of viatical settlement providers are allowed to operate an unregulated industry with an aggressive marketing approach targeted to individuals with a catastrophic or life-threatening illness or condition which deals in death benefits derived from insurance;

4. Provide an additional means of securing financial assistance among individuals with a catastrophic or life-threatening illness or condition;

5. Provide formal regulatory controls for the assignment, sale or other transfer of life insurance policies and benefits which, notwithstanding the provisions of § 38.2-301 of the Code of Virginia, enable an individual with a catastrophic or life-threatening illness or condition to utilize life insurance benefits to obtain funding for life-sustaining treatment, comfort or care; and

6. Recognize that assignment of life insurance benefits without an insurable interest in the life of the person should only be made in good faith and not for monetary speculation, and that such assignment must not promote an interest in the early death of the insured.

C. This chapter is not designed to regulate or monitor the financial solvency of persons in the business of viatical settlements.

D. Sales of fractional interests in a life insurance policy or interests in a pool of such policies shall constitute the sale of a "security" as that term is defined in the Virginia Securities Act,

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Chapter 5 (§ 13.1-501 et seq.) of Title 13.1 of the Code of Virginia).

14 VAC 5-71-20. Definitions.

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

"Commission" means the Virginia State Corporation Commission.

"Viatical settlement" means compensation or other valuable consideration paid to the viator in return for the viator's assignment, transfer, sale, devise or bequest of the death benefit or ownership of a life insurance policy or certificate to the viatical settlement provider which compensation or other valuable consideration is less than the expected death benefit of the life insurance policy or certificate.

"Viatical settlement broker" means any person who, for another and for a fee, commission or other valuable consideration, offers or advertises the availability of viatical settlements, introduces viators to viatical settlement providers, or offers or attempts to negotiate viatical settlements between a viator and one or more viatical settlement providers; however, "viatical settlement broker" does not include an attorney, accountant or financial planner who is not paid by the viatical settlement provider and who is retained to represent the viator.

"Viatical settlement contract" means a written agreement between a viatical settlement provider and a person who owns a life insurance policy or who owns or is covered under a group policy insuring the life of a person who has a catastrophic or life-threatening illness or condition; under the terms of the agreement, the viatical settlement provider will pay compensation or other valuable consideration, which is less than the expected death benefit of the insurance policy or certificate, in return for the viator's assignment, transfer, sale, devise or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider. "Viatical settlement contracts" do not include accelerated death benefit provisions governed by 14 VAC 5-70, contained in life insurance policies, whether issued with the original policy or as a rider, according to the regulations (14 VAC 5-70-10 et seq.) promulgated by the State Corporation Commission.

"Viatical settlement provider" means a person that conducts the business of viatical settlements directly or indirectly as agent or attorney-in-fact for one or more persons entering into or attempting to enter into a viatical settlement contract. "Viatical settlement provider" does not include: (i) any bank, savings bank, savings institution, credit union or other licensed lending institution which takes an assignment of a life insurance policy as collateral for a loan; (ii) the issuer of a life insurance policy which makes a policy loan on a policy that it has issued, permits surrender of the policy or pays other policy benefits, including accelerated death benefits according to regulations promulgated by the State Corporation Commission governed by 14 VAC 5-70; or (iii) any individual who enters into only one agreement in a calendar year for the transfer of the death benefit or ownership of the insurance

policy or certificate for any value less than the expected death benefit.

"Viaticated policy" means a life insurance policy or a certificate of life insurance issued under a group life insurance policy that has been acquired or transferred pursuant to the terms of a viatical settlement contract.

"Viator" means the owner of a life insurance policy or the holder of a certificate issued under a group life insurance policy insuring the life of a person with a catastrophic or life-threatening illness or condition who enters into an agreement under the terms of which the viatical settlement provider will pay compensation or other valuable consideration, which compensation or other valuable consideration is less than the expected death benefit of the insurance policy or certificate, in return for the assignment, transfer, sale, devise or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider. "Viator" does not include a viatical settlement provider or any subsequent owner of a viaticated policy.

14 VAC 5-71-30. License requirements for viatical settlement providers.

A. A viatical settlement provider shall not enter into or solicit a viatical settlement contract without first obtaining a license from the State Corporation Commission.

B. The application shall be on a form required by the State Corporation Commission.

C. The application shall be accompanied by a fee of \$500. The license may be renewed biennially by submitting a renewal application form and fee of \$500 prior to April 1 of the renewal year. Failure to submit a renewal application form and fee within the time prescribed shall result in an automatic expiration of the license on June 30 of the renewal year.

D. Only those individuals named in the application may act as viatical settlement providers.

E. The State Corporation Commission may ask for require such additional information as is necessary to determine whether the applicant complies with the requirements of § 38.2-5701 of the Code of Virginia.

F. Viatical settlement providers shall acquire and maintain a surety bond in the amount of \$100,000. A copy of the executed bond shall be filed with the State Corporation Commission at the time of application for a license and with each renewal.

G. Viatical settlement providers, either directly or through a viatical settlement broker, shall be required to provide a written disclosure form to the viator at the time of solicitation for the viatical settlement and again at the time the viatical settlement contract is signed by all parties. Disclosure forms containing identical or substantially similar wording to the following are deemed to be approved for use in Virginia and need not be filed. Whether a disclosure form contains "substantially similar" wording, as that term is used herein, shall be determined at the sole discretion of the State Corporation Commission. Under no circumstances shall a disclosure form be considered to contain wording

"substantially similar" unless the form addresses each and every element contained in the form contained herein. Viatical settlement providers wishing to utilize disclosure forms the wording of which differs substantially from that contained herein may not utilize such forms until they have been filed with and approved by the ~~State Corporation~~ commission, either with the initial application for a viatical settlement provider license or at such later time as the viatical settlement provider may determine that it wishes to utilize a different form.

VIATICAL SETTLEMENT PROVIDER/COMPANY NAME

DISCLOSURE FORM

VIATICATING YOUR LIFE INSURANCE POLICY?

Are you thinking about viaticating your life insurance policy? If you are, your decision could be a good one -- or a mistake. You will not know for sure unless you carefully consider all of the options available to you and the consequences of viaticating your life insurance policy.

We are required to inform you of the following:

- Make sure you understand the facts. You should ask your insurance company to review all the possible alternatives that your life insurance policy may offer in lieu of a viatical settlement.
- Compensation from a viatical settlement may be taxable. You should seek assistance from a personal tax advisor.
- The proceeds from a viatical settlement may be subject to the claims of creditors.
- Compensation from a viatical settlement may affect your eligibility for medical assistance or other government benefits or entitlements. You should seek advice from the appropriate government agencies.
- You have the right to rescind your viatical settlement contract within 30 days of the date the agreement was signed by the parties or 15 days of the receipt of the viatical settlement proceeds, whichever occurs first.
- We are required to disclose to you the date by which the viatical settlement funds will be available to you and the source of those funds.
- The viatical settlement broker is presumed to represent this viatical settlement provider, unless you have obtained a prior written agreement to the contrary from the *viatical settlement* broker. If the *viatical settlement* broker represents this viatical settlement provider, he cannot seek or obtain any compensation from you.

Review all options and issues before you decide. This way you can be sure you are making a decision that is in your best interest.

Applicant's Signature

Date

Signature of authorized representative of viatical settlement provider

14 VAC 5-71-40. License requirements for viatical settlement brokers.

- A. A viatical settlement broker shall not solicit a viatical settlement contract without first obtaining a license from the ~~State Corporation~~ commission.
- B. A viatical settlement broker shall ~~make submit an~~ application on a form required by the ~~State Corporation~~ commission.
- C. The application shall be accompanied by a fee of \$50. The license may be renewed ~~yearly~~ *annually* by submitting a renewal form and payment of a fee of \$50 ~~by July 31 or before June 1~~. Failure to submit a renewal form and fee within the time prescribed shall result in an automatic expiration of the license on ~~August 1~~ *June 30*.
- D. The license shall be a limited license which allows solicitation only of viatical settlements.
- E. Prelicensing examination, ~~prelicensing education~~ and continuing education required of ~~other~~ agents in §§ 38.2-1815 ~~through~~, 38.2-1817, and 38.2-1866 of the Code of Virginia shall not apply to viatical settlement brokers.
- F. The ~~State Corporation~~ commission may ~~ask for~~ *require* such additional information as is necessary to determine whether the applicant complies with the requirements of § ~~38.2-5702~~ *38.2-1865.1* of the Code of Virginia.

14 VAC 5-71-50. Other requirements for viatical settlement brokers.

- A. In the absence of a written agreement making the *viatical settlement* broker the viator's agent, viatical settlement brokers shall be presumed to be agents of viatical settlement providers.
- B. Viatical settlement brokers shall not, without the written agreement of the viator obtained prior to performing any services in connection with a viatical settlement, seek or obtain any compensation from the viator.

14 VAC 5-71-60. Standards for evaluation of reasonable payments.

In order to assure that viators receive a reasonable ~~return~~ *compensation* for viaticating a life insurance policy or certificate, the following shall be minimum face value percentages:

Insured's Life Expectancy	Minimum Percentage of Face Value (at time of viatication and withdrawals) Less Outstanding Loans Received by Viator
Less than 6 months	80%
At least 6 but less than 12 months	70%
At least 12 but less than 18 months	65%
At least 18 but less than 24 months	60%
Twenty-four months or more	50%

The percentage may be reduced by 5.0% for viaticating a policy written by an insurer rated less than the highest four categories by at least two rating agencies, such as A.M. Best or other comparable rating agencies, based on the most

Proposed Regulations

recent publication of such rating agencies at the time of viatication.

14 VAC 5-71-70. Reporting requirements.

A. On or before March 1 of each calendar year, each viatical settlement provider licensed in this Commonwealth shall file an annual statement of all viatical settlement transactions where the viator is a resident of this Commonwealth, and a separate annual statement of all viatical settlement transactions for all states in the aggregate, on a form prescribed by the State Corporation Commission containing the following information for the previous calendar year:

1. For each life insurance policy or certificate viaticated:
 - a. Date of the viatical settlement ~~was entered into contract~~;
 - b. Life expectancy of the viator at the time of the contract;
 - c. Face amount of the policy at the time ~~it was viaticated of the contract~~;
 - d. Outstanding policy loans (if any);
 - ~~d.~~ e. Amount paid by the viatical settlement provider to the viator to viaticate the policy; and
 - ~~e.~~ f. If the viator has died:
 - (1) Date of death; and
 - (2) Total insurance premiums paid by the viatical settlement provider to maintain the policy or certificate in force;
2. Breakdown of applications received, accepted and rejected, by disease category of insured person with a catastrophic or life-threatening illness or condition;
3. Breakdown of policies or certificates viaticated by issuer and policy type;
4. Number of secondary market vs. primary market transactions;
5. Portfolio size; and
6. Amount of outside borrowings.

B. On or before March 1 of each calendar year, each viatical settlement broker licensed in this Commonwealth shall file an annual statement on a form prescribed by the State Corporation Commission containing the following information for each life insurance policy or certificate viaticated ~~for~~ during the previous calendar year:

1. Date of the viatical settlement ~~was entered into contract~~;
2. Life expectancy of the viator at the time of the contract;
3. Face amount of the policy at the time ~~it was viaticated of the contract~~;
4. Amount paid by the viatical settlement provider to the viator to viaticate the policy; and
5. Commission paid by the viatical settlement provider to the viatical settlement broker.

14 VAC 5-71-80. Annual notification and modification of application and annual statement forms.

The Bureau of Insurance ~~shall be permitted to~~ may modify the ~~data information~~ requirements of the application and annual statement forms ~~on an annual basis or as needed necessary~~. Any such modifications shall be provided to all persons described in 14 VAC 5-71-10, in the form of an administrative letter sent by regular mail to ~~the~~ each person's mailing address as shown in the ~~bureau's records of the Bureau of Insurance~~. Failure by a person to receive such ~~annual~~ notice shall not be cause for exemption or grounds for noncompliance with the reporting requirements set forth in ~~these rules~~ 14 VAC 5-71-70.

14 VAC 5-71-90. General rules.

A. With respect to policies containing a provision for double or additional indemnity for accidental death, the additional payment shall remain payable to the beneficiary last named by the viator prior to entering into the viatical settlement contract, or to such other beneficiary, other than the viatical settlement provider, as the viator may thereafter designate, or, in the absence of a designation, to the estate of the viator.

B. Payment of the proceeds of a viatical settlement pursuant to § 38.2-5705 C of the Code of Virginia shall be by means of wire transfer to the account ~~of~~ designated by the viator or by certified check.

C. Payment of the proceeds pursuant to a viatical settlement shall be made in a lump sum. Retention of a portion of the proceeds by the viatical settlement provider or escrow agent is not permissible.

D. A viatical settlement provider or *viatical settlement* broker shall not discriminate in the making of viatical settlements on the basis of race, age, sex, national origin, creed, religion, occupation, marital or family status or sexual orientation, or discriminate between viators with dependents and without dependents.

E. A viatical settlement provider or *viatical settlement* broker shall not pay or offer to pay any finder's fee, commission or other compensation to any viator's physician, attorney, accountant or other person providing medical, legal or financial planning services to the viator, or to any other person acting as an agent of the viator with respect to the viatical settlement.

F. Contacts for the purpose of determining the health status of the viator by the viatical settlement provider or *viatical settlement* broker after the viatical settlement has occurred shall be limited to once every three months for viators with a life expectancy of more than one year and to no more than one per month for viators with a life expectancy of one year or less. The *viatical settlement* provider or *viatical settlement* broker shall explain the procedure for these contacts at the time the viatical settlement contract is entered into.

G. Viatical settlement providers and *viatical settlement* brokers shall not solicit investors who could influence the treatment of the illness of the viators whose coverage would be the subject of the investment.

H. Viatical settlement providers and *viatical settlement* brokers shall adhere to the following advertising standards:

1. Advertising shall be truthful and not misleading by fact or implication.
2. If the advertiser emphasizes the speed with which the viatication will occur, the advertising must disclose the average time frame from completed application to the date of offer and from ~~acceptance of the offer~~ the date of the contract to receipt of the funds by the viator.
3. If the advertising emphasizes the dollar amounts available to viators, the advertising shall disclose the average purchase price as a percent of face value obtained by viators contracting with the advertiser during the ~~past~~ immediately preceding six months.

14 VAC 5-71-100. Severability.

If any provision of this chapter (14 VAC 5-71-40 ~~et seq.~~) or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

VA.R. Doc. No. R02-256; Filed July 16, 2002, 9:56 a.m.

* * * * *

Title of Regulation: 14 VAC 5-350. Rules Governing Surplus Lines Insurance (amending 14 VAC 5-350-20, 14 VAC 5-350-30, 14 VAC 5-350-150, 14 VAC 5-350-160, and 14 VAC 5-350-210; adding 14 VAC 5-350-85, 14 VAC 5-350-95, 14 VAC 5-350-155, and 14 VAC 5-350-165; repealing 14 VAC 5-350-40 through 14 VAC 5-350-80, 14 VAC 5-350-110 through 14 VAC 5-350-140, 14 VAC 5-350-170, and 14 VAC 5-350-180).

Statutory Authority: §§ 12.1-13 and 38.2-223 of the Code of Virginia.

Public Hearing Date: Hearing will be scheduled if requested. Public comments may be submitted until August 27, 2002.

Agency Contact: Keith D. Kelley, Principal Insurance Financial Analyst, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond VA 23218, telephone (804) 371-9333, toll-free 1-800-552-7945 or e-mail kdkelley@scc.state.va.us.

Summary:

The proposed revisions reflect the relocation of the surplus lines brokers licensing sections from Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia to Article 5.1 (§ 38.2-1857.1 et seq.) of Chapter 18 of Title 38.2 of the Code of Virginia. These revisions are necessary as a result of the passage of Senate Bill 913 (Chapter 706 of the 2001 Acts of Assembly) during the 2001 General Assembly Session, which repealed the surplus lines broker licensing sections located at §§ 38.2-4800 through 38.2-4805 of the Code of Virginia and replaced them with §§ 38.2-1857.1 through 38.2-1857.9 of the Code of Virginia, effective September 1, 2002.

The repeal of the rules at 14 VAC 5-350-40 through 14 VAC 5-350-80 and the deletion of Form SLB-1, Part 1, Form SLB-1, Part 2, and Form SLB-2 are proposed due to the relocation of the broker licensing sections. Definitions at 14 VAC 5-350-30 are added, amended, and deleted, and clarifications regarding quarterly and annual filings also are proposed. The chapter also is reorganized to make it easier to use.

AT RICHMOND, JULY 24, 2002

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2002-00187

Ex Parte: In the matter of
Adopting Revisions to the Rules
Governing Surplus Lines Insurance

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code.

The Bureau of Insurance has submitted to the Commission proposed revisions to Chapter 350 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Surplus Lines Insurance," which amend the rules at 14 VAC 5-350-20, 14 VAC 5-350-30, 14 VAC 5-350-150, 14 VAC 5-350-160, and 14 VAC 5-350-210, repeal the rules at 14 VAC 5-350-40 through 14 VAC 5-350-80, 14 VAC 5-350-110 through 14 VAC 5-350-140, 14 VAC 5-350-170, and 14 VAC 5-350-180, propose new rules at 14 VAC 5-350-85, 14 VAC 5-350-95, 14 VAC 5-350-155, and 14 VAC 5-350-165, and delete Form SLB-1, Part 1, Form SLB-1, Part 2, and Form SLB-2.

The proposed revisions reflect the relocation of the surplus lines broker licensing sections from Chapter 48 (§ 38.2-4801 et seq.) of Title 38.2 of the Code of Virginia to Article 5.1 (§ 38.2-1857.1 et seq.) of Chapter 18 of Title 38.2 of the Code of Virginia due to the passage of Senate Bill 913 by the General Assembly during its 2001 Session, which is effective September 1, 2002.

In addition, it is proposed that certain sections unrelated to Senate Bill 913 be relocated, which requires the applicable current sections to be repealed and replaced with new sections.

There also are proposed nonsubstantive and "clean up" revisions to various sections.

The Commission is of the opinion that the proposed revisions submitted by the Bureau of Insurance should be considered for adoption with an effective date of September 1, 2002.

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IT IS THEREFORE ORDERED THAT:

(1) The proposed revisions to the "Rules Governing Surplus Lines Insurance," which amend the rules at 14 VAC 5-350-20, 14 VAC 5-350-30, 14 VAC 5-350-150, 14 VAC 5-350-160, and 14 VAC 5-350-210, repeal the rules at 14 VAC 5-350-40 through 14 VAC 5-350-80, 14 VAC 5-350-110 through 14 VAC 5-350-140, 14 VAC 5-350-170, and 14 VAC 5-350-180, propose new rules at 14 VAC 5-350-85, 14 VAC 5-350-95, 14 VAC 5-350-155, and 14 VAC 5-350-165, and delete Form SLB-1, Part 1, Form SLB-1, Part 2, and Form SLB-2, be attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed revisions shall file such comments or hearing request on or before August 27, 2002, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2002-00187.

(3) If no written request for a hearing on the proposed revisions is filed on or before August 27, 2002, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revisions, may adopt the revisions proposed by the Bureau of Insurance.

(4) AN ATTESTED COPY hereof, together with a copy of the proposed revisions, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Administrative Manager Brian P. Gaudiose, who forthwith shall give further notice of the proposed adoption of the revisions to the rules by mailing a copy of this Order, together with the proposed revisions, to all surplus lines brokers licensed by the Commission and certain interested parties designated by the Bureau of Insurance.

(5) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposed revisions, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(6) On or before July 31, 2002, the Commission's Division of Information Resources shall make available this Order and the attached proposed revisions on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

(7) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

14 VAC 5-350-20. Applicability.

This chapter applies to all ~~persons procuring~~ *individuals and business entities that sell, solicit or negotiate* surplus lines insurance coverage on risks resident, located or to be performed in Virginia, to all surplus lines policies issued for delivery in Virginia, and to any other evidence of surplus lines insurance coverage issued for delivery in Virginia.

14 VAC 5-350-30. Definitions.

As used in this chapter:

"Admitted insurer" means an insurer licensed by the commission to do an insurance business in this Commonwealth.

"Authorized to write the insurance coverage sought" means that the admitted insurer is licensed for that class of insurance in this Commonwealth and has complied with the applicable provisions of Title 38.2 of the Code of Virginia concerning the filing of rules, rates and policy forms providing the insurance coverage sought, unless such insurance coverage has been exempted from filing by commission order.

"Business entity" means a partnership, limited partnership, limited liability company, corporation, or other legal entity other than a sole proprietorship.

"Class of insurance" means the classes enumerated in §§ 38.2-109 through 38.2-121 and §§ 38.2-124 through 38.2-134 of the Code of Virginia.

"Commercial insured" means an insured (i) who ~~procures~~ *solicits or negotiates* the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer, (ii) whose aggregate annual premiums for insurance on all risks total at least \$75,000, or (iii) who has at least 25 full-time employees.

"Diligent effort" means:

1. For business that is originated by a surplus lines broker, a good faith search for insurance among admitted insurers resulting in declinations of coverage by three unaffiliated admitted insurers licensed and authorized in this Commonwealth to write the insurance coverage sought, whether or not the surplus lines broker is an agent of any of the declining insurers; and
2. For business that is referred from a licensed property and casualty insurance agent, declinations or rejections of coverage by three insurers licensed in this Commonwealth to write the class of insurance, whether or not the surplus lines broker is an agent of any of the declining insurers.

"Eligible surplus lines insurer" means a non-admitted insurer approved by the commission pursuant to subsection B of § 38.2-4811 of the Code of Virginia.

"Nonadmitted insurer" means an insurer not licensed to do an insurance business in this Commonwealth. "Nonadmitted insurer" includes insurance exchanges authorized under the laws of a state.

~~"Procure" means to bind or cause to be bound insurance coverage (orally or in writing) or to issue or cause to be issued an insurance policy, whichever comes first.~~

"Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

"Solicit" or "negotiate" means the attempted selling or attempted placing of insurance or coverage, whether directly or indirectly, in this Commonwealth.

~~"Surplus lines broker" means a person an individual or business entity licensed under this chapter to procure insurance on risks resident, located or to be performed in this Commonwealth from eligible surplus lines insurers pursuant to~~

Article 5.1 (§ 38.2-1857.1 et seq.) of Chapter 18 of Title 38.2 of the Code of Virginia and thereby authorized to engage in the activities set forth in Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia.

"Surplus lines insurance" means any insurance in this Commonwealth of risks resident, located or to be performed in this Commonwealth, permitted to be procured sold by or through a surplus lines broker from an eligible surplus lines insurer. Surplus lines insurance does not include reinsurance, insurance obtained directly from a nonadmitted insurer by the insured upon his own life or property, life insurance, credit life, industrial life, variable life, annuities, variable annuities, credit accident and sickness, credit insurance, title insurance, contracts of insurance on vessels or craft, their cargo, freight, marine builder's risk, maritime protection and indemnity, ship repairer's legal liability, tower's liability or other risks commonly insured under ocean marine insurance, and insurance of the rolling stock and operating properties of railroads used in interstate commerce or of any liability or other risks incidental to the ownership, maintenance or operation of such railroads.

"Unaffiliated" means admitted insurers who are not part of a group of insurers under common ownership or control.

14 VAC 5-350-40. Surplus lines brokers; license required. (Repealed.)

~~No person shall act as a surplus lines broker unless duly licensed by the Commission. No person may be licensed as a surplus lines broker unless the person is currently licensed as a property and casualty insurance agent in Virginia.~~

14 VAC 5-350-50. Application for surplus lines broker's license. (Repealed.)

~~Any applicant for a new or renewal surplus lines broker's license shall file with the commission an application on Form SLB-1. The applicant shall submit with the application the license fee required by § 38.2-4802 of the Code of Virginia.~~

14 VAC 5-350-60. Term of license. (Repealed.)

~~Every license issued under this chapter shall expire on the fifteenth day of March next following its date of issuance. No such license shall be renewed unless the licensee files an application for renewal on Form SLB-1 with the fee required under § 38.2-4802 of the Code of Virginia. No such new or renewal license shall be issued unless the assessment prescribed by §§ 38.2-400 and 38.2-403 of the Code of Virginia, the taxes prescribed by § 38.2-4809 of the Code of Virginia, and any penalties imposed pursuant to Titles 38.2 or 58.1 of the Code of Virginia have been paid to the Commission.~~

14 VAC 5-350-70. Applicants to file bond with commission. (Repealed.)

~~The applicant shall file a surety bond with the commission on Form SLB-2 in the amount prescribed by § 38.2-4804 of the Code of Virginia prior to the issuance of a surplus lines broker's license. The applicant shall file with the bond the appropriate acknowledgement of principal contained in Form SLB-2.~~

14 VAC 5-350-80. Suspension, revocation, and refusal of license. (Repealed.)

~~The commission may refuse to issue a surplus lines broker's license or may suspend or revoke the license of any surplus lines broker under § 38.2-1831 of the Code of Virginia for any one or more of the following reasons:~~

- ~~1. Failure to allow the commission to examine the broker's records and accounts as required by this chapter and Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia;~~
- ~~2. Failure to make and file quarterly reports as required by this chapter and Chapter 48;~~
- ~~3. Failure to make and file the annual report required by this chapter and Chapter 48;~~
- ~~4. Failure to pay when due the surplus lines premium tax, assessment, or penalty required by this chapter and Chapter 48;~~
- ~~5. Failure to meet the qualifications for issuance of a surplus lines broker's license required by this chapter and Chapter 48;~~
- ~~6. Violation of any provision of Chapter 48 or this chapter; or~~
- ~~7. Any other cause for which a property and casualty agent's license may be revoked, suspended, or refused.~~

14 VAC 5-350-85. Surplus lines brokers; license required.

The licensure of surplus lines brokers shall be governed by Article 5.1 (§ 38.2-1857.1 et seq.) of Chapter 18 of Title 38.2 of the Code of Virginia.

14 VAC 5-350-95. Notice to insured.

The licensed surplus lines broker shall provide the notice to the insured required under subsection B of § 38.2-4806 of the Code of Virginia as prescribed in Form SLB-9. The notice shall be given prior to the placement of the insurance; however, if coverage must be placed and become effective within 24 hours after referral of the business to the surplus lines broker, the notice may be given promptly following such placement. An additional copy of the notice shall be affixed to the policy by stamp, sticker, or other means on all policies procured pursuant to this chapter. When a property and casualty agent refers coverage to a surplus lines broker, it is the responsibility of the surplus lines broker to assure that this requirement is satisfied.

14 VAC 5-350-110. Changes requiring refiling of quarterly report. (Repealed.)

~~If, after delivery of any policy or other written evidence of insurance, there is any change in the identity of the insurer(s), or in the proportion of the risk assumed by any insurer, or if there is any material change in coverage, the surplus lines broker shall promptly issue and deliver to the insured an appropriate substitute for, or endorsement of the original document, accurately showing the current status of the coverage and the insurers responsible thereunder. The quarterly report required under 14 VAC 5-350-150 of this chapter shall be refilled to reflect any changes listed in the preceding sentence. Such refiling may be accomplished by~~

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the filing of a copy of the original quarterly report with such changes noted thereon or attached thereto.

14 VAC 5-350-120. Notice to insured. (Repealed.)

~~The licensed surplus lines broker shall provide the notice to the insured required under subsection B of § 38.2-4806 of the Code of Virginia as prescribed in Form SLB-9. The notice shall be given prior to the placement of the insurance; however, if coverage must be placed and become effective within 24 hours after referral of the business to the surplus lines broker, the notice may be given promptly following such placement. An additional copy of the notice shall be affixed to the policy by stamp, sticker, or other means on all policies procured pursuant to this chapter. When a property and casualty agent refers coverage to a surplus lines broker, it is the responsibility of the surplus lines broker to assure that this requirement is satisfied.~~

14 VAC 5-350-130. Surplus lines brokers, referrals, compensation. (Repealed.)

~~A surplus lines broker may not accept surplus lines business from any person other than an applicant for insurance or a licensed property and casualty insurance agent and the surplus lines broker may not compensate any person other than a licensed property and casualty insurance agent for such business. No person other than an applicant for insurance or a licensed property and casualty insurance agent shall place surplus lines business with a surplus lines broker licensed under this chapter and Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia and no person other than a licensed property and casualty agent may accept compensation for such business. The surplus lines broker placing or procuring the insurance is responsible for compliance with the provisions of this chapter.~~

14 VAC 5-350-140. Records of surplus lines broker. (Repealed.)

~~Each surplus lines broker shall keep in his office the records required by subsection A of § 38.2-4807 of the Code of Virginia. In addition, for each policy procured by him, the surplus lines broker shall make and keep a record of the rejections or declinations of coverage which include the name of the declining admitted insurer, the representative of the admitted insurer responsible for rejecting or declining the coverage sought, and the date the coverage was rejected or declined by the admitted insurer. The record of each policy, other than the records required by subsection A of § 38.2-4807, shall be made available for inspection by the commission within 24 hours of a request therefor.~~

~~The records required by § 38.2-4807 of the Code of Virginia shall be subject to examination without notice by the commission pursuant to § 38.2-1809 of the Code of Virginia and shall be available during normal business hours. Such records shall be retained for a period of not less than five years following termination of the policy.~~

14 VAC 5-350-150. Surplus lines broker to file quarterly report.

Every licensed surplus lines broker shall file with the commission a report on Form Forms SLB-3, SLB-5 (Parts 1-3), and SLB-7 for the business conducted during the previous

calendar quarter. This report shall be filed with and received by the commission not more than 30 days after the end of the calendar quarter in which any such insurance has been procured sold by the surplus lines broker. *At the filing of the report, every licensed surplus lines broker shall remit to the commission the gross premium tax due.*

Surplus lines brokers licensed in this Commonwealth may not file the report and pay the tax or assessment on insurance contracts sold by unlicensed surplus lines brokers.

14 VAC 5-350-155. Changes requiring refiling of quarterly report.

If, after delivery of any policy or other written evidence of insurance, there is any change in the identity of the insurer or insurers, or in the proportion of the risk assumed by any insurer, or if there is any material change in coverage, the surplus lines broker shall promptly issue and deliver to the insured an appropriate substitute for, or endorsement of the original document, accurately showing the current status of the coverage and the insurer or insurers responsible thereunder. The quarterly report required under 14 VAC 5-350-150 shall be refiled to reflect any changes listed in the preceding sentence. Such refiling may be accomplished by the filing of a copy of the original quarterly report with any such changes noted thereon or attached thereto.

14 VAC 5-350-160. Surplus lines broker to file annual report and remit outstanding premium tax and full amount of assessment due.

On or before the first day of March of each year every licensed surplus lines broker shall file with the commission a report as required by § 38.2-4807 of the Code of Virginia on Form Forms SLB-4, SLB-6 (Parts 1-3), and SLB-8 for the business conducted during the previous calendar year. The report prescribed in this section shall be verified and notarized. In lieu of filing Form SLB-6 (Parts 1-3), a broker may file legible photocopies of the previously filed quarterly reports on Form SLB-5 (Parts 1-3) for the calendar year.

At the filing of the report, every licensed surplus lines broker shall remit to the commission any outstanding gross premium tax and the full assessment due as calculated on Form SLB-8. Such remittance shall be made payable to the Treasurer of Virginia. If a payment is made in an amount later found to be in error and an additional amount is due, the commission shall notify the surplus lines broker of the additional amount due, and the surplus lines broker shall pay such amount within 14 days of the date of the notice.

14 VAC 5-350-165. Records of surplus lines broker.

Each surplus lines broker shall retain in his office all of his records relative to insurance transactions. In addition, for each policy sold by him, the surplus lines broker shall make and keep a record of the rejections or declinations of coverage, which include the name of the declining admitted insurer, the representative of the admitted insurer responsible for rejecting or declining the coverage sought, and the date the coverage was rejected or declined by the admitted insurer. The records of each insurance transaction shall be made available for inspection and subject to examination without notice by the commission during normal business hours. Such records shall

be retained for a period of not less than five years following termination of the policy.

14 VAC 5-350-170. ~~Surplus lines broker to file gross premium tax report and remit taxes and assessments due. (Repealed.)~~

~~A. Every licensed surplus lines broker whose annual premium tax liability can reasonably be expected to exceed \$1,500 shall file with the commission the quarterly gross premium tax report on Form SLB-7 no later than 30 days after the end of each calendar quarter. Form SLB-7 shall be verified and notarized. The licensed surplus lines broker shall also file Form SLB-5 at the same time that Form SLB-7 is filed. Every licensed surplus lines broker shall remit to the commission the full amount of gross premium tax due as calculated on Form SLB-7 when this report is filed. Such remittance shall be made payable to the Treasurer of Virginia.~~

~~B. On or before the first day of March of each year every surplus lines broker that was licensed for any portion of the preceding calendar year shall file with the commission the gross premium tax and assessment report on Form SLB-8. The report prescribed in this section shall be verified and notarized. Enclosed with the SLB-8 report, every licensed surplus lines broker shall remit to the commission the full amount of gross premium tax and assessment due as calculated on Form SLB-8. Such remittance shall be made payable to the Treasurer of Virginia.~~

~~C. If a payment is made in an amount later found to be in error, the commission shall, if an additional amount is due, notify the surplus lines broker of the additional amount and the surplus lines broker shall pay such amount within 14 days of the date of the notice. Failure to pay the full amount of gross premium tax and assessment due on or before the first day of March shall be punishable under §§ 38.2-4814, 38.2-403 or 58.1-2507 of the Code of Virginia. In addition, any person licensed or required to be licensed under this chapter who willfully fails or refuses to pay the full amount of the tax or assessment required by this chapter, either by himself or through his agents or employees, or who makes a false or fraudulent return with intent to evade the tax or assessment levied, or who makes a false or fraudulent claim for refund shall be guilty of a Class 1 misdemeanor. If any person licensed or required to be licensed under Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia, charges and collects from the insured the taxes and assessments required by this chapter and Chapter 48, such person shall be a fiduciary to this Commonwealth for any taxes and assessments owed to this Commonwealth under this chapter and Chapter 48. If an overpayment is made, the surplus lines broker may petition the commission for a refund of such overpayment pursuant to the provisions of § 58.1-2030 of the Code of Virginia.~~

14 VAC 5-350-180. ~~Eligible surplus lines insurers. (Repealed.)~~

~~A surplus lines broker shall not procure insurance from a non-admitted insurer unless that insurer has prior approval of the Commission to issue surplus lines insurance.~~

14 VAC 5-350-210. Penalties.

Any violation of this chapter shall be punished as provided for in § 38.2-4814 of the Code of Virginia and any other applicable law of this Commonwealth, except that any violation of subsection C of 14 VAC 5-350-90 ~~of this chapter~~ shall be punished as provided for in §§ 38.2-218 ~~and~~, 38.2-1831, 38.2-1857.7, ~~and~~ 38.2-1857.8 of the Code of Virginia and any other applicable law of this Commonwealth.

NOTICE: The forms used in administering 14 VAC 5-350, Rules Governing Surplus Lines Insurance, are not being published due to the large number; however, the name of each form is listed below. The forms are available by contacting Raquel Pino-Moreno at (804) 371-9499 or e-mail rpinomoreno@scc.state.va.us.

FORMS

- ~~Form SLB-1, Individual Application for License for a Surplus Lines Broker, Part 1 (rev. 1/01).~~
- ~~Form SLB-1, Business Entity Application for License for a Surplus Lines Broker, Part 2 (rev. 1/01).~~
- ~~Form SLB-2, Bond for Surplus Lines Insurance Broker (rev. 1/01).~~
- Form SLB-3, Quarterly Combined Affidavit by Surplus Lines Broker (rev. 9/99).
- Form SLB-4, Annual Combined Affidavit by Surplus Lines Broker (rev. 9/99).
- Form SLB-5, Surplus Lines Quarterly Report (rev. 9/99).
- Form SLB-6, Surplus Lines Annual Report (rev. 9/99).
- Form SLB-7, Quarterly Gross Premiums Tax Report (rev. 9/99).
- Form SLB-8, Annual Gross Premiums Tax Report (rev. 9/99).
- Form SLB-9, Notice to Insured (eff. 9/96).
- Form SLB-10, Commercial Insured Waiver (eff. 9/96).

VA.R. Doc. No. R02-306; Filed July 24, 2002, 10:56 a.m.

TITLE 16. LABOR AND EMPLOYMENT

DEPARTMENT OF LABOR AND INDUSTRY

Apprenticeship Council

Title of Regulation: **16 VAC 20-10. Public Participation Guidelines (amending 16 VAC 20-10-10, 16 VAC 20-10-20, 16 VAC 20-10-40, 16 VAC 20-10-50, 16 VAC 20-10-80, 16 VAC 20-10-90, and 16 VAC 20-10-100).**

Statutory Authority: §§ 2.2-4007 and 40.1-117 of the Code of Virginia.

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Public Hearing Date: N/A -- Public comments may be submitted until October 11, 2002.

(See Calendar of Events section for additional information)

Agency Contact: Bonnie R. Hopkins, Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Building, 13 S. Thirteenth Street, Richmond, VA 23219, telephone (804) 371-2631, FAX (804) 371-6524 or e-mail brh@doli.state.va.us.

Basis: Section 2.2-4007 of the Administrative Process Act mandates that the council have Public Participation Guidelines and defines policies to be included. The regulation meets the minimum requirements of the state mandate. There is no federal mandate for the regulation.

Purpose: Since this regulation was adopted in 1994, the Administrative Process Act (APA) has been amended several times. Also, last year the APA was included in the recodification of Titles 2.1 and 9 of the Code of Virginia. Language in the current regulation includes provisions that are no longer required by the APA. This proposed action will conform the regulation language to the current requirements of the APA and update the cites to the APA. Also, with the advances in information technology since 1994, amendments are necessary to include the agency website and other Internet resources that are now available. These changes will ensure that the public has the maximum opportunity to participate in the regulatory process of the council.

Substance: Amendments to the regulation conform language to the current APA requirements; correct citations to the APA, include references to the agency website, remove language contained in the APA that is repeated in the regulation, and remove any language that conflicts with the current APA or the Governor's Executive Orders.

Issues: The primary advantage of this proposed action is the increased opportunity to receive information on regulatory actions by the council through various Internet resources and the increased opportunity to provide comments by the use of e-mail. This will improve the speed of communication during the process and possibly increase the public participation. If the council has sufficient increase in the use of electronic communication, then it will reduce mailing costs for the agency. Since the current methods of notification are also being retained, there is no disadvantage to the public or the Commonwealth in implementing the amended provisions.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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 Apprenticeship Council (council) proposes to amend the current public participation guidelines to (i) state that the NOIRA, proposed regulations, and final regulations will all be published on the Department of Labor and Industry (department) website and on the Virginia Regulatory Town Hall, (ii) state that an electronic public participation notification list will be maintained in addition to the paper mail public participation notification list, (iii) eliminate the requirement that the NOIRA and proposed regulations be published in a newspaper, and (iv) amend language to reflect the current requirements of the Administrative Process Act.

Estimated economic impact. Under the Administrative Process Act, all state agencies that promulgate regulations are required to maintain public participation mailing lists containing the names of all parties that have registered an interest in a particular regulation. Membership on these lists typically includes members of the regulated community, public interest groups, law firms, and individual citizens with an interest in a particular area of regulation.

The proposed regulations state that the NOIRA, proposed regulations, and final regulations will all be published on the department website and on the Virginia Regulatory Town Hall. Proposed language also indicates that an electronic public participation notification list will be maintained in addition to the paper mail public participation notification list. These electronic forms of communication, which all are already in place, increase the speed of notification, increase the amount of information readily available to individuals, and provide new electronic avenues for public participation.

The council proposes to eliminate a requirement that the NOIRA and proposed regulations be published in a Virginia newspaper. The department reports that it stopped publishing such notices some time ago due to their excessive cost, \$300 to \$500 per day.¹ It is noted that § 2.2-4007 of the Code of Virginia gives agencies the discretion as to whether to publish such notices in the newspaper. Interested individuals that are aware of the paper and electronic notification lists are not likely to receive benefit from newspaper publication. They can reliably be informed through the notifications list rather than hope they happen to read the right section of the right newspaper on the day the information is published. On the other hand, potentially interested individuals who are not aware of the paper and electronic notification lists will lose a method by which they could first learn of regulatory activity. The department believes that it was uncommon for individuals interested in the apprenticeship regulations to first learn of regulatory activity through the newspaper publications. No data is available concerning the frequency that individuals interested in the apprenticeship regulations first learned of regulatory activity through the newspaper publications. Hence, the cost to the public of rescinding the newspaper publication requirement cannot be accurately estimated. Since the cost cannot be accurately estimated, it cannot be determined

¹ Source: Department of Labor and Industry.

whether the benefit of saving \$300 to \$500 per day plus staff time in placing the ad exceeds the cost. However, the department's experience with newspaper advertisements does give some reason to believe that these changes will result in a net economic benefit.

Businesses and entities affected. The proposed amendments potentially affect the 80 individuals on the council's public participation mailing list, the 64 individuals on the council's electronic list maintained through the Virginia Regulatory Town Hall, the 2,300 apprenticeship sponsors in the Commonwealth, and other potentially interested parties such as current and future apprentices.²

Localities particularly affected. The proposed amendments potentially affect localities throughout Virginia.

Projected impact on employment. The proposed amendments are not expected to significantly affect employment.

Effects on the use and value of private property. There may be a small reduction in newspaper advertising.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Labor and Industry and the Apprenticeship Council concur with the economic impact analysis of the Department of Planning and Budget for the proposed amendments to 16 VAC 20-10.

Summary:

The amendments conform the language to the current requirements of the Administrative Process Act, and in response to advances in information technology include the agency website and other Internet resources in the regulation.

16 VAC 20-10-10. Definitions.

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

"*Ad hoc advisory group*" means a task force to develop a new regulation, or review current regulations, or revise current regulations, or advise the council on particular issues under consideration for regulation.

"*Administrative Process Act*" means Chapter 1.1:1 (~~§ 9-6.14:1 et seq.~~) of Title 9 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"*Commissioner*" means the Commissioner of Labor and Industry or his designee.

"*Council*" means the Virginia Apprenticeship Council.

"*Department*" means the Virginia Department of Labor and Industry.

"*Open meeting*" means an informal meeting to provide an opportunity for the council or their designee(s) to hear information, receive views and comments, and to answer questions presented by the public on a particular issue or regulation under consideration by the council. It is a meeting

to facilitate the informal exchange of information and may be held prior to or during the regulation promulgation process.

"*Public hearing*" means an informational proceeding conducted pursuant to § ~~9-6.14:7.4~~ 2.2-4007 of the Code of Virginia.

"*Regulation*" means any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by the council with the authority conferred upon it by applicable basic law.

"*Secretary*" means the Secretary of Commerce and Trade or his designee.

16 VAC 20-10-20. Applicability.

These guidelines shall apply to all regulations subject to the Administrative Process Act ~~which~~ that are adopted by the Apprenticeship Council and administered by the Commissioner of Labor and Industry. They shall not apply to regulations adopted on an emergency basis. This chapter shall not apply to regulations exempted from the provisions of § 2.2-4002 of the Administrative Process Act (~~§ 9-6.14:4.1 A and B~~) or excluded from the operation of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (~~§ 9-6.14:4.1 C~~).

16 VAC 20-10-40. Identification of interested groups.

The major groups interested in the regulatory process of the council are:

1. Business and labor associations and organizations such as the Virginia Manufacturers Association and the Virginia State AFL-CIO;
2. Persons, groups, businesses, industries, and employees affected by the specific regulation who have previously expressed an interest by writing or participating in public hearings; and
3. Persons or groups who have asked to be placed on a ~~mailing~~ an electronic or mail notification list.

16 VAC 20-10-50. Public involvement with formulation of regulations.

A. The council shall accept petitions to develop a new regulation or amend an existing regulation from any member of the public. The council shall consider the petition and ~~provide a response within 180 days~~ respond in accordance with § 2.2-4007 A of the Administrative Process Act.

B. The petition, at a minimum, shall contain the following information:

1. Name, mailing address and telephone number of petitioner;
2. E-mail address of petitioner, if applicable;
- ~~2-~~ 3. Petitioner's interest in the proposed action;
- ~~3-~~ 4. Substance and purpose of the requested rulemaking including a recommended regulation or addition, deletion or amendment to a specific regulation;
- ~~4-~~ 5. Statement of need and justification for the proposed action;

² Number source: : Department of Labor and Industry.

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~~5.~~ 6. Statement of impact on the petitioner and other affected persons; and

7. Reference to the legal authority of the agency to take the action requested; and

~~6.~~ 8. Supporting documents, as applicable.

16 VAC 20-10-80. Notice of Intended Regulatory Action (NOIRA).

~~A. The department will identify parties as referred to in 16 VAC 20-10-40 interested in the development of the regulation and assemble the appropriate mailing list.~~

~~B.~~ A. The council shall issue a NOIRA whenever it considers the adoption, amendment *intends to develop, amend* or repeal of any regulation subject to the Administrative Process Act (APA). The NOIRA will include all of the information which is required by the APA.

~~C.~~ B. The council will appoint advisory or consultation groups in accordance with 16 VAC 20-10-60, if appropriate.

~~D.~~ C. The NOIRA will be disseminated to the public via:

1. Distribution by mail, *facsimile, e-mail or other appropriate method* to persons on appropriate mailing list, including publications of interested groups, *in the council's regulatory process;*

2. Publication in The Virginia Register of Regulations.;

~~3. Publication in newspaper of statewide circulation and in specific affected areas of the state, if applicable.~~

3. *Publication on the Regulatory Town Hall website; and*

4. *Posting on the agency website.*

16 VAC 20-10-90. Proposed regulations.

A. After consideration of public comment, the council may prepare a proposed draft regulation and any necessary documentation required for review. If an ad hoc advisory group has been established, the draft regulation shall be developed in consultation with such group.

B. The council will submit the proposed regulation to a 60-day public hearing/comment period by forwarding the proposed regulation and all Administrative Process Act required documents *as stated in § 2.2-4007 of the Code of Virginia to the Registrar of Regulations and the Regulatory Town Hall* by the established submission date for the desired date of publication in The Virginia Register and the beginning of the 60-day comment period. *The proposed regulation will also be posted on the agency's website and distributed by mail, facsimile or e-mail to persons on the appropriate notification list.*

~~C. Concurrently with the preceding step, the council will submit required documentation and the proposed regulation for review by other agencies as required by Governor's directive.~~

~~D. Upon receipt of the proposed regulation and appropriate documentation, the Registrar of Regulations will publish the summary of the regulation and the public hearing notice in The Virginia Register and in the Richmond area newspaper of~~

~~general circulation. If requested, the Registrar will publish the notice in other selected areas of the state. A copy of the notice shall also be mailed to persons on the appropriate mailing list.~~

16 VAC 20-10-100. Completion of the adoption process.

A. The council shall prepare a summary of the oral and written comments received during the 60-day public comment period and the council's response to the comments. A draft of the council's summary shall be sent to all parties who commented on the proposed regulation. The summary shall be sent at least five days before final adoption of the regulation.

B. At the end of the 60-day public comment period, the council shall prepare the final proposed regulation.

C. The final regulation shall be submitted to the council for adoption.

~~D. The council shall submit the final regulation with the Administrative Process Act required documentation as stated in § 2.2-4012 of the Code of Virginia to the Registrar of Regulations and the Regulatory Town Hall for publication in The Virginia Register at least 30 days prior to the effective date of the regulation. Concurrently, the final regulation and any other required documentation will be submitted for review by other agencies as required by Governor's directive. The final regulation will also be posted on the agency's website and distributed by mail, facsimile or e-mail to persons on the appropriate notification list.~~

E. The remaining steps in the adoption process shall be carried out in accordance with the provisions of the Administrative Process Act and the Governor's Executive Order for review of proposed regulations.

VA.R. Doc. No. R02-18; Filed July 11, 2002, 2:39 p.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

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

Title of Regulation: **18 VAC 10-10. Public Participation Guidelines (amending 18 VAC 10-10-10, 18 VAC 10-10-20, 18 VAC 10-10-30 and 18 VAC 10-10-50 through 18 VAC 10-10-90).**

Statutory Authority: §§ 2.2-4007 and 54.1-404 of the Code of Virginia.

Public Hearing Date: September 10, 2002, 9 a.m.

Public comments may be submitted until October 11, 2002.

(See Calendar of Events section

for additional information)

Agency Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, VA 23230, telephone (804)

367-8514, FAX (804) 367-2475, or e-mail apelsla@dpor.state.va.us.

Basis: The statutory authority for the board to promulgate the Public Participation Guidelines is found in §§ 2.2-4007 and 54.1-404 of the Code of Virginia. The board is empowered to promulgate regulations for individuals and businesses in Virginia that practice architecture, professional engineering, land surveying, certified interior design and landscape architecture.

The Public Participation Guidelines implement the requirements of the Administrative Process Act by establishing procedures to be followed by the board in soliciting, receiving and considering public comments.

Purpose: The Public Participation Guidelines are statutorily mandated and ensure the protection of the public's health, safety and welfare by documenting and formalizing the process through which the public has access to the regulatory review process.

Substance: The proposed amendments to 18 VAC 10-10-10, 18 VAC 10-10-20 and 18 VAC 10-10-30 allow the board to accept requests to be placed on a notification list, and to notify PPG list members, via electronic means. Currently, only written requests and mailed notifications are permitted. This change would allow a more cost effective and efficient way of interacting with list members.

Grammatical changes are made to 18 VAC 10-10-20, 18 VAC 10-10-30, 18 VAC 10-10-50, 18 VAC 10-10-60, 18 VAC 10-10-70 and 18 VAC 10-10-80. References to recodified provisions of the APA are updated in 18 VAC 10-10-10, 18 VAC 10-10-20, 18 VAC 10-10-50 and 18 VAC 25-10-90. These changes ensure that the regulations are clear and accurate.

Issues: The primary advantage to the public is that the board will be able to accept requests to be placed on a notification list, and to notify PPG list members, via electronic means, which is a more cost effective and efficient way of interacting with list members. There are no expected disadvantages to the public or the Commonwealth.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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 Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects (board) proposes to modify its public participation guidelines to allow

the board to accept requests to be placed on the public participation notification list via electronic means, and to send regulatory notifications to list members electronically. Currently, only written requests and mailed notifications are permitted. In addition, the board proposes to add language specifying that when electronic notifications are returned as undeliverable, individuals and organizations will be deleted from the list.

Estimated economic impact. Under the Administrative Process Act, all state agencies that promulgate regulations are required to maintain public participation mailing lists containing the names of all parties that have registered an interest in a particular regulation. Membership on these lists typically includes members of the regulated community, public interest groups, law firms, and individual citizens with an interest in a particular area of regulation.

There are no clear disadvantages associated with allowing interested parties to use electronic communication rather than mail for joining the notification list and for receiving notifications. Individuals may choose to remain on the traditional mailing lists, which will continue to be maintained by the board. If electronic notification and comment becomes more prevalent, there would be a reduction in printing and mailing costs incurred by the board. In addition to the potential fiscal benefits, these changes also allow the board to increase the speed of notification and the amount of information readily available to interested parties, which will increase efficiency and may enhance public participation.

The current regulations state, "When mail is returned as undeliverable, individuals and organizations will be deleted from the (mailing) list." The proposed regulations state, "When mail or electronic notifications are returned as undeliverable, individuals and organizations will be deleted from the list." Unlike physical mail, when electronic notifications are returned as undeliverable it is not necessarily an indication that the address is no longer active; servers are frequently down for short periods (one day or less). Thus, if the proposed language is implemented, there is the strong potential that individuals and organizations will be deleted from the notification list when their e-mail accounts remain active. The individuals and organizations would not be notified that they were removed from the list and would therefore be unaware that they are missing notifications of board regulatory action. The Department of Professional and Occupational Regulations will recommend to the board at their next meeting that the pertinent language be changed to "When mail is returned as undeliverable, individuals and organizations will be deleted from the list. When electronic notifications are returned as undeliverable over more than one day, individuals and organizations will be deleted from the list." By indicating that the individuals and organizations will be deleted from the list when electronic notifications are returned as undeliverable over more than one day, the likelihood that individuals and organizations will be deleted from the notification list when their e-mail accounts remain active will be greatly diminished.

Businesses and entities affected. The proposed changes will affect individuals and organizations interested in the regulations governing individuals licensed by the board. There

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are currently 43 entities listed on the notification list for the board.¹

Localities particularly affected. All Virginia localities may have individuals that have interest in regulatory changes pertaining to the board.

Projected impact on employment. The proposed changes are not projected to affect employment.

Effects on the use and value of private property. The proposed changes are unlikely to affect the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects concurs with the department's analysis.

Summary:

The proposed amendments allow the board to accept requests to be placed on a notification list, and to notify PPG list members, via electronic means. Currently, only written requests and mailed notifications are permitted. The amendments also update statutory references and make grammatical changes.

18 VAC 10-10-10. Definitions.

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

"Administrative Process Act" means Chapter 4-4:4 40 (§ 9-6-14:4 2.2-4000 et seq.) of Title 9 2.2 of the Code of Virginia.

"Agency" means any authority, instrumentality, officer, board, or other unit of state government empowered by the basic laws to make regulations or decide cases.

"Notification lists" means lists used by the board to notify persons pursuant to this chapter. Such lists may include electronic mailing lists or regular mailing lists maintained by the board.

"Organization" means any one or more association, advisory council, committee, corporation, partnership, governmental body or legal entity.

"Person" means one or more individuals.

18 VAC 10-10-20. Mailing list Notification lists.

The agency will maintain a list lists of persons and organizations who will be mailed the following documents, or notification of how to obtain a copy of the documents electronically, as they become available:

1. "Notice of Intended Regulatory Action" to promulgate, amend or repeal regulations.
2. "Notice of Comment Period" and public hearings.

3. Notice that the final regulations have been adopted.

Failure of ~~these persons and organizations~~ a person or organization to receive the documents for any reason shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act (§ 9-6-14:4 2.2-4000 et seq. of the Code of Virginia).

18 VAC 10-10-30. Placement on the mailing list; deletion.

Any person or organization wishing to be placed on the mailing a notification list may do so by electronic notification or by writing the agency. In addition, the agency, at its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. ~~Persons~~ Each person and organization on the list will be provided all information stated in 18 VAC 10-10-20. ~~Individuals and organizations~~ A person or organization periodically may be requested to indicate their desire to continue to receive documents or be deleted from the list. When mail is or electronic notifications are returned as undeliverable, ~~individuals and organizations~~ the person or organization will be deleted from the list.

18 VAC 10-10-40. Petition for rulemaking.

Any person may petition the agency to consider or review any regulation. Any petition received shall appear on the next agenda of the agency. The agency shall consider and respond to the petition ~~within 180 days~~ pursuant to § 2.2-4007 A of the Code of Virginia. The agency shall have sole authority to dispose of the petition.

18 VAC 10-10-50. Notice of intent.

At least 30 days prior to filing the "Notice of Comment Period" and proposed regulations as required by § 9-6-14:7-4 2.2-4007 of the Code of Virginia, the agency will publish a "Notice of Intended Regulatory Action." This notice will provide for at least a 30-day comment period and shall state whether the agency intends to hold a public hearing. The agency is required to hold a hearing on the proposed regulation upon request by (i) the Governor or (ii) 25 or more persons. Further, the notice shall describe the subject matter and intent of the planned regulation. Such notice shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register of Regulations.

18 VAC 10-10-60. Informational proceedings or public hearings for existing rules.

Within two years of the promulgation of a regulation, the agency shall evaluate it for effectiveness and continued need. The agency shall conduct an informal proceeding, which may take the form of a public hearing, to receive public comment on existing regulation. Notice of such proceedings shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register of Regulations. Such proceedings may be held separately or in conjunction with other informational proceedings.

18 VAC 10-10-70. Notice of formulation and adoption.

At any meeting of the agency or a subcommittee where it is anticipated the formation or adoption of regulation will occur,

¹ Source: DPOR

the subject matter shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register of Regulations.

If ~~there are~~ one or more changes ~~with~~ have substantial impact on a regulation, *then* any person may petition the agency within 30 days from the publication of the final regulation to request an opportunity for oral or written submittals on the changes to the regulations. If the agency receives requests from at least 25 persons for an opportunity to make oral or written comment, *then* the agency shall suspend the regulatory process for 30 days to solicit additional public comment, unless the agency determines that the changes made are minor or inconsequential in their impact.

If the Governor finds that one or more changes with substantial impact have been made to proposed regulation, *then* he may suspend the regulatory process for 30 days to require the agency to solicit further public comment on the changes to the regulation.

A draft of the agency's summary description of public comment shall be sent by the agency to all public commenters on the proposed regulation at least five days before final adoption of the regulation.

18 VAC 10-10-80. Advisory committees.

The agency intends to appoint advisory committees as it deems necessary to provide adequate participation in the formation, promulgation, adoption, and review of regulations. Such committees are particularly appropriate when other interested parties may possess specific expertise in the area of proposed regulation. The advisory committee shall only provide recommendations to the agency and shall not participate in any final decision making actions on a regulation.

When identifying potential advisory committee members the agency may use the following:

1. Directories of organizations related to the profession;
2. Industry, professional and trade associations' mailing lists, ~~and~~; or
3. Lists of persons who have previously participated in public proceedings concerning this or a related issue.

18 VAC 10-10-90. Applicability.

18 VAC 10-10-20, 18 VAC 10-10-30, 18 VAC 10-10-40, 18 VAC 10-10-60, and 18 VAC 10-10-70 shall apply to all regulations promulgated and adopted in accordance with § ~~9-6.14.9~~ 2.2-4012 of the Code of Virginia except those regulations promulgated in accordance with § ~~9-6.14.4.1~~ 2.2-4002, 2.2-4006, 2.2-4011, 2.2-4018, or 2.2-4025 of the Administrative Process Act.

VA.R. Doc. No. R02-6; Filed July 16, 2002, 1:23 p.m.

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

REGISTRAR'S NOTICE: Due to its length, 18 VAC 15-30 filed by the Virginia Board for Asbestos, Lead, and Home Inspectors is not being published. However, in accordance with § 2.2-4031 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Virginia Board for Asbestos, Lead, and Home Inspectors (see contact information below) and is accessible on the Virginia Register of Regulations website at <http://legis.state.va.us/codecomm/register/vol18/welcome.htm>.

Title of Regulation: 18 VAC 15-30. Virginia Lead-Based Paint Activities Regulations (amending 18 VAC 15-30-10 through 18 VAC 15-30-50, 18 VAC 15-30-100 through 18 VAC 15-30-180, 18 VAC 15-30-250 through 18 VAC 15-30-300, 18 VAC 15-30-330 through 18 VAC 15-30-520, 18 VAC 15-30-540, 18 VAC 15-30-550, 18 VAC 15-30-610, 18 VAC 15-30-620, 18 VAC 15-30-650, and 18 VAC 15-30-770 through 18 VAC 15-30-820; adding 18 VAC 15-30-41, 18 VAC 15-30-205, 18 VAC 15-30-245, 18 VAC 15-30-541, 18 VAC 15-30-542, 18 VAC 15-30-651; repealing 18 VAC 15-30-60 through 18 VAC 15-30-90, 18 VAC 15-30-190 through 18 VAC 15-30-240, 18 VAC 15-30-310, 18 VAC 15-30-320, 18 VAC 15-30-530, 18 VAC 15-30-560 through 18 VAC 15-30-600, 18 VAC 15-30-630, 18 VAC 15-30-640, 18 VAC 15-30-660 through 18 VAC 15-30-750, 18 VAC 15-30-830, and 18 VAC 15-30-840).

Statutory Authority: § 54.1-501 of the Code of Virginia.

Public Hearing Date: October 8, 2002 - 2 p.m.

Public comments may be submitted until October 11, 2002. (See Calendar of Events section for additional information)

Agency Contact: Tom Perry, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475 or e-mail asbestos@dpor.state.va.us.

Basis: On October 28, 1992, the U.S. Congress enacted the Residential Lead-Based Paint Hazard Reduction Act of 1992, also known as Title X of the Housing and Community Development Act. This Act also amended the Toxic Substances Control Act (TSCA) to include a new subchapter, Subchapter IV, 15 U.S.C. 2681-2692. (Please see: <http://www4.law.cornell.edu/uscode/15/ch53.html>.) TSCA Subchapter IV directed the EPA to promulgate regulations, including the lead-based paint activities training, certification and accreditation requirements, work practice standards, and a Model State Program (MSP), which states should be encouraged to reference and use as guidance in order to develop their own federally authorized lead-based paint activities programs.

As a result of Title X, the EPA promulgated regulations pursuant to §§ 402 and 404 of TSCA (see §§ 2682 and 2684 respectively at: <http://www4.law.cornell.edu/uscode/15/ch53.html>). Section 402 regulations were promulgated to ensure that individuals conducting lead-based paint activities

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in target housing and child-occupied facilities are properly trained and certified; that training programs throughout the nation providing instruction in such activities are accredited; and that these activities are conducted according to reliable, effective and safe work practice standards. Section 404 regulations require each state to seek authorization from the EPA to administer and enforce the regulations developed by the state pursuant to § 402 of TSCA, or to submit to the EPA's administration and enforcement of the federal regulations promulgated pursuant to § 402 of TSCA. (See <http://www.epa.gov/docs/epacfr40/chapt-I.info/subch-R/40P0745.pdf> for the EPA regulation). Virginia applied for § 404 authorization on October 30, 1998 and was informed officially of its approval as an EPA-authorized state by letter dated February 19, 1999.

The above-referenced EPA final regulations did not fully implement the provisions of TSCA or the provisions of the EPA proposed regulations. The EPA proposed regulations covered "target housing," "public buildings," "commercial buildings," and "superstructures." The final EPA regulations covered only "target housing" and a new category of structure called "child-occupied facilities." Regulations for the remaining structure types were held in abeyance and are now referred to by the EPA as the "building and structures" regulations or, simply, "B&S."

The board's authority to promulgate the proposed regulations is contained in §§ 54.1-201 and 54.1-501 of the Code of Virginia.

Subsection 6 of 54.1-501 states, "In the event that the EPA shall adopt any final regulations subsequent to the promulgation by the Board of related regulations, then the Board shall, as soon as practicable, amend its existing regulations so as to be not more stringent than such EPA regulations."

Purpose: The intent of the planned regulation amendments is to assure the existence of an infrastructure of trained and qualified individuals and firms to remove lead-based paint hazards in such a manner so as to reduce the hazard to humans, especially children under six years old.

The proposed regulations are mandated by statute, and are essential to protect the health, safety and welfare of citizens and for the efficient and economical performance of an important governmental function.

Substance: The following revisions to the board's November 13, 1996, regulations will implement changes in EPA's final regulation that would make the board's regulations "no more stringent" than EPA's regulations:

18 VAC 15-30-10 is modified to limit the applicability of these regulations to target housing and child-occupied facilities to align with EPA's revised limitations.

18 VAC 15-30-20 is amended to modify, add, or delete definitions for clarification and to come into alignment with EPA's regulations as mandated by the board's enabling statutes.

18 VAC 15-30-41 is added to enable the board to waive any requirements of the regulations if the board finds that the

waiver in no way lessens the protection of the public health, safety and welfare.

18 VAC 15-30-50 A is amended to delete the department's mailing address, which is subject to change, appears on the printed regulation booklet and is available from the department's website (www.state.va.us/dpor). The instructions are simplified to require applications to be made on a form provided by the department. Subsection C is amended to clarify the use of fees and the justification for not issuing refunds.

18 VAC 15-30-60, 18 VAC 15-30-70, 18 VAC 15-30-80, and 18 VAC 15-30-90 are repealed in their entirety. The standards established in the repealed sections are redundant with the licensure requirements in Part IV for individuals, Part V for contractors, and Part VI for training programs.

18 VAC 15-30-100 B is amended to eliminate the extension of interim licenses. By eliminating the ability to extend an interim license, the third-party examination can be used as a tool for "weeding out" incompetent candidates, thereby better protecting the public health, safety, and welfare.

18 VAC 15-30-110 is amended to include allowances for proficiency based courses. This came directly from EPA's regulations. Since these courses are more intense in both time and subject matter, refresher training is required after 60 months instead of only 36 months.

18 VAC 15-30-130 is amended to align the renewal cycle (every 24 months) of an accredited training program with the reaffirmation cycle (every 36 months) ensuring the training provider is maintaining compliance with the regulations. The proposed regulations maintains the 24-month renewal cycle, but increases the reaffirmation cycle to 48 months so that the training provider must reaffirm compliance every other renewal cycle. Additionally, the reaffirmation information from 18 VAC 15-30-320 is moved to this section for ease of understanding.

18 VAC 15-30-140 D is amended to require an individual applying for a second interim license to retake and satisfactorily complete the initial training requirement, not just an eight-hour refresher course. In conjunction with 18 VAC 15-30-100, the current regulations allow for an individual to take an eight-hour refresher to obtain subsequent interim licenses and never sit for or pass the third-party examination. By requiring these individuals to successfully retake the initial training, they may be better prepared to take and pass the third-party examination, ensuring that only competent lead professionals are performing work for the public.

18 VAC 15-30-160 H is added. The current regulations impose a late renewal fee on training programs that renew more than 30 days after the expiration date of the accreditation. The \$25 fee charged for late renewal is an agency-wide amount for all licenses, certificates, and accreditations. The fee amount was omitted in the current regulations.

18 VAC 15-30-170 is revised to eliminate "grandfathering." Very few applicants have applied for licensure in the past two years through grandfathering. Since only equivalent training taken prior to January 1, 1996, is accepted and since the EPA

requires refresher training every three years, the board felt that any new applicant must complete a board-approved training course to enable the applicant to be more familiar with any changes in federal and state regulations. There may be a few applicants who are required to take additional training; however, this additional training should better ensure that they are sufficiently trained prior to the board issuing a license. Additionally, "for target housing, superstructures and public and commercial buildings" is deleted from the section title since it is stated in 18 VAC 15-30-10 that these regulations are applicable only to target housing and child-occupied facilities.

18 VAC 15-30-180 is revised to eliminate "grandfathering." Very few applicants have applied for licensure in the past two years through grandfathering. Since only equivalent training taken prior to January 1, 1996, is accepted and since the EPA requires refresher training every three years, the board felt that any new applicant must complete a board-approved training course to enable the applicant to be more familiar with any changes in federal and state regulations. There may be a few applicants who are required to take additional training, however, this additional training should better ensure that they are sufficiently trained prior to the board issuing a license. Also, in response to EPA revisions, the discipline name is changed from planner/project designer to project designer, and an experience requirement is added. Additionally, "for target housing and public buildings" is deleted from the section title since it is stated in 18 VAC 15-30-10 that these regulations are applicable only to target housing and child-occupied facilities.

18 VAC 15-30-190 and 18 VAC 15-30-200 are replaced in their entirety with new section 18 VAC 15-30-205 "Licensed lead abatement supervisor." For simplification, the requirements for both sections are combined. Separate requirements are unnecessary and confusing. Also, as in 18 VAC 15-30-170 and 18 VAC 15-30-180, grandfathering is eliminated. Subsection C has been added to require the applicant to retake the initial training before he can take the third-party examination for the third time. It is felt that if the applicant fails the third-party examination twice, the subject matter was not understood. Subsection D is added to allow a licensed lead abatement supervisor to perform the duties of a licensed lead abatement worker since the worker training is included in the supervisor training course.

18 VAC 15-30-210 and 18 VAC 15-30-220 are replaced in their entirety with new section 18 VAC 15-30-225 "Licensed lead inspector." EPA's regulations replace discipline title "Lead Inspector Technician" with "Lead Inspector." The requirements are the same, only the title changes. For simplification, the requirements for both sections are combined. Separate requirements are unnecessary and confusing. Also, as in 18 VAC 15-30-170 and 18 VAC 15-30-180, grandfathering is eliminated. Subsection C is added to require the applicant to retake the initial training before he can take the third-party examination for the third time. It is felt that if the applicant fails the third-party examination twice, the subject matter was not understood.

18 VAC 15-30-230 and 18 VAC 15-30-240 are replaced in their entirety with new section 18 VAC 15-30-245 "Licensed

lead risk assessor." EPA's regulations replace discipline title "Lead Inspector/Risk Assessor" with "Lead Risk Assessor." The requirements are the same, only the title changes. For simplification, the requirements for both sections are combined. Separate requirements are unnecessary and confusing. Also, as in 18 VAC 15-30-170 and 18 VAC 15-30-180, grandfathering is eliminated. Subdivision A 1 is added to specify the acceptable fields of study for applicable undergraduate degrees. The current regulations are unclear regarding any fields of study. Subsection C is added to require the applicant to retake the initial training before he can take the third-party examination for the third time. It is felt that if the applicant fails the third-party examination twice, the subject matter was not understood.

18 VAC 15-30-250 is amended to include current procedures that are not specified in the current regulations.

18 VAC 15-30-270 D is deleted. Interim approvals were granted at the beginning of the licensing program. However, there is no longer a need to grant interim approval prior to an on-site audit.

18 VAC 15-30-310 is moved from Part VI, Training Program Accreditation, to Part X, Standards of Practice and Conduct, as subsection C of 18 VAC 15-30-790.

18 VAC 15-30-320 is rephrased for clarity and for administrative purposes and incorporated into 18 VAC 15-30-130 for ease of understanding.

18 VAC 15-30-380 is modified to reflect training course requirements found in EPA's regulations.

18 VAC 15-30-390 E is added to allow for a proficiency test to implement this new EPA regulation provision.

18 VAC 15-30-490 is rewritten since Project Designer is a new training course. In the current regulation, the Supervisor and Project Designer courses are the same since EPA has not developed a separate course for Project Designer.

18 VAC 15-30-510, 18 VAC 15-30-520, 18 VAC 15-30-540 through 18 VAC 15-30-550, 18 VAC 15-30-610, 18 VAC 15-30-620, 18 VAC 15-30-650, and 18 VAC 15-30-651 are revised, added, or rewritten to more accurately reflect EPA's regulations. 18 VAC 15-30-530, 18 VAC 15-30-560 through 18 VAC 15-30-600, 18 VAC 15-30-630, 18 VAC 15-30-640, and 18 VAC 15-30-660 through 18 VAC 15-30-680 are repealed.

18 VAC 15-30-690 through 18 VAC 15-30-750 are eliminated because the scope of EPA's regulations, and subsequently these regulations, are changed to include only target housing and child-occupied facilities.

18 VAC 15-30-830 and 18 VAC 15-30-840 are eliminated as they are redundant with 18 VAC 15-30-160.

Issues: The primary advantage to the public of implementing the new regulatory provision is the added protection against lead poisoning in children six years of age and under in "child-occupied facilities" as well as continuing to protect children six years of age and under in "target housing." The advantage to the agency and the Commonwealth is the ability to maintain Virginia's status as an "EPA-Authorized State" in the

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implementation of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

As with any deregulation, the disadvantage to the public would be the loss of employment opportunities of the industry in "public buildings," "commercial buildings," and "superstructures." Additionally, there is the cost of regulation to the industry in the form of fees, training and equipment, and to the agency in staffing to administer the regulations. These fees and other costs incurred by the industry due to regulation are passed on to the consumer by way of increased costs for services. However, these increases are more than offset by the protection from the intelligence quotient deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems caused from lead poisoning of the Commonwealth's children, our most precious resource.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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. Section 54.1-501 (6) of the Code of Virginia mandates that the Board for Asbestos and Lead (the board) promulgate lead-based regulations that are no more stringent than the lead-based paint regulations promulgated by the United States Environmental Protection Agency (EPA). The board proposes two major changes to these regulations so as to be not more stringent than the EPA regulations. Interim control projects will no longer require personnel who are licensed to work with lead; and personnel will no longer require licenses to work with lead on any lead abatement project that does not involve target housing and child-occupied facilities.

Estimated economic impact. Under the current regulations, if it is known that paint on a building or structure contains lead, then any activity that involves reduction of lead-based paint hazards requires workers who are licensed to work with lead-based paint. Under the proposed regulations, interim controls no longer require workers who are licensed to work with lead-based paint. Interim controls are defined as "measures and activities that are designed to temporarily, but not permanently, reduce lead-based paint hazards." Such measures and activities include "specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, ..." Also, pursuant to matching EPA regulations, the board proposes to permit unlicensed personnel to conduct abatement measures and activities, whether permanent or temporary, on all structures and buildings, excluding target

housing¹ and child-occupied facilities. Thus, under the proposed regulations, only measures and activities that are designed to permanently reduce lead-based paint hazards on target housing and child-occupied facilities require workers who are licensed to work with lead-based paint.

These proposed changes would allow firms that provide lead-reduction services to reduce labor-associated costs. For example, painting contractors who offer no services that permanently remove lead-based paint would no longer be required to have any staff licensed to work with lead. Other contractors who provide services that no longer require lead-licensed workers, but also provide services that still require lead-licensed workers, could pay for fewer staff to become licensed. These firms would save on the costs of third-party training, licensing fees, examination fees, and lower production of services due to personnel away training. Currently, initial training required for licensure as a lead abatement worker, lead project designer, lead abatement supervisor, lead inspector, or lead risk assessor, would cost approximately \$250, \$600, \$600, \$640, or \$640, respectively.² Licensees are required to take refresher training courses every three years in order to maintain licensure. Refresher training currently costs approximately \$125, \$135, \$135, \$145, or \$145 for each of the respective licenses.³ Licenses cost \$25 annually for all categories. Examinations, which are required for initial licensure for lead abatement supervisor, lead inspector, and lead risk assessor, "shall not exceed a cost of \$75 to the candidate." Since labor-associated costs will decrease, and firms that are not licensed lead contractors may start offering services, the market price for interim control services and permanent abatement services at structures and buildings other than target housing and child-occupied facilities may decrease.

It is probable that allowing unlicensed workers to perform interim control work on all structures and buildings, and permanent abatement work on all structures and buildings excepting target housing and child-occupied facilities, will increase the environmental exposure of lead-based paint dust, including in the air and on the toys and play areas of children. Federal requirements for work with lead-based paint, such as those from the U.S. Occupational Safety and Health Administration (OSHA), will still be in place. But if contractors who have no personnel licensed to supervise or work on lead-removal projects can now be hired to do such work, the chances that OSHA required procedures to remove lead are correctly followed would likely be reduced. For example, under the proposed regulations small painting contractors who have no employees that are licensed to work with lead may bid for painting contracts on homes that are known to have lead-based paint. Personnel at such firms may have good intentions, but without training in lead work, it seems likely that

¹ Target housing refers to "housing constructed prior to 1978. Housing for the elderly, housing for persons with disabilities or any zero-bedroom dwelling are not subject to these regulations, unless a child who is six years of age or under resides in or is expected to reside in such housing."

² Sources: A.H. Reppert & Associates and Industrial Training Company, LTD (February 1, 2001).

³ Ibid.

they would be less successful at preventing the spread of lead-based paint dust.

It seems probable that the proposed changes to the regulations may increase the frequency and severity of lead-based dust being left in homes and other child-occupied buildings such as daycare facilities. Young children, infants, and fetuses are particularly vulnerable to lead poisoning. Children's mental and physical development can be irreversibly stunted and severe neurological problems may occur due to over-exposure to lead.⁴ The magnitude of the increase in frequency and severity of lead-based dust left in homes and other child-occupied buildings depends on how often purchasers of these service hire contractors with unlicensed workers, and how much worse, if at all, the unlicensed workers are at preventing the spread of lead-based paint dust. No estimate is available for either of these factors.

Businesses and entities affected. Approximately 1,375 individuals and 152 contractors are licensed and approximately 27 providers of training courses are accredited under these regulations.⁵ These individuals, businesses, and schools, as well as other firms who wish to provide lead removal services, purchasers of lead removal services, and people who live or work in buildings with lead-based paint are affected by these regulations.

Localities particularly affected. The proposed regulations potentially affect all localities in the Commonwealth.

Projected impact on employment. Providers of lead-based paint abatement training courses may encounter some reduced demand for their courses due to the proposed regulations. These firms and schools may consequently reduce employment.

Effects on the use and value of private property. Firms that currently offer lead removal services that will no longer require lead-licensed personnel under the proposed regulations will benefit by lower labor-associated costs. On the other hand, these firms may encounter new competition from contractors who thus far have not offered lead removal services due to the current lead-licensing requirement. The potential new competition may lower the market price and reduce the market share for the current service providers. Whether the lower labor-associated costs will outweigh potential lower revenue due to lower market price and sales is not clear.

Some firms who thus far have not offered lead removal services due to the costs of lead licensing may start offering such services under the proposed regulations. These firms would clearly benefit from new potential business, and their values would likely increase.

Purchasers of lead removal services that will no longer require lead-licensed personnel under the proposed regulations may benefit from lower market prices.

Implementation of the proposed regulations will likely reduce business for providers of lead-based paint abatement training

courses. Reduced demand for their courses would have a negative impact on their revenue, and consequently on their value.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency agrees with the Department of Planning and Budget's economic impact analysis.

Summary:

The proposed amendments deregulate lead-based paint activities in "public buildings," "commercial buildings," and "superstructures" that are currently regulated and provide for the regulation of "child-occupied facilities." In addition the proposed amendments (i) eliminate extensions of interim licenses; (ii) redefine Supervisor and Project Designer training courses as two separate and distinct courses; (iii) eliminate licensure through grandfathering; (iv) replace the Inspector Technician discipline with the Lead Inspector discipline; (v) replace Inspector/Risk Assessor discipline with the Lead Risk Assessor discipline; (vi) add degree fields that may be substituted by Risk Assessors for one year of experience with a bachelor's degree; (vii) eliminate the granting of interim approval to lead training courses; and (viii) require an on-site audit of the training provider prior to approval.

VA.R. Doc. No. R00-186; Filed July 24, 2002, 10:15 a.m.

Title of Regulation: **18 VAC 15-40. Virginia Certified Home Inspectors Regulations (adding 18 VAC 15-40-10 through 18 VAC 15-40-190).**

Statutory Authority: §§ 54.1-201 and 54.1-501 of the Code of Virginia.

Public Hearing Date: October 8, 2002 - 10 a.m.

Public comments may be submitted until October 11, 2002.
(See Calendar of Events section
for additional information)

Agency Contact: Tom Perry, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128 or (804) 367-9753/TTY.

Basis: House Bill 2174 passed by the 2001 Session of the Virginia General Assembly establishes a voluntary certification program for home inspectors. The legislation mandates that regulations be promulgated for implementation on or before July 1, 2003.

The board's authority to promulgate the proposed regulations is contained in §§ 54.1-201 and 54.1-501 of the Code of Virginia. This authority has a delayed implementation date of July 1, 2003.

Purpose: The proposed regulation is designed to assure potential clients of home inspectors that individuals issued a certification by the board have met the minimum requirements to properly conduct a "certified home inspection." Section 54.1-517.1 of the Code of Virginia prohibits persons from referring to an inspection conducted as a "certified home

⁴ Source: "Lead in the Environment," EPA, 1999.

⁵ Source: Department of Occupational and Professional Regulation.

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inspection" or holding themselves out as, or using the title of, a "certified home inspector" unless they have been issued a certification by the board.

The goal of the proposed regulations is to establish specific criteria for certification and to establish the minimum standards that an individual must follow to conduct a "certified home inspection."

The proposed regulations are mandated by statute and are essential to protect the health, safety and welfare of citizens and for the efficient and economical performance of an important governmental function.

Substance: 18 VAC 15-40-10 defines terms used in the proposed regulation.

18 VAC 15-40-20 indicates who must be certified.

18 VAC 15-40-30 outlines the specific entry requirements for certification.

18 VAC 15-40-40 describes other professions and situations that may constitute a conflict of interest for a certified home inspector.

18 VAC 15-40-50 gives the board discretion to waive, on a case-by-case basis, any requirement of the regulations provided it does not lessen the protection of the public health, safety and welfare.

18 VAC 15-40-60 establishes the application fee.

18 VAC 15-40-70 through 18 VAC 15-40-120 gives requirements, procedures and fees for certification renewal and reinstatement.

18 VAC 15-40-130 indicates the need for a certified home inspection contract and lists the minimum content requirements of same.

18 VAC 15-40-140 lists minimum content requirements of the certified home inspection report and indicates which components must be inspected.

18 VAC 15-40-150 through 18 VAC 15-40-190 details the standards of conduct and practice for the certified home inspector.

Issues: The primary advantage to the public of implementing the proposed regulations will be an assurance that persons contracted to conduct a "certified home inspection" have met the minimum requirements to properly conduct such an inspection.

The fees proposed for this new program are those currently in effect for the asbestos and lead-based paint programs. In accordance with statute, the board collects licensing fees from which its operating costs and a proportionate share of the department's expenses are paid. The board has no other source of revenue with which to fund its operation. The fee structure was developed in compliance with § 54.1-113 of the Code of Virginia.

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 § 2.2-4007 G of the Administrative Process

Act and Executive Order Number 25 (98). Section 2.2-4007 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 2001 Session of the General Assembly passed legislation that created a voluntary certification program for home inspectors. The proposed regulations establish the requirements for that certification and the minimum standards that must be followed to conduct a "certified home inspection" as well as standards of conduct and practice.

Estimated economic impact. Upon the effective date of the proposed regulations, persons who refer to themselves as "certified home inspectors" or offer to provide "certified home inspections" will be required to hold a valid certification by the Board for Asbestos, Lead, and Home Inspectors. Costs of obtaining certification will include expenses for classroom instruction, taking the examination, and obtaining applicable insurance, as well as costs related to regulatory requirements for written contracts, inspection reports, and maintaining records. Certification is voluntary and home inspectors can avoid these costs by choosing to not apply for certification.

A provision included in the proposed regulation states it would be a conflict of interest for a Certified Home Inspector to perform repairs or modifications to a residential building on which he has performed a certified home inspection. The extent of current problems with unscrupulous inspectors is not known and, therefore, it is not possible to determine whether the increase in consumer protection outweighs any loss of income by the inspector for these other services.

Certification is designed to provide assurance to potential clients that those individuals have met the minimum requirements to properly conduct an adequate home inspection. Consumers are, in turn, likely to be charged a higher price for a "certified home inspection" due to the expense to the inspector to obtain certification. While the value of increasing consumer confidence cannot be quantified at this time, the benefits of obtaining certification can be expected to be greater than the associated costs for those inspectors who voluntarily choose to participate in this program.

Businesses and entities affected. According to industry estimates, there are currently approximately 550 individuals conducting residential home inspections who will have the option of becoming certified under the proposed regulations. Individuals choosing not to obtain certification will still be allowed to conduct home inspections, although they will not be allowed to refer to themselves as "certified home inspectors."

Localities particularly affected. The proposed regulations are not likely to uniquely affect any particular localities in Virginia.

Projected impact on employment. The proposed regulations are not expected to have any impact on the overall level of employment in Virginia.

Effects on the use and value of private property. The proposed regulations are not expected to 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 agency agrees with the Department of Planning and Budget's economic impact analysis.

Summary:

The proposed regulations establish entry, renewal, and reinstatement requirements for certification by the board for a voluntary certification program for home inspectors established by House Bill 2174 of the 2001 Session of the Virginia General Assembly. The proposed regulations also establish minimum standards for conducting certified home inspections as well as standards of conduct and practice.

CHAPTER 40.
VIRGINIA CERTIFIED HOME INSPECTORS
REGULATIONS.

PART I.
GENERAL.

18 VAC 15-40-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless a different meaning is provided or is plainly required by the context:

"Board" means the Virginia Board for Asbestos, Lead, and Home Inspectors.

"Certificate holder" means any person holding a valid certificate as a certified home inspector issued by the board.

"Certification" means an authorization issued to an individual by the board to perform certified home inspections by meeting the entry requirements established in these regulations.

"Client" means a person who engages or seeks to engage the services of a certified home inspector for the purpose of obtaining an inspection of and a written report upon the condition of a residential building.

"Compensation" means the receipt of monetary payment or other valuable consideration for services rendered.

"Component" means a part of a system.

"Contact hour" means 50 minutes of participation in a structured training activity.

"Department" means the Department of Professional and Occupational Regulation.

"Fireplace" means an interior fire-resistant masonry permanent or prefabricated fixture that can be used to burn fuel and is either vented or unvented.

"Foundation" means the base upon which the structure or a wall rests, usually masonry, concrete, or stone, and generally partially underground.

"Function" means the action for which an item, component or system is specially fitted or used, or for which an item, component or system exists.

"Inspect or inspection" means to visually examine readily accessible systems and components of a building established in this chapter.

"Readily accessible" means available for visual inspection without requiring moving of personal property, dismantling, destructive measures, or any action that will likely involve risk to persons or property.

"Reinstatement" means having a certificate restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a certificate for another period of time.

"Residential building" means, for the purposes of home inspection, a structure consisting of one to four dwelling units used or occupied, or intended to be used or occupied, for residential purposes.

"Solid fuel burning appliances" means a hearth and fire chamber or similarly prepared place in which a fire may be built and that is built in conjunction with a chimney, or a listed assembly of a fire chamber, its chimney and related factory-made parts designed for unit assembly without requiring field construction.

"Structural component" means a component that supports nonvariable forces or weights (dead loads) and variable forces or weights (live loads).

"System" means a combination of interacting or interdependent components, assembled to carry out one or more functions.

Terms not defined in this chapter have the same definitions as those set forth in § 54.1-500 of the Code of Virginia.

PART II.
ENTRY REQUIREMENTS.

18 VAC 15-40-20. Necessity for certification.

Any person who holds himself out as or uses the title of "certified home inspector" or conducts or offers to provide a "certified home inspection" shall have a current and valid certificate issued by the board. Nothing in this chapter shall be construed to preclude individuals from performing home inspections for hire provided their conduct is in compliance with § 54.1-517.1 of the Code of Virginia.

18 VAC 15-40-30. Qualifications for certification.

Every applicant for an individual home inspector certificate shall have the following qualifications:

1. The applicant shall be at least 18 years old.
2. The applicant shall meet the following educational and experience requirements:
 - a. High school diploma or equivalent; and
 - b. One of the following:

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(1) Completed 35 contact hours of classroom instruction from a board-approved course or courses and have completed a minimum of 100 home inspections; or

(2) Completed 70 contact hours of classroom instruction from a board-approved course or courses and have completed a minimum of 50 home inspections.

Board-approved instruction courses shall cover the content areas of the board-approved examinations.

An applicant who cannot fulfill the classroom instruction requirement as outlined in this subsection may substitute a minimum of 10 years of experience as a home inspector to satisfy this requirement. The experience substitution is subject to board review and approval.

3. The applicant shall have passed a written competency examination approved by the board.

4. The board may for a period of five years from (insert the effective date of the regulation) accept proof of membership in good standing, in a national or state professional home inspectors association, as satisfaction of subdivisions 1, 2, and 3 of this section.

5. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a home inspector in such a manner as to safeguard the interests of the public.

6. The applicant shall disclose whether a certificate or license as a home inspector from any jurisdiction where certified or licensed has ever been suspended, revoked or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for certification in Virginia. The board may deny certification to any applicant so disciplined after examining the totality of the circumstances.

7. Subject to the provisions of § 54.1-204 of the Code of Virginia, the applicant shall disclose any conviction or finding of guilty, regardless of adjudication in any jurisdiction of the United States of any misdemeanor involving violence, repeat offenses, multiple offenses, or crimes that endangered public health or safety, or of any felony, there being no appeal pending therefrom or the time for appeal having elapsed. The board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of residential home inspections. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. A certified copy of a final order, decree, or case decision by a court with the lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction or guilt.

8. The applicant shall follow all procedures established by the board or the testing service with regard to conduct at the examination. Such procedures shall include any written instructions communicated prior to the examination date

and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all procedures established by the board or the testing service with regard to conduct at the examination shall be grounds for denial of the application.

9. Applicants shall show evidence of having obtained general liability insurance with minimum limits of \$250,000.

18 VAC 15-40-40. Conflict of interest.

A. The certificate holder shall not:

1. Design or perform repairs or modifications to a residential building on which he has performed a certified home inspection;

2. Refer his client to another party to make repairs or modifications to a residential building on which he has performed a certified home inspection; or

3. Represent any of the parties to the transfer or sale of a residential building on which he has performed a certified home inspection.

B. The certificate holder shall not disclose any information concerning the results of the certified home inspection without the approval of the client for whom the certified home inspection was performed.

C. The certificate holder will not accept compensation, financial or otherwise, from more than one interested party for the same service on the same property without the consent of all interested parties.

D. The certificate holder shall not accept nor offer commissions or allowances, directly or indirectly, from other parties dealing with the client in connection with work for which the certificate holder is responsible.

E. The certified home inspection shall not be used as a tool by the certificate holder to solicit or obtain work in another field.

18 VAC 15-40-50. Waiver of the requirements of this chapter.

Except as required by law, the board may, in its reasonable discretion, waive any of the requirements of this chapter when in its judgment it finds that the waiver in no way lessens the protection provided by this chapter and Title 54.1 of the Code of Virginia to the public health, safety and welfare. The burden of proof that demonstrates continued public protection rests with the individual requesting the waiver. Documents referenced are in effect as they existed as of the date the act or action has occurred.

18 VAC 15-40-60. Application fees.

A. All application fees for certificates are nonrefundable and the date of actual receipt by the board or its agent is the date that will be used to determine whether it is timely received.

B. The fee for an initial application for Certified Home Inspector shall be \$25.

PART III.

RENEWAL AND REINSTATEMENT OF CERTIFICATE.

18 VAC 15-40-70. Renewal required.

Certificates issued under this chapter shall expire two years from the last day of the month in which they were issued, as indicated on the certificate.

18 VAC 15-40-80. Qualification for renewal.

A. As a condition of renewal, all certified home inspectors shall be required to affirm that they continue to maintain insurance as required by 18 VAC 15-40-30. Failure to maintain the required insurance as directed by the board will result in the certification not being renewed or disciplinary action pursuant to this chapter, or both.

B. Each certificate holder desiring to renew the certificate shall return to the board the renewal application form and the appropriate fee as outlined in 18 VAC 15-40-110.

18 VAC 15-40-90. Procedures for renewal.

The board will mail a renewal application form to the certificate holder at the last known home address. These notices shall outline the procedures for renewal. Failure of the board to mail or of the certificate holder to receive these notices does not relieve the certificate holder of the obligation to renew.

18 VAC 15-40-100. Failure to renew; reinstatement required.

A. If the requirements for renewal of a certificate, including receipt of the fee by the board, are not completed by the certificate holder within 30 days of the expiration date noted on the certificate, a late renewal fee shall be required in addition to the renewal fee.

B. If the requirements for renewal of a certificate, including receipt of the fee by the board, are not completed by the certificate holder within six months of the expiration date noted on the certificate, a reinstatement fee shall be required.

C. All applicants for reinstatement shall meet all requirements set forth in 18 VAC 15-40-30.

D. A certificate may be reinstated for up to two years following the expiration date with payment of the reinstatement fee. After two years, the certificate shall not be reinstated under any circumstances and the applicant shall apply as a new applicant, requiring the applicant to retake the examination.

E. The certificate holder who reinstates his certification shall be regarded as having been continuously certified without interruption. Therefore, the certificate holder shall remain under the disciplinary authority of the board during this entire period and shall be held accountable for his activities during this period.

18 VAC 15-40-110. Fees for renewal and reinstatement.

A. All fees for renewal and reinstatement are nonrefundable, and the date of actual receipt by the board or its agent is the date that will be used to determine whether it is timely received.

B. Renewal and reinstatement fees are as follows:

Renewal fee	\$25
Late renewal fee	\$25
Reinstatement fee	\$100

18 VAC 15-40-120. Board discretion to deny renewal or reinstatement.

A. The board may deny renewal or reinstatement of a certificate for the same reasons as it may refuse initial certification or discipline a current certificate holder.

B. The board may deny renewal or reinstatement of a certificate if the applicant has not met the terms of an agreement for certification or not fully paid monetary penalties, satisfied sanctions and paid costs imposed by the board, plus any accrued interest.

PART IV.

MINIMUM STANDARDS FOR CONDUCTING CERTIFIED HOME INSPECTIONS.

18 VAC 15-40-130. Certified home inspection contract.

A. For the protection of both the client and the certificate holder, both parties shall sign a legible written contract clearly specifying the terms, conditions, and limitations of the work to be performed.

B. At a minimum, the written contract shall include:

1. Name, business name (if applicable), business address, and telephone number of the certified home inspector.
2. Certificate number and expiration date of the certified home inspector.
3. Name, address, and telephone number of the clients.
4. Physical address of the residential properties to be inspected.
5. Cost and method of payment of the certified home inspection.
6. A listing of all areas, systems, and components to be inspected, including those inspections that are either partial or limited in scope.
7. To the extent that any of the following categories are not covered by the home inspection, they shall be noted as exclusions from the inspection contract:
 - a. The condition of systems or components that are not readily accessible.
 - b. The remaining life of any system or component.
 - c. The strength, adequacy, effectiveness, or efficiency of any system or component.
 - d. The causes of any condition or deficiency.
 - e. The methods, materials, or costs of corrections.
 - f. Future conditions including, but not limited to, failure of systems and components.
 - g. The suitability of the property for any specialized use.

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h. Compliance with regulatory requirements (codes, regulations, laws, ordinances, etc.).

i. The market value of the property or its marketability.

j. The advisability of the purchase of the property.

k. The presence of diseases harmful to humans or potentially hazardous plants or animals including, but not limited to, wood destroying organisms.

l. The presence of any environmental hazards including, but not limited to, toxins, carcinogens, noise, and contaminants in soil, water, and air.

m. The effectiveness of any system installed or methods utilized to control or remove suspected hazardous substances.

n. The operating costs of systems or components.

o. The acoustical properties of any system or component.

To the extent any other items are not specifically included in the home inspection by agreement of the parties, they shall also be noted as exclusions in the inspection contract.

8. Expected delivery date to the client of the certified home inspection report.

9. Dated signatures of both the certified home inspector and the client.

C. The certified home inspection contract shall make written disclosure that the certified home inspection report is based upon visual observation of existing conditions of the inspected property at the time of the inspection and is not intended to be, or to be construed as, a guarantee, warranty, or any form of insurance.

18 VAC 15-40-140. Certified home inspection report.

A. Certified home inspection reports shall contain:

1. The name, business address and telephone number of the certificate holder as well as his certificate number and expiration date;

2. The name, address, and telephone number of the clients;

3. The physical address of the residential properties inspected; and

4. The date, time (to include both start and finish times), and weather conditions at the time of the certified home inspection.

B. In conducting a certified home inspection and reporting its findings, the certified home inspector, at a minimum, shall inspect the condition of and describe the composition/characteristics of the following components, except as may be limited in the certified home inspection contract agreement:

1. Structural system.

a. Foundation.

b. Framing.

c. Stairs.

d. Crawl space, unless restricted by the dimensions of the area.

e. Crawl space ventilation and vapor barriers.

f. Sump pump, when present.

g. Slab floor, when present.

h. Floors, ceilings, and walls.

2. Roof structure, attic, and insulation.

a. Roof covering.

b. Roof ventilation.

c. Roof drainage system, to include gutters and downspouts.

d. Roof flashings.

e. Skylights, chimneys, and roof penetrations, but not antennae or other roof attachments.

f. Roof framing, sheathing, and decking.

g. Attic, unless area is inaccessible due to size or condition of structure.

h. Attic insulation and ventilation.

3. Exterior of dwelling.

a. Wall covering, flashing, trim, and protective coatings.

b. All doors and windows, but not the operation of associated security locks, devices, or systems.

c. Attached decks, balconies, stoops, steps, porches, carports, and any associated railings, but not associated screening, shutters, awnings, storm windows, or storm doors.

d. Eaves, soffits, and fascias where accessible from ground level.

e. Walkways, grade steps, patios, and driveways, but not fences or privacy walls.

f. Vegetation, trees, grading, drainage, and any retaining walls that may affect the dwelling.

g. Visible exterior portions of chimneys.

4. Interior of dwelling.

a. Every interior wall, ceiling, and floor of dwelling and any attached garage.

b. Steps, stairways, railings, and balconies.

c. Countertops and installed cabinets, including hardware.

d. All doors and windows, including hardware.

e. Garage doors and garage door operators.

f. Fireplaces, including flues, venting systems, hearths, dampers, and fireboxes, but not mantles, fire screens and doors, seals and gaskets.

g. Solid fuel burning appliances if applicable.

5. Plumbing system.

- a. Interior water supply and distribution systems, including water supply lines and all fixtures and faucets, but not water conditioning systems or fire sprinkler systems.
- b. Water drainage, waste, and vent systems, including all fixtures.
- c. Drainage sumps, sump pumps, and related piping.
- d. Water heating equipment, including heat energy source and related vent systems, flues, and chimneys, but not solar water heating systems.
- e. Fuel storage and distribution systems.

6. Electrical system.

- a. Service drop.
- b. Service entrance conductors, cables, and raceways.
- c. Service equipment and main disconnects.
- d. Service grounding.
- e. Interior components of service panels and sub panels, including feeders.
- f. Conductors.
- g. Overcurrent protection devices.
- h. All installed lighting fixtures, switches, and receptacles.
- i. Ground fault circuit interrupters.
- j. Presence or absence of smoke detectors.
- k. Presence of solid conductor aluminum branch circuit wiring.

7. Heating system.

- a. Heating equipment, including operating controls, but not heat exchangers, gas logs, built-in gas burning appliances, grills, stoves, space heaters, solar heating devices, or heating system accessories such as humidifiers, air purifiers, motorized dampers, and heat reclaimers.
- b. Energy source.
- c. Heating distribution.
- d. Vent systems, flues, and chimneys, including dampers.

8. Air conditioning system.

- a. Central and window air conditioning equipment.
- b. Operating controls, access panels, and covers.
- c. Energy source.
- d. Cooling distribution.

PART V.
STANDARDS OF CONDUCT AND PRACTICE.

18 VAC 15-40-150. Grounds for disciplinary action.

The board has the power to fine any certificate holder and to suspend or revoke any certificate issued under the provisions of Chapter 5 (§ 54.1-500 et seq.) of Title 54.1 of the Code of Virginia, and this chapter, where the certificate holder has been found to have violated or cooperated with others in violating any provision of Chapter 1, 2, 3, or 5 of Title 54.1 of the Code of Virginia or this chapter.

18 VAC 15-40-160. Maintenance of certificates, reports, and documentation.

A. A certificate holder shall at all times keep the board informed of his current home address. Changes of address shall be reported to the board in writing within 30 calendar days after such change. A physical address is required; a post office box is not acceptable. The board shall not be responsible for the certificate holder's failure to receive notices, communications and correspondence caused by the certificate holder's failure to promptly notify the board of any change of address.

B. A certificate holder shall notify the board in writing of a name change within 30 calendar days of any change in the certificate holder's legal name. Such notification shall be accompanied by a copy of a marriage certificate, divorce decree, court order or other documentation that verifies the name change.

C. A certificate holder shall retain all records pertaining to certified home inspections performed to include, but not limited to, written reports and supporting documentation for a period of three years from the date of the related certified home inspection.

18 VAC 15-40-170. Provision of records to the board.

A certificate holder shall, upon demand, produce to the board or any of its agents any written reports and supporting documentation concerning any certified home inspection in which the certificate holder was involved, or for which the certificate holder is required to maintain records for inspection and copying by the board or its agents.

18 VAC 15-40-180. Response to inquiry of the board.

A certificate holder shall respond to an inquiry from the board or any of its agents within 21 days.

18 VAC 15-40-190. Unworthiness and incompetence.

Actions constituting unworthy and incompetent conduct include:

1. Obtaining a certificate by false or fraudulent representation.
2. Performing improvements or repairs to a residence within 12 months before or after performing a certified home inspection.
3. Violating or inducing another person to violate any of the provisions of Chapter 1, 2, 3, or 5 of Title 54.1 of the Code of Virginia or this chapter.

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4. *Subject to the provisions of § 54.1-204 of the Code of Virginia, having been convicted or found guilty, regardless of adjudication in any jurisdiction of the United States, of any misdemeanor involving violence, repeat offenses, multiple offenses, or crimes that endangered public health or safety, or of any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision. A certified copy of a final order, decree, or case decision by a court with the lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction or guilt.*

5. *Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty, regardless of adjudication in any jurisdiction of the United States of any misdemeanor involving violence, repeat offenses, multiple offenses, or crimes that endangered public health or safety, or of any felony, there being no appeal pending therefrom or the time for appeal having elapsed.*

6. *Failing to act as a certificate holder in such a manner as to safeguard the interests of the public.*

7. *Engaging in improper, fraudulent, or dishonest conduct in conducting a certified home inspection.*

8. *Having been found guilty by the board, an administrative body, or by any court of any misrepresentation in the course of performing home inspections.*

NOTICE: The forms used in administering 18 VAC 15-40, Virginia Certified Home Inspectors Regulations, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Home Inspector Certificate Application, 33HICERT (eff. 7/02).

Home Inspector Experience Verification, 33HIEXED (eff. 7/02).

Education Verification, 33HIEXED (eff. 7/02).

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10. A. Have you ever been convicted in any jurisdiction of **any felony**? *Any guilty plea or plea of nolo contendere must be disclosed on this application. Do not disclose any violations that were adjudicated as a minor in the juvenile court system.*

No Yes If yes, please provide the information requested in #10.C.

B. Have you ever been convicted in any jurisdiction of **any misdemeanor**? *Any guilty plea or plea of nolo contendere must be disclosed on this application. Do not disclose any violations that were adjudicated as a minor in the juvenile court system.*

No Yes If yes, please provide the information requested in #10.C.

C. If you answered "yes" to either question #10.A. or #10.B., list the felony and/or misdemeanor conviction(s). Attach a copy of all applicable criminal conviction, state police and court records; information on the current status of incarceration, parole, probation, etc.; and any other information you wish to have considered with this application (i.e., reference letters, documentation of rehabilitation, etc.). If necessary, you may attach a separate sheet of paper.

11. I, the undersigned, certify that the foregoing statements and answers are true, and I have not suppressed any information that might affect the Board's decision to approve this application. I verify that during the past three years, there were no suspensions or revocations of any authorizations I hold to perform home inspections, nor are there any pending enforcement actions involving any home inspection certificate. I will notify the Department if I am subject to any disciplinary action or convicted of any felony or misdemeanor charges (in any jurisdiction) prior to receiving the requested certificate. I also certify that I understand, and have complied with, all the laws of Virginia related to certification under the provisions of Title 54.1, Chapters 1, 2, 3, and 5 of the *Code of Virginia* and the *Virginia Certified Home Inspectors Regulations*.

Signature _____

Date _____

Σ State law requires every applicant for a license, certificate, registration or other authorization to engage in a business, trade, profession or occupation issued by the Commonwealth to provide a social security number or a control number issued by the Virginia Department of Motor Vehicles.

AUCTIONEERS BOARD

Title of Regulation: 18 VAC 25-10. Public Participation Guidelines (amending 18 VAC 25-10-10, 18 VAC 25-10-20, 18 VAC 25-10-30, 18 VAC 25-10-50, and 18 VAC 25-10-90).

Statutory Authority: §§ 2.2-4007 and 54.1-602 of the Code of Virginia.

Public Hearing Date: October 17, 2002, 9 a.m.

Public comments may be submitted until October 18, 2002.
(See Calendar of Events section for additional information)

Agency Contact: Marian H. Brooks, Regulatory Board Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail auctioneers@dpor.state.va.us.

Basis: The statutory authority for the Auctioneers Board to promulgate the Public Participation Guidelines is found in §§ 2.2-4007 and 54.1-602 of the Code of Virginia. The board is empowered to promulgate regulations for individuals and firms that practice auctioneering in Virginia.

The Public Participation Guidelines implement the requirements of the Administrative Process Act (APA) by establishing procedures to be followed by the board in soliciting, receiving and considering public comments.

Purpose: The Public Participation Guidelines are statutorily mandated and ensure the protection of the public's health, safety and welfare by documenting and formalizing the process through which the public has access to the regulatory review process.

Substance: The proposed amendments to 18 VAC 25-10-10, 18 VAC 25-10-20 and 18 VAC 25-10-30 allow the board to accept requests to be placed on a notification list, and to notify PPG list members, via electronic means. Currently, only written requests and mailed notifications are permitted. References to recodified provisions of the APA are updated in 18 VAC 25-10-20, 18 VAC 25-10-50, and 18 VAC 25-10-90.

Issues: The primary advantage to the public is that the board will be able to accept requests to be placed on a notification list, and to notify PPG list members, via electronic means, which is a more cost effective and efficient way of interacting with list members. There are no expected disadvantages to the public or the Commonwealth.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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 Auctioneers Board (board) proposes to modify its public participation guidelines to allow the board to accept requests to be placed on the public participation notification list via electronic means, and to send regulatory notifications to list members electronically. Currently, only written requests and mailed notifications are permitted. In addition, the board proposes to add language specifying that when electronic notifications are returned as undeliverable, individuals and organizations will be deleted from the list.

Estimated economic impact. Under the Administrative Process Act, all state agencies that promulgate regulations are required to maintain public participation mailing lists containing the names of all parties that have registered an interest in a particular regulation. Membership on these lists typically includes members of the regulated community, public interest groups, law firms, and individual citizens with an interest in a particular area of regulation.

There are no clear disadvantages associated with allowing interested parties to use electronic communication rather than mail for joining the notification list and for receiving notifications. Individuals may choose to remain on the traditional mailing lists, which will continue to be maintained by the Board. If electronic notification and comment becomes more prevalent, there would be a reduction in printing and mailing costs incurred by the board. In addition to the potential fiscal benefits, these changes also allow the board to increase the speed of notification and the amount of information readily available to interested parties, which will increase efficiency and may enhance public participation.

The current regulations state, "When mail is returned as undeliverable, individuals and organizations will be deleted from the (mailing) list." The proposed regulations state, "When mail or electronic notifications are returned as undeliverable, individuals and organizations will be deleted from the list." Unlike physical mail, when electronic notifications are returned as undeliverable it is not necessarily an indication that the address is no longer active; servers are frequently down for short periods (one day or less). Thus, if the proposed language is implemented, there is the strong potential that individuals and organizations will be deleted from the notification list when their e-mail accounts remain active. The individuals and organizations would not be notified that they were removed from the list and would therefore be unaware that they are missing notifications of board regulatory action. The Department of Professional and Occupational Regulations will recommend to the board at their next meeting that the pertinent language be changed to "When mail is returned as undeliverable, individuals and organizations will be deleted from the list. When electronic notifications are returned as undeliverable over more than one day, individuals and organizations will be deleted from the list." By indicating that the individuals and organizations will be deleted from the list when electronic notifications are returned as undeliverable over more than one day, the likelihood that individuals and organizations will be deleted from the notification list when their e-mail accounts remain active will be greatly diminished.

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Businesses and entities affected. The proposed changes will affect individuals and organizations interested in the regulations governing individuals licensed by the Auctioneers Board. There are currently 25 entities listed on the notification list for the board.¹

Localities particularly affected. Individuals and organizations throughout the Commonwealth could potentially be interested in the regulations governing individuals licensed by the Auctioneers Board.

Projected impact on employment. The proposed changes to this regulation are not anticipated to have a significant effect on employment.

Effects on the use and value of private property. The proposed changes to this regulation are not anticipated to have a significant effect on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Auctioneers Board concurs with the analysis of the department.

Summary:

The proposed amendments allow the board to accept requests to be placed on a notification list, and to notify PPG list members, via electronic means. Currently, only written requests and mailed notifications are permitted. The amendments also update statutory references.

18 VAC 25-10-10. Definitions.

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

"Agency" means any authority, instrumentality, officer, board, or other unit of state government empowered by the basic laws to make regulations or decide cases.

"Notification lists" means lists used by the board to notify persons pursuant to this chapter. Such lists may include electronic mailing lists or regular mailing lists maintained by the board.

"Organization" means any one or more associations, advisory council, committee, corporation, partnership, governmental body or legal entity.

"Person" means one or more individuals.

18 VAC 25-10-20. Mailing list Notification lists.

The agency will maintain a list of persons and organizations who will be mailed the following documents, or notification of how to obtain a copy of the documents electronically, as they become available:

1. "Notice of Intended Regulatory Action" to promulgate, amend or repeal regulations.
2. "Notice of Comment Period" and public hearings.
3. Notice that the final regulations have been adopted.

Failure of these persons and organizations to receive the documents for any reason shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act (Chapter 1.4-1, § 9-6.14:4 2.2-4000 et seq. of Title 9 of the Code of Virginia).

18 VAC 25-10-30. Placement on the mailing list; deletion.

Any person wishing to be placed on the mailing a notification list may do so by electronic notification or by writing the agency. In addition, the agency at its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all information stated in 18 VAC 25-10-20. Individuals and organizations periodically may be requested to indicate their desire to continue to receive documents or be deleted from the list. When mail is or electronic notifications are returned as undeliverable, individuals and organizations will be deleted from the list.

18 VAC 25-10-40. Petition for rulemaking.

Any person may petition the agency to adopt or amend any regulation. Any petition received shall appear on the next agenda of the agency. The agency shall consider and respond to the petition within 180 days pursuant to § 2.2-4007 A of the Code of Virginia. The agency shall have sole authority to dispose of the petition.

18 VAC 25-10-50. Notice of intent.

At least 30 days prior to filing the "Notice of Comment Period" and proposed regulations as required by § 9-6.14:7.1 2.2-4007 of the Code of Virginia, the agency will publish a "Notice of Intended Regulatory Action." This notice will provide for at least a 30-day comment period and shall state whether the agency intends to hold a public hearing. The agency is required to hold a hearing on the proposed regulation upon request by (i) the Governor or (ii) 25 or more persons. Further, the notice shall describe the subject matter and intent of the planned regulation. Such notice shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register of Regulations.

18 VAC 25-10-90. Applicability.

18 VAC 25-10-20, 18 VAC 25-10-30, 18 VAC 25-10-40, 18 VAC 25-10-60, and 18 VAC 25-10-70 shall apply to all regulations promulgated and adopted in accordance with § 9-6.14:9 2.2-4012 of the Code of Virginia except those regulations promulgated in accordance with § 9-6.14:4.1 2.2-4002, 2.2-4006, 2.2-4011, 2.2-4018, or 2.2-4025 of the Administrative Process Act.

VA.R. Doc. No. R01-226; Filed July 16, 2002, 1:22 p.m.

¹ Source: DPOR

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Title of Regulation: 18 VAC 65-30. Regulations for Preneed Funeral Planning (amending 18 VAC 65-30-10 and 18 VAC 65-30-80).

Statutory Authority: §§ 54.1-2400, 54.1-2803, and 54.1-2820 of the Code of Virginia.

Public Hearing Date: September 10, 2002 - 9 a.m.

Public comments may be submitted until October 11, 2002.
(See Calendar of Events section for additional information)

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Board of Funeral Directors and Embalmers, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Basis: Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

The legal authority to promulgate regulations for preneed funeral planning is found in Article 5 (§ 54.1-2820 et seq.) of Chapter 28 of Title 54.1 of the Code of Virginia, which sets forth statutory provisions for the licensure and practice of funeral establishments and funeral service licensees with regard to preneed funeral planning.

Purpose: To ensure that members of the public are protected in making preneed arrangements for funeral services, the board has been actively striving to educate licensees about deficiencies related to recordkeeping, disclosures and required information on preneed contracts that inspections have uncovered. Periodically, the Enforcement Division of DHP prepares its "Dirty Dozen" list of most commonly cited deficiencies; contained in that list are two common deficiencies related to preneed as follows:

18 VAC 65-30-70. Chronological listing not available or does not include required information such as how funded, 10% retained, etc.

18 VAC 65-30-80, 18 VAC 65-30-180. Preneed contract does not include required information such as contract number, license number of funeral service provider, license number of insurance agent.

That information is disseminated to the licensed establishments with citations of the law or regulation being violated and suggestions for correction. In addition, the board intends to eliminate the requirement for a contract number that is often misunderstood and unnecessary.

Amendments to regulations will assist the funeral service provider in complying with laws and regulations and will eliminate one common reason an establishment is cited with a deficiency on its inspection report. Clarification of the term "appointee" will help to protect the public at a vulnerable time when preneed funeral arrangements are being made.

Substance: Proposed amendments to regulations are not substantive but are intended to be clarifying and less burdensome. The correct usage of the term "appointee" will alleviate confusion with the term "designee," which has a different meaning and intent as specified in the Code of Virginia. The elimination of a requirement for a number to be on the contract will eliminate questions about which number is intended.

Issues: The primary advantage to the public of the proposed amendments is the clarification of the terms "designee" and "appointee." The terms are not interchangeable, as the designee is the person designated to determine the final disposition of human remains. The appointee is the person who is appointed to carry out the wishes of the contract buyer in making preneed arrangements. Making a clear distinction in regulation may benefit both members of the public and the funeral directors seeking to comply with law and regulation. There are no disadvantages to the public.

There are no advantages or disadvantages to the agency, except that deletion of an unnecessary requirement for a contract number may eliminate one of the frequently cited deficiencies on inspection reports and alleviate the need for further inspection or other action by the board.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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 proposed changes will clarify the definition of two terms used in preneed funeral planning regulations and delete the requirement for preneed contracts to contain a contract number.

Estimated economic impact. Funeral services may be bought and sold on a preneed or at-need basis. These regulations contain rules for solicitation, sale, and content of preneed contracts for funeral services, rules for recordkeeping, reporting, disclosure of information, and funding mechanisms, rules for transfer, cancellation, and termination of preneed contracts. Preneed funeral planning rules aim to provide consumer protection.

The terms "appointee" and "designee" are used throughout the preneed funeral planning regulations and in the required disclosures and forms, but are not clearly defined. The contract beneficiary may appoint an individual to arrange a preneed funeral plan and designate another person to arrange the burial or final disposition of the remains. "Appointee" refers to the individual who provides assistance in funeral planning on a preneed basis while "designee" refers to the individual

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who provides assistance in funeral planning on an at-need basis. The Department of Health Professions (department) indicates that the two closely related but essentially different terms have been the source of some confusion for funeral service providers. However, the department is not aware of any significant problems caused by the lack of clear terms that currently exists.

The proposed regulations will add a definition for the term "appointee" and revise the definition of the term "designee." It seems that the clarification of the difference between the two terms has the potential to reduce the confusion that currently exists. This may provide small benefits for funeral service providers and the department in terms of avoided communication costs to clarify the confusion.

Another proposed change will remove the requirement for the contracts to contain a contract number. In the past, failure to provide a contract number has been one of the most commonly encountered deficiencies uncovered by the inspections.¹ Currently, the department believes that a contract number is not needed. A contract number is required to match a preneed agreement with the list of such contracts the provider is required to generate and submit to the department for inspection purposes. There are rules in place that the list must be generated chronologically and each contract must contain a date. Chronological order is believed to be sufficient to produce a one-to-one matching between a dated contract and the reported list. Over the past year the Board of Funeral Directors and Embalmers has been instructing inspectors to not cite funeral establishments for not having a number on the preneed contracts.

The department indicates that the requirement for the contract number is currently creating confusion for funeral service providers. The department has been receiving questions about which number is to be used, as there may be more than one numbering scheme. For example, there have been questions on whether to use the number issued by the insurance company or the number issued by the trust company. Provided removing the requirement to number preneed contracts does not undermine inspections, the proposed changes will likely eliminate the confusion experienced by the funeral service providers and produce small benefits for regulants and the department in terms of avoided communication costs associated with clarification of the current requirement.

Businesses and entities affected. There are about 163 licensed funeral directors, 1,446 licensed funeral service providers, and about 495 licensed funeral establishments in the Commonwealth. However, the number of these entities that provide preneed contracts is not known.

Localities particularly affected. The proposed regulations apply throughout the Commonwealth.

Projected impact on employment. The proposed changes are not anticipated to have a significant effect on employment.

Effects on the use and value of private property. No significant effect on the use and value of private property is expected.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Funeral Directors and Embalmers concurs with the analysis of the Department of Planning and Budget for the periodic review of the proposed regulations, 18 VAC 65-30.

Summary:

The proposed changes clarify the definition of two terms used in preneed funeral planning regulations and delete the requirement for preneed contracts to contain a contract number.

18 VAC 65-30-10. Definitions.

In addition to those defined in § 54.1-2800 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Appointee" means the individual selected by the contract beneficiary to arrange a preneed funeral plan on behalf of the contract beneficiary.

"Capper," "steerer," or "shill" means a person who serves to entice another to purchase a product or to direct the course of action and choice of the buyer in a preneed funeral contract sale.

"Cash advance item" means any item of service or merchandise described to a purchaser as a "cash advance," "accommodation," "cash disbursement," or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the behalf of the contract buyer. Cash advance items may include, but are not limited to, cemetery or crematory services, pallbearers, public transportation, clergy honoraria, flowers, musicians or singers, nurses, obituary notices, gratuities, and death certificates.

"Consideration," "contract price," or "funds" means money, property, or any other thing of value provided to be compensation to a contract seller or contract provider for the funeral services and funeral goods to be performed or furnished under a preneed funeral contract. Consideration does not include late payment penalties and payments required to be made to a governmental agency at the time the contract is entered into.

"Contract" means a written, preneed funeral contract, and all documents pertinent to the terms of the contract under which, for consideration paid to a contract seller or a contract provider by or on behalf of a contract buyer prior to the death of the contract beneficiary, a person promises to furnish, make available, or provide funeral services or funeral goods after the death of a contract beneficiary.

"Contract beneficiary" means the individual for whom the funeral services and supplies are being arranged.

"Contract buyer" means the purchaser of the preneed contract.

"Contract provider" means the funeral establishment designated by the contract buyer and contracting with the contract buyer to provide for funeral services and supplies in the preneed funeral contract.

¹ Source: Department of Health Professions.

"Contract seller" means the funeral service licensee who makes the preneed arrangements with the contract buyer for the funeral service and who makes the financial arrangements for the service and the goods and supplies to be provided.

"Designee" means the individual ~~selected by the contract beneficiary to arrange a preneed funeral plan on behalf of the contract beneficiary~~ designated to make arrangements for burial or final disposition of the remains pursuant to § 54.1-2825 of the Code of Virginia.

"Funding source" means the trust agreement, insurance policy, annuity, personal property, or real estate used to fund the preneed plan.

"Funeral supplies and services" means the items of merchandise sold or offered for sale or lease to consumers ~~which that~~ will be used in connection with a funeral or an alternative to a funeral or final disposition of human remains including caskets, combination units, and catafalques. Funeral goods does not mean land or interests in land, crypts, lawn crypts, mausoleum crypts, or niches that are sold by a cemetery ~~which that~~ complies with ~~Article 3-2 Chapter 23.1~~ (§ ~~57-35.11 54.1-2310~~ et seq.) of ~~Chapter 3~~ of Title ~~57-54.1~~ of the Code of Virginia. In addition, "funeral supplies and services" does not mean cemetery burial vaults or other outside containers, markers, monuments, urns, and merchandise items used for the purpose of memorializing a decedent and placed on or in proximity to a place of interment or entombment of a casket, catafalque, or vault or to a place of inurnment ~~which that~~ are sold by a cemetery operating in accordance with ~~Article 3-2 of Chapter 3 23.1~~ of Title ~~57 54.1~~ of the Code of Virginia.

"Guaranteed contract price" means (i) the amount paid by the contract buyer on a preneed funeral contract, and income derived from that amount, or (ii) the amount paid by a contract buyer for a life insurance policy or annuity as the funding source and its increasing death benefit. These amounts shall be accepted as payment in full for the preselected funeral goods and services.

"Income" means the amount of gain received in a period of time from investment of consideration paid for a preneed contract.

"Nonguaranteed contract price" means the costs of items on a preneed funeral contract that are not fixed for the specified funeral goods or funeral services selected and nonguaranteed costs may increase from the date of the contract to the death of the contract beneficiary and the family or estate will be responsible for paying at the time of need for the services and supplies that were nonguaranteed. Cash advance items are not guaranteed.

18 VAC 65-30-80. Content and format.

A. A person residing or doing business within the Commonwealth shall not make, either directly or indirectly by any means, a preneed contract unless the contract buyer has been given in writing all information and disclosures required by law and regulation.

B. In addition to requirements of § 54.1-2820 of the Code of Virginia, the contract shall contain the following:

1. The date ~~and number~~ of the contract;
2. Whether or not the price of the supplies and services purchased is guaranteed;
3. The appointee agreement when applicable; and
4. Signatures of the contract seller and the contract buyer.

C. If an appointee agreement has been signed, it shall be attached to the preneed contract as a valid part of the contract.

VA.R. Doc. No. R02-46; Filed July 11, 2002, 3:42 p.m.

Title of Regulation: 18 VAC 65-40. Resident Trainee Program for Funeral Service (amending 18 VAC 65-40-340).

Statutory Authority: §§ 54.1-2400 and Chapter 28 (§ 54.1-2800 et seq.) of the Code of Virginia.

Public Hearing Date: October 10, 2002 - 9 a.m.
Public comments may be submitted until October 11, 2002.
(See Calendar of Events section for additional information)

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Board of Funeral Directors and Embalmers, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Basis: Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

The legal authority to promulgate regulations for resident trainees is found in Chapter 28 (§ 54.1-2800 et seq.) of Title 54.1 of the Code of Virginia, which sets forth statutory provisions for the licensure and practice of funeral establishments and funeral service licensees. Section 54.1-2817 of the Code of Virginia specifically addresses resident trainees.

Purpose: After each offering of the funeral examination, the board receives a report on passage or failure by the candidates. Cumulatively, the passage rate is approximately 82%, so the board is satisfied that the examination and training are adequate. The one exception is training and education in preneed. If a trainee is working in a funeral establishment that does not make preneed arrangements, he may not receive any experience or information related to preneed. Yet there are a myriad of federal and state laws and regulations on preneed, and it is a topic covered in the examination. That lack of training has resulted in failure for some candidates and handicapped some new licensees who do not have knowledge in preneed arrangements.

If the resident trainee with inadequate training in preneed becomes a funeral service licensee, it may put the public at risk in its dealing with that person for preneed arrangement. To protect the public safety and welfare in preneed

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arrangements, the board has determined that a specific requirement for inclusion of information on preneed in the training of funeral service providers is essential.

Substance: This regulatory action amends 18 VAC 65-40-340 to specify that information and training about preneed funeral contracts must be included in the resident trainee program.

Issues: The proposed amendment has some definite advantages to the public. By having licensees appropriately trained in preneed, there is less opportunity for inappropriate handling of preneed funding and misrepresentation of services that will be provided. There are no disadvantages to the public, which is better protected by a requirement for training in preneed.

There are advantages to funeral service establishments, which can be better assured that newly licensed providers will have adequate knowledge and training in preneed arrangements, and to the licensed funeral service providers who are less likely to violate state or federal laws out of ignorance.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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 proposed changes will require the funeral service supervisors to provide training to resident trainees in making preneed funeral arrangements and instruction on rules related to preneed contracts and disclosures.

Estimated economic impact. These regulations contain rules for registration, renewal, reinstatement of funeral service resident trainees and rules for trainees in such programs, training sites, reporting, and supervision of trainees. The proposed change will expand the supervisor's responsibilities to provide training to resident trainees in preneed funeral arrangements, contracts, and disclosures. The training will include writing preneed contracts, filling out the forms, financing of services, trust requirements, and consumer information disclosures.

Resident trainees are required to take an examination to be a funeral service licensee. The candidates are expected to know federal and state laws related to preneed and are tested, among other subjects, on preneed funeral arrangements, contracts, and disclosures. Some of the trainees, however, may not receive training and education in preneed if the funeral establishments where the trainee is working do not offer preneed funeral services. According to Department of Health Professions (the department), the lack of training may

have resulted in failure of some candidates on the funeral exam and handicapped some new licensees who do not have knowledge in preneed services.

With the proposed changes, the supervisor will be required to arrange for preneed training if the preneed training is not currently provided or arranged. Thus, supervisors working at establishments that do not offer preneed services will be affected. The department indicates that of the supervisors who are working at facilities that do not offer preneed services, most are currently arranging for the trainee to receive the preneed training. The number of the cases where preneed training is not arranged is not known but believed to be small relative to the number of facilities that do not offer preneed services.

The supervisors in these cases will likely have several options to arrange for preneed training. A supervisor may be able to arrange for the trainee to work temporarily at an establishment that offers preneed services. The training program is similar to apprenticeship and compensation is offered for the work performed by the trainee. Conversations with a funeral business owner indicate that it is unlikely for other establishments offering preneed services to accept such temporary arrangements. An alternate and probably the most used arrangement is expected to be with companies that offer preneed insurance and trust services. The department indicates that in some cases these companies already send their representatives to funeral establishments to offer training in preneed services free of charge and believes that there should be no problems with getting a company trainer to come to the facility because the company would have a chance to make contact with a potential funeral director who may choose to do business with them in the future. Although insurance and trust companies are expected to meet the needs of supervisors arranging preneed training, it cannot be ruled out that a supervisor may have to pay a trainer to provide the training.

The costs of the proposed preneed training requirement will depend on the type of the arrangements made. In a most likely scenario where an insurance or trust company trainer provides training, the trainees are expected to receive training free of charge. In this case, there do not seem to be significant costs to the funeral facility. Since the training will be provided voluntarily, there does not seem to be net costs to the insurance or the trust company either. However, regardless of the type of arrangements, the trainee time that will be devoted to preneed education appears to be the main cost associated with this requirement. According to a funeral service provider, it would take about two days to provide preneed education in a classroom setting.

On the other hand, the proposed preneed training is likely to benefit the trainees, the funeral service customers, and the establishments hiring newly licensed providers if the training can be arranged. First, the preneed training may improve some of the candidates' success on the funeral examination and make it possible for them to get their licenses and start receiving higher compensation. Second, it will likely improve some of the trainees' performance in dealing with preneed services after they obtain a license to offer funeral services. Customers stand to benefit from this requirement because

preneed training may afford additional consumer protection for them. A licensed practitioner with preneed training is less likely to make mistakes in preneed services out of ignorance. Inappropriate handling of preneed funding and misinterpretation of services that will be provided are examples of potential mistakes. Also, if the mistakes are reduced, funeral service providers will be less likely to be out of compliance with federal and state laws and to face civil court cases associated with preneed services.

Businesses and entities affected. The proposed changes will apply to the resident trainees in funeral services and the funeral service licensees who are trainee supervisors. Currently, there are about 156 registered trainees in the Commonwealth. The number of trainee supervisors is not known, but must be less than 156 because a supervisor cannot supervise more than two trainees.

Localities particularly affected. The proposed regulations apply throughout the Commonwealth.

Projected impact on employment. The proposed changes are not expected to have a significant impact on employment.

Effects on the use and value of private property. No significant impact on the use and value of private property is expected.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Funeral Directors and Embalmers concurs with the analysis of the Department of Planning and Budget for the periodic review of the proposed regulations, 18 VAC 65-40.

Summary:

The proposed changes will require the funeral service supervisors to provide training to resident trainees in making preneed funeral arrangements and instruction on rules related to preneed contracts and disclosures.

18 VAC 65-40-340. Supervisors' responsibilities.

A. The supervisor shall provide the trainee with all applicable laws and regulations or sections of regulations relating to the funeral industry.

B. The supervisor shall provide the trainee with copies of and instruction in the use of all forms and price lists employed by the funeral establishment.

C. The supervisor shall provide the trainee with instruction in all aspects of funeral services and shall allow the trainee under direct supervision to conduct all necessary arrangements for a minimum of 25 funerals.

D. The embalming supervisor shall provide instruction on all necessary precautions, embalming functions, and reporting forms and shall allow the trainee under direct supervision to perform a minimum of 25 embalmings.

E. The supervisor shall provide the trainee with experience in making preneed funeral arrangements and instruction on the laws and regulations pertaining to preneed funeral contracts and disclosures.

<p>NOTICE: The forms used in administering 18 VAC 65-40, Resident Trainee Program for Funeral Service, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.</p>
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FORMS

Application for Resident Trainee Program (rev. 7/4/98).

Application for Resident Trainee Program Supervisor (rev. 7/1/98 9/01).

Renewal Notice and Application, ~~C-46454~~ (rev. 7/1/97 2002).

Proposed Regulations

	<p>COMMONWEALTH OF VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS BOARD OF FUNERAL DIRECTORS AND EMBALMERS 6606 W. BROAD STREET, 4TH FLOOR RICHMOND, VIRGINIA 23230-1717</p>	
<p>APPLICATION FOR RESIDENT TRAINEE PROGRAM SUPERVISOR</p>		

CHANGE OF SUPERVISOR FEE: \$15.00 Make check or money order payable to the Treasurer of Virginia. All fees are non-refundable.

DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER. In accordance with § 54.1-116 of the *Code of Virginia*, you are required to submit your Social Security Number or your control number* issued by the *Virginia* Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. **NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.** *In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.

I. IDENTIFYING INFORMATION: Name in Full (Please print or type)			
APPRENTICE'S NAME:		DATE OF EMPLOYMENT:	
ESTABLISHMENT'S NAME:		AREA CODE AND TELEPHONE NUMBER:	
STREET ADDRESS:	CITY:	STATE:	ZIP CODE:
MAILING ADDRESS:	CITY:	STATE:	ZIP CODE:
II. SUPERVISOR'S INFORMATION			
FUNERAL SERVICE SUPERVISOR'S NAME:	ARE YOU EMPLOYED FULL TIME AT THIS ESTABLISHMENT? YES <input type="checkbox"/> NO <input type="checkbox"/>	SOCIAL SECURITY NUMBER:	LICENSE NUMBER:
EMBALMING SUPERVISOR'S NAME:	ARE YOU EMPLOYED FULL TIME AT THIS ESTABLISHMENT? YES <input type="checkbox"/> NO <input type="checkbox"/>	SOCIAL SECURITY NUMBER:	LICENSE NUMBER:
ESTABLISHMENT MANAGER'S NAME:		SOCIAL SECURITY NUMBER:	LICENSE NUMBER:
ESTABLISHMENT LICENSE NUMBER:			
III. BUSINESS INFORMATION			
Number of funeral services conducted at establishment in the past year: _____			
Number of embalming procedures performed at establishment in the past year: _____			
IV. AFFIDAVIT (To be completed by a Notary Public)			
State of _____ County/City of _____			
We are applying for approval of establishment and individuals as the training site and supervisor(s) for the above captioned apprentice. The supervisor(s) listed above are those responsible for the captioned apprentice shown on page 1 of this application. We will at all times abide by the laws of the Commonwealth and Regulations of the Board of Funeral Directors and Embalmers governing such practice.			
We understand that should we violate any of these laws or regulations, that action may be taken against the responsible parties by due process.			
We hereby certify that all statements contained in this application, and all representations and documents presented by us in connection with this application are true and correct.			
_____ Signature of Manager		_____ Signature of Funeral Service Supervisor	
_____ Signature of Embalmer			
Subscribed and sworn to before me this ____ day of _____, 19____.			
My Commission expires _____			
SEAL		_____ Notary Public	

Revised: 9/77/01

0505

RECEIPT—KEEP THIS PORTION FOR YOUR RECORDS—DO NOT RETURN

«First_Name» «Last_Name»	Renewal Fee—Amount «renewal_fee»
«License_Type» - «License_No»	
Renewal Period: «begin_period» to «end_period»	Current Expiration Date: «L_Expiration_Date»
<ol style="list-style-type: none"> For name changes, cross out any incorrect information on the front of the renewal form, write the correct name and check the box on return envelope. Enclose a copy of your marriage license or court order for name changes. Address changes, should be submitted to the Board's office at 6906 W. Broad Street, 4th Floor, Richmond, VA 23290. Detach "renewal form" portion and return completed form with your check in attached return envelope. Make checks payable to "Treasurer of Virginia." Visit our website at www.dhp.state.va.us 	

Please fold and tear on perforated line

Renewal Form for «License_Type»		Amount Due:
«License_No»	Renewal Period: «begin_period» to «end_period»	«renewal_fee»
«First_Name» «Middle_Name» «Last_Name»		
«L_Address_Line_1», «L_Address_Line_2», «L_Address_Line_3»		
<input type="checkbox"/> Check here if you do not wish to renew, and sign. Signature _____		
If Payment is Received by Board After «L_Expiration_Date», Amount Due «combined_late_fee»		
Do not staple check to renewal form or fold renewal form.		

«Scan_Line»

Disclosure of Addresses

Some licensees have expressed concern that their residence address is accessible. Consistent with Virginia law and the mission of the Department of Health Professions addresses of licensees are made available to the public. This has been the policy and the practice of the Commonwealth for many years. However, the application of new technology makes such information more accessible.

In most cases it is permissible for an individual to provide an address of record other than a residence, such as a Post Office Box or a practice location. Changes of address may be made at the time of renewal or at anytime by written notification to the appropriate health regulatory board. Please be advised that all notices from the board, to include renewal notices, licenses, and other legal documents, will be mailed to the address provided.

Proposed Regulations

BOARD OF NURSING

Title of Regulation: 18 VAC 90-20. Regulations Governing the Practice of Nursing (amending 18 VAC 90-20-360; adding 18 VAC 90-20-361, 18 VAC 90-20-362, 18 VAC 90-20-363, and 18 VAC 90-20-364).

Statutory Authority: § 54.1-3025.1 of the Code of Virginia.

Public Hearing Date: September 24, 2002 - 1:30 p.m.

Public comments may be submitted until October 11, 2002.
(See Calendar of Events section for additional information)

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Board of Nursing, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Basis: Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

The specific statutory mandate for the board to establish an advanced certification for nurse aides is found in § 54.1-3025.1 of the Code of Virginia.

Purpose: The Board of Nursing is mandated by Chapter 448 of the 2001 Acts of Assembly to promulgate regulations to establish a career advancement certification for certified nurse aides. As was stated in House Bill 1778, the purpose is "to establish a career advancement certification that will indicate enhanced competence in patient care tasks and enable certified nurse aides to expand the scope of the responsibilities and duties delegated to them."

Since it is likely that additional responsibilities may be delegated to nurse aides with advanced certification, the board has adopted requirements for education and training and a competency evaluation that are reasonably attainable but sufficiently rigorous to assure minimal competency of individuals working with a very vulnerable, frail population. Therefore, amended regulations establish qualifications for the applicant, continuing education requirements for renewal, and requirements for approval of a training program in order to protect the health, safety and welfare of the public.

Substance: Regulations establish the qualifications for advanced certification to include certification as a certified nurse aide for at least three years, no findings on the Nurse Aide Registry or disciplinary action, 120 hours of training including a competency evaluation, and a recommendation from a nursing supervisor. To renew advanced certification, a nurse aide must attest to having completed at least three hours of continuing education per year. Requirements for an approved advanced certification education program are also established to include a ratio of 10-1 for students to instructor, qualifications of instructional personnel, on-site review, a competency evaluation, recordkeeping and curriculum content.

Issues:

Advantages or disadvantages to the public. If the advanced certification program is effective in producing more highly skilled, motivated nurse aides, as the advocates of the program have asserted, there will be definite advantages to the public, especially those who are patients in long-term care facilities. Nurse aides with advanced certification will be able to assume additional responsibilities assigned by supervising nurses, thus relieving the nursing staff of some of the more routine but essential tasks. It would be advantageous to have nurse aides who are trained to assist in rehabilitation and restoration of daily functions for the elderly and who can recognize and treat the early stages of pressure ulcers. In addition, the advanced certification would train nurse aides as leaders and mentors to others, which may help with the severe problem of retention.

The businesses that employ nurse aides, especially long-term care facilities, will benefit by having employees that are able to assume additional responsibilities. However, the success of the advanced certification program is likely to depend on the willingness and ability of the employers to compensate those with advanced certification at a higher rate.

Advantages or disadvantages to the agency. There are no particular advantages to the state agency that regulates nurses since this is a new state mandate that exceeds the federal requirement for a Nurse Aide Registry. As such, there is no federal funding available. Program review and approval will have to be conducted by staff of the board without the ability to charge the programs a fee. However, it is anticipated that the application and renewal fees paid by the nurse aides will cover most of the cost of an advanced certification program. No additional employees in the Department of Health Professions will be necessary to implement provisions of law and regulation.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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 proposed changes will create an advanced certification program for certified nurse aides, establish requirements for the advanced certificate renewal and reinstatement, and establish criteria for the advanced certification programs.

Estimated economic impact. Pursuant to § 54.1-3025.1 of the Code of Virginia, the proposed regulations will establish requirements for career advancement certification for certified nurse aides. Nurse aides provide basic patient care under

supervision of nursing staff and perform duties including feeding, bathing, dressing, grooming, and moving patients, changing linens, etc. The proposed certification will create a new group of certified nurse aides so that there will be those with an advanced certification and those with basic certification. For advanced certification, nurse aides will have to receive education on leadership and mentoring skills, cognitively impaired patient care, restorative care, and wound care. The purpose of the proposed changes is to establish a certification program that is indicative of enhanced competency and to broaden the scope of responsibilities that may be performed by certified nurse aides.

Advanced certification will be available for certified nurse aides in Virginia with three years of experience. An applicant will be required to be on the Nurse Aide Registry without findings of abuse, neglect, or misappropriation of patient property and must be free of any disciplinary action taken within the preceding five years. For qualification, the certified nurse aides will be required to provide a recommendation from one of their nursing supervisors, complete 120 hours of training with a competency evaluation in an approved program, and pay an application fee of \$25.

Advanced certification for certified nurse aides will be renewed biennially. The renewal applicant will be required to submit a renewal fee of \$20 to Department of Health Professions (the department) and attest to completing three hours of continuing education and training per year. The employer will be required to verify completion of the education and training requirements. Certificates that are not renewed within 90 days after the expiration date will be subject to a \$30 reinstatement fee.

The proposed changes also establish criteria and requirements for advanced nurse aide certification education programs for eligibility, hours of training, qualifications for instructional personnel, curriculum content, competency evaluation, on-site review, recordkeeping, and closure. An approval from the Board of Nursing (the board) will be required. An advanced certification program has to be an approved nurse aide program for basic certification.

Each application for certification program is likely to impose costs on the department. These costs include the staff time to review the program and to determine if the requirements are met, costs of convening a committee to consider approval, which involve copying documents, staff support, per diem, travel expenses, etc., and the staff time associated with the paper review and the onsite review that will be conducted biennially. The number of programs that will seek board approval is not known. However, the department believes that anywhere from zero to up to 100 programs may be interested in offering advanced certification for nurse aides. The total costs to the department associated with 100 programs would be about \$41,500 per biennium.¹

Similarly, each application for advanced nurse aide certification is also likely to impose costs on the department. These costs include staff time to review an application, costs of arranging informal conferences to hear cases related to

eligibility issues, staff time to identify incomplete renewal applications and ensure compliance, costs associated with reinstatement, costs of investigation, review, informal conferences, and disciplinary hearings related to expanded scope of practices. The number of nurse aides who will seek advanced certification is not known. However, based on the experience with similar programs in other states, the department believes that anywhere from zero to up to 3,400 (about 10% of the total) certified nurse aides may seek certification from the board. The estimated total costs associated with 3,400 advanced nurse aide certifications are approximately \$147,900 per biennium.

The department expects to receive about \$153,000 in initial application and renewal fees if 3,400 nurse aides seek advanced certification. When compared to total costs, the revenues are expected to fall short about \$36,400 for 3,400 nurse aides and 100 education programs.

There is likely to be exchange of resources between nurse aides and education programs. The associated parties to the exchange may be different as the employers may pay the cost of the training program provided by an independent entity or they may provide the training at their facility at their expense. Independent entities such as proprietary schools and community colleges may also offer the training program for \$400 to \$500.² Some of the long-term care facilities that offer the basic training program for certified nurse aides are expected to seek approval for advanced certification. In all of these cases, it is expected that the employer or some other entity will be absorbing the costs of providing the education program. Given the market valuation of \$400 to \$500 for registering in an education program, about \$1.3 million to \$1.7 million may be transferred from 3,400 nurse aides or their employers to education programs in exchange for additional skills and knowledge offered. In addition, the time devoted to fulfill the 120 hours of education and training are additional costs to each nurse aide or the employer and should be valued at the current wage rate. The median hourly wage rate for nurse aides in Virginia is estimated to be \$8.43.³ Given the high estimate of 3,400 applicants, the value of the time spent on education and training may reach up to \$3.4 million. It should be noted that the application for advanced nurse aide certification is voluntary and by making this choice a nurse aide reveals that expected benefits exceed the expected costs. Similarly, education programs will offer advanced certification programs if net benefits are expected.

The costs associated with fulfilling the three-hour continuing education requirement are not expected to be significant. There are already 12-hour and eight-hour continuing education requirements for nurse aides working at long-term care facilities and assisted living facilities, respectively. These nurse aides may satisfy the continuing education requirement by taking the credits in advanced competency areas approved by the board without any increase in the number of continuing education credits already required. The certified nurse aides will need to ensure that three hours of credits per year already

² Ibid.

³ Source: 2000 State Occupational Employment and Wage Estimates, Bureau of Labor Statistics, U.S. Department of Labor.

¹ Source: Department of Health Professions.

Proposed Regulations

required are directed toward competency areas identified in the proposed curriculum content.

The proposed changes will affect patient health and safety. If the proposed certification improves the skills in the required competency areas and motivation of nurse aides, there is likely to be a positive impact on health and safety of patients. Also, task delegation from supervising nurses to nurse aides is likely to reduce the time devoted by nurse aides and increase the time devoted by certified nurses for patient care. Nurses may be relieved of some responsibilities and may be able to focus on more important responsibilities, which may have a positive impact on patients as well. However, whether advanced nurse aides will be able to perform delegated tasks as well as nurses and the resulting effects on patient health and safety are not known.

The proposed certification will provide a career advancement opportunity for nurse aides. The department indicates that the long-term care facilities are currently experiencing a severe retention problem. According to Virginia Health Care Association, 85% of the nurse aids are changing jobs within a year. Nurse aides interested in assuming additional responsibilities and/or possibly improving income will have an option to reach their goals through this certification. Similarly, nurse aide employers will have an option to assign additional responsibilities probably with accompanying pay raises if it is beneficial for them. Since the proposed changes provide additional options for nurse aides and long-term care facilities, they are likely to produce net benefits for both the employers and the employees.

The success of the proposed changes in promoting retention will likely depend mainly on the compensation increases offered to nurse aides with advanced certification. The ability of employers to offer higher wages seems to be significantly limited because Medicare and Medicaid patients dominate the composition of the customers and the reimbursement rates are subject to availability of federal and state funds. Both the department and the Virginia Health Care Association are not aware of any available funds that can be used for this purpose at this time.

Businesses and entities affected. There are approximately 35,000 persons certified as nurse aides by the board of nursing. The number of nurse aides who will choose to seek advanced certification is not known, but may be up to 3,400. Similarly, of the 235 basic nurse aide education programs, how many will be interested in seeking approval is not known, but up to 100 programs may be interested.

Localities particularly affected. The proposed regulations apply to all localities in the Commonwealth.

Projected impact on employment. The department indicates that the current employees will absorb the additional responsibilities. Thus, no additional employment at the department is expected. However, the proposed changes are expected to increase the demand for instructional personnel and other types of labor at the educational programs that may choose to offer advanced nurse aide certification programs. Increased demand for labor may increase the employment at the advanced certification education programs. Finally, depending on the advanced certification's success, which is

likely to be directly related to accompanying pay raises, there may be a positive impact on employment in the nurse aide profession. First, if the proposed regulations create significant incentives for career advancement and reduce nurse aide turnover rate, the amount of time nurse aides are unemployed in between the jobs is likely to decrease and there is likely to be a positive effect on nurse aide employment. Second, career advancement opportunities may make the nurse aide profession more attractive relative to other employment opportunities and provide additional incentives for entry into this profession.

Effects on the use and value of private property. The proposed changes may generate additional revenues for nurse aide education programs. To the degree the revenues increase the profits, there is likely to be a positive impact on the value of privately owned nurse aide education programs.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Nursing concurs with the analysis of the Department of Planning and Budget for the advanced certified nurse aide program in proposed regulation 18 VAC 90-20.

Summary:

The proposed amendments comply with the mandate in Chapter 448 of the 2001 Acts of Assembly, which required the Board of Nursing to promulgate regulations to establish a career advancement certification for certified nurse aides. Amendments establish the qualifications for advanced certification, the requirements for renewal and the criteria for an approved education and training program.

18 VAC 90-20-360. Denial, revocation or suspension.

The board has the authority to deny, revoke or suspend a certificate issued, or to otherwise discipline a certificate holder upon proof that he has violated any of the provisions of § 54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:

1. Fraud or deceit shall mean, but shall not be limited to:
 - a. Filing false credentials;
 - b. Falsely representing facts on an application for initial certification, reinstatement or renewal of a certificate; or
 - c. Giving or receiving assistance in taking the competency evaluation.
2. Unprofessional conduct shall mean, but shall not be limited to:
 - a. Performing acts beyond those authorized for practice as a nurse aide *or an advanced certified nurse aide* as defined in Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia;
 - b. Assuming duties and responsibilities within the practice of a nurse aide *or an advanced certified nurse aide* without adequate training or when competency has not been maintained;
 - c. Obtaining supplies, equipment or drugs for personal or other unauthorized use;

- d. Falsifying or otherwise altering client or employer records;
- e. Abusing, neglecting or abandoning clients; or
- f. Having been denied a license or having had a license issued by the board revoked or suspended.

PART VII.

ADVANCED CERTIFICATION FOR NURSE AIDES.

18 VAC 90-20-361. Requirements for initial certification as an advanced certified nurse aide.

A. In order to be certified as and use the title of "Advanced Certified Nurse Aide," an applicant shall meet the following qualifications:

1. Hold current certification as a certified nurse aide in Virginia;
2. Have been certified for at least three years as a certified nurse aide;
3. Have never had a finding of abuse, neglect or misappropriation of patient property entered on the Nurse Aide Registry and have not had any disciplinary actions taken within the five years preceding application for advanced certification;
4. Have a recommendation for advanced certification from a licensed nurse who has supervised the applicant in providing direct patient care for at least six months within the past year; and
5. Have successfully completed a minimum of 120 hours of advanced training in an approved program that includes a competency evaluation acceptable to the board.

B. An application for certification shall be accompanied by an application fee of \$25.

18 VAC 90-20-362. Renewal and reinstatement of certification as an advanced certified nurse aide.

A. *Renewal.* If an individual is not eligible to renew as a certified nurse aide, certification as an advanced certified nurse aide may not be renewed. An advanced certification shall be renewed concurrently with the biennial renewal of the basic certification as a nurse aide in Virginia by:

1. Submitting a completed renewal form and renewal fee of \$20; and
2. Attesting to completing at least three contact hours per year of continuing education and training in any of the competency areas identified in the advanced certification training program. Completion of the continuing education and training required by an advanced certified nurse aide shall be verified by the employer on the renewal form. The board may grant an extension or waiver of the continuing education requirement based on good cause shown by the certified nurse aide.

B. *Late renewal.* An advanced certified nurse aide may renew certification for 90 days following the expiration date by meeting the requirements of subsection A of this section.

C. *Reinstatement.* If an advanced certification has not been renewed for 90 days following the expiration date, it shall only be reinstated if the applicant for reinstatement:

1. Holds current certification as a nurse aide in Virginia;
2. Submits a completed reinstatement application on a form provided by the board;
3. Pays the reinstatement fee of \$30; and
4. Provides evidence that he has completed all required hours of continuing education and training.

18 VAC 90-20-363. Requirements for an approved advanced certification education program.

A. The advanced certification education program shall be approved by the Virginia Board of Nursing. An approved advanced certification education program shall also be an approved nurse aide education program as set forth in 18 VAC 90-20-330.

B. An advanced certification education program shall consist of a minimum of 120 hours including a minimum of 40 hours of clinical skills instruction in direct client care with on-site supervision by instructional personnel. When nurse aides are engaged in direct client care in the course of advanced certification training, the ratio shall not exceed 10 students to one instructor.

C. The instructional personnel in an approved advanced certification education program shall meet the requirements as set forth in 18 VAC 90-20-330 C.

D. The curricula of an approved advanced certification education program shall, at a minimum, meet the requirements of 18 VAC 90-20-364.

E. Each advanced certification program shall develop an individual record of major skills taught and the date of performance by the student. At the completion of the program, the nurse aide must receive a copy of this record and a certificate of completion.

F. An advanced certification education program shall develop and submit to the board a competency evaluation based on the curriculum content required in 18 VAC 90-20-364. Such an evaluation shall include both a written test on the curriculum and an assessment of manual skills. A record of the reports of graduates' performance on the approved competency evaluation program shall be maintained for a minimum of three years.

G. Program review shall be in accordance with requirements of 18 VAC 90-20-330 I and shall be conducted concurrently with the on-site review of the basic nurse aide education program. Loss of board approval for the basic nurse aide education program shall automatically result in the loss of approval for the advanced certification education program.

H. When an advanced certification education program closes, the provider shall notify the board of the date of closing and submit a list of all graduates with their date of graduation.

Proposed Regulations

18 VAC 90-20-364. Required curriculum content for an advanced certification education program.

A. An advanced certification education program shall include classroom and clinical instruction in the following curriculum:

1. Leadership and mentoring skills.
 - a. Principles of adult learning;
 - b. Learning styles;
 - c. Evaluation methods to assess learner knowledge;
 - d. Communication techniques and communication barriers; emphasizing cultural diversity of coworkers and clients;
 - e. Conflict management;
 - f. Precepting and mentoring new certified nurse aides;
 - g. Teamwork;
 - h. Contributing to care plan development and implementation;
 - i. Organizational responsibilities; and
 - j. Principles of documentation.
2. Care of the cognitively impaired client.
 - a. Signs and symptoms of dementia;
 - b. Concepts and techniques for addressing the unique needs and behaviors of individuals with dementia, including but not limited to agitation, combativeness, sundown syndrome, wandering, forgetfulness;
 - c. Basic concepts of communication with cognitively impaired clients, including techniques to reduce the effects of cognitive impairment;
 - d. Basic concepts of behavior management with cognitively impaired clients; and
 - e. Recognizing changes in the client's condition and reporting and documenting such changes.
3. Restorative care.
 - a. Anatomy and physiology with emphasis on the effects of aging;
 - b. Pathophysiology of common disorders of the elderly;
 - c. Measures to assist clients with common medical problems;
 - d. Recognizing changes in the client's condition and reporting and documenting such changes;
 - e. Concepts to maintain or improve client mobility and ability to perform activities of daily living; and
 - f. Rehabilitation procedures.
4. Wound care.
 - a. Prevention, identification and treatment of Stage I and Stage II pressure ulcers;

- b. Positioning;
- c. Sterile and clean technique;
- d. Dressing changes;
- e. Concepts of hydration;
- f. Nutrition and weight loss; and
- g. Recognizing changes in the client's condition and reporting and documenting such changes.

B. Written objectives for each unit of instruction shall be stated in behavioral terms that are measurable and shall be reviewed with the students at the beginning of each unit.

PART ~~VII~~ VIII.

MEDICATION ADMINISTRATION TRAINING PROGRAM.

PART ~~VIII~~ IX.

PROTOCOL FOR ADULT IMMUNIZATION.

PART ~~IX~~ X.

DELEGATION OF NURSING TASKS AND PROCEDURES.

<p>NOTICE: The forms used in administering 18 VAC 90-20, Regulations Governing the Practice of Nursing, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Nursing, 6606 W. Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.</p>
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FORMS

- Application for Licensure by Endorsement -- Registered Nurse (rev. 5/02).
- Instructions for Licensure by Endorsement -- Registered Nurse (rev. 5/02).
- Application for Licensure by Endorsement -- Licensed Practical Nurse (rev. 5/02).
- Instructions for Filing Application for Licensure by Examination for Registered Nurses (rev. 4/00).
- Application for Licensure by Examination -- Registered Nurse (rev. 4/01).
- Instructions for Filing Application for Licensure by Examination for Practical Nurses (rev. 10/99).
- Application for Licensure by Examination -- Licensed Practical Nurses (rev. 4/01).
- Instructions for Filing Application for Licensure by Repeat Examination for Registered Nurses (rev. 8/97).
- Application for Licensure by Repeat Examination for Registered Nurse (rev. 8/99).
- Instructions for Filing Application for Licensure by Repeat Examination for Practical Nurses (rev. 10/99).
- Application for Licensure by Repeat Examination for Licensed Practical Nurse (rev. 8/99).

Instructions for Filing Application for Licensure by Examination for Licensed Practical Nurses Educated in Other Countries (rev. 4/01).

Application for Licensure by Examination for Registered Nurses Educated in Other Countries (rev. 4/01).

Temporary Exemption To Licensure (eff. 5/01).

Instructions for Filing Application for Licensure by Examination by Practical Nurses from Other Countries (rev. 4/00).

Application for Licensure by Examination for Licensed Practical Nurses Educated in Other Countries (rev. 4/01).

Application for Reinstatement of License as a Registered Nurse (rev. 2/00).

Application for Reinstatement of License as a Licensed Practical Nurse (rev. 4/01).

Verification of Licensure or Registration (rev. 11/95).

Renewal Notice and Application (rev. 2/00).

Application for Registration as a Clinical Nurse Specialist (rev. 4/01).

Survey Visit Report.

Annual Report for Registered Nursing Programs.

Annual Report for Practical Nursing Programs.

Certified Nurse Aide Renewal Notice and Application (rev. 2/00).

Advanced Certified Nurse Aide Renewal Notice and Application (eff. 7/02).

Instructions for Application for Advanced Nurse Aide Certification (eff. 7/02).

Application for Advanced Nurse Aide Certification (eff. 7/02).

Application for Reinstatement of Nurse Aide Certification (rev. 8/99).

Instructions for Application for Reinstatement of Advanced Nurse Aide Certification (eff. 7/02).

Application for Reinstatement of Advanced Nurse Aide Certification (eff. 7/02).

Application for Nurse Aide Certification by Endorsement.

Nurse Aide Certification Verification Form.

Application to Establish Nurse Aide Education Program (rev. 5/99).

Application to Establish an Advanced Nurse Aide Education Program (eff. 7/02).

Nurse Aide Education Program Evaluation Report (rev. 5/99 7/02).

On-Site Review Report (rev. 5/99).

Advanced Certification Nurse Aide Education Program -- On-site Review Report (eff. 7/02).

Evaluation of On-Site Visitor.

Request for Statistical Information.

VA.R. Doc. No. R02-21; Filed July 24, 2002, 9:28 a.m.

BOARD OF NURSING HOME ADMINISTRATORS

Title of Regulation: 18 VAC 95-20. Regulations of the Board of Nursing Home Administrators (amending 18 VAC 95-20-80).

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public Hearing Date: October 9, 2002 - 10 a.m.

Public comments may be submitted until October 11, 2002. (See Calendar of Events section for additional information)

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Board of Nursing Home Administrators, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Basis: Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations and levy fees.

The specific statutory mandate for an increase in fees is found in § 54.1-113 of the Code of Virginia.

Purpose: Section 54.1-113 of the Code of Virginia requires that at the end of each biennium, an analysis of revenues and expenditures of each regulatory board be performed. It is necessary that each board has sufficient revenue to cover its expenditures. It is projected that by the close of the 2000-2002 biennium, the Board of Nursing Home Administrators will incur a deficit and that the deficit will continue to grow through the next biennium. Since the fees from licensees will no longer generate sufficient funds to pay operating expenses for the board, a fee increase is essential.

The purpose of the proposed amendments is to establish fees sufficient to cover the administrative and disciplinary activities of the board. Without adequate funding, the licensing of practitioners and preceptors who provide training for those seeking to become administrators could be delayed. The Code of Virginia requires all licensed nursing homes to be under the supervision of a licensed administrator. Sufficient funding is essential to continue the approval of applicants for a training program and for licensure and the investigation of complaints and disciplinary proceedings against practitioners who are accused of substandard care or violations of law and regulation in order to protect the public health and safety.

Substance: 18 VAC 95-20-80 is amended to comply with a statutory mandate for the board to provide sufficient funding to cover expenses related to approvals of administrators-in-training (AIT) and preceptors, licensing, investigations and disciplinary proceedings. Annual renewal fees for a nursing home administrator are increased from \$125 to \$225 and for a preceptor from \$60 to \$100. Fees for late renewal and reinstatement are increased proportionately. Application fees for the AIT program and for preceptors are not changed, but

Proposed Regulations

the application fee for a nursing home administrator is increased from \$150 to \$200. Some miscellaneous fees for duplicate licenses and wall certificates are reduced.

Issues: While fee increases proposed by the Board of Nursing Home Administrators should have no specific disadvantage to the consuming public, the ever-increasing shortage of administrators is of concern. As the population ages, there will be an increasing rather than decreasing need for qualified persons to administer those facilities. According to persons in the profession and affiliated with the nursing home industry, there are numerous root causes for the decrease in the supply of administrators – relating to the extraordinary regulatory burden of federal and state laws and rules governing the operation of a nursing home, the availability of similar professional opportunities in less-regulated environments (assisted living facilities) and the profession's lack of appeal to younger persons. While the increased fee will not enhance the prospects for increasing the number of licensees, the board does not believe that licensure fees alone will result in a reduction in the number of applicants for licensure or the number of licensed persons available to provide administrator services to the public. It is also not anticipated that the proposed fee increases will have any effect on prices for consumers.

There would be disadvantages to the public if the board took no action to address its deficit by increasing its fees to cover expenses. The only alternative currently available under the Code of Virginia would be a reduction in services and staff, which would result in delays in licensing applicants who would be unable to work and delays in approval or disapproval of candidates to sit for examinations. Potentially, the most serious consequence would be a reduction in or reprioritization of disciplinary cases handled by the department and the board. There could be delays in adjudicating cases of substandard practice, resulting in potential danger to patients in the Commonwealth.

Applicants and practitioners licensed by the board will experience increased renewal fees under the proposed regulations. While that is a disadvantage to the licensees, the alternative of reduced services for the board would be unacceptable to applicants, licensees and the general public. As a special-fund agency, renewal fees pay the vast majority of the expenses of board operations, which include inspections, investigation of complaints, adjudication of disciplinary cases, review and approval of applicants, verification of licensure and education to other jurisdictions and entities, and communications with licensees about current practice and regulation.

The consequence of not increasing fees of the board would be a reduction in services and staff, resulting in delays in licensing, reductions or delays in the cases investigated and brought through administrative proceedings to a hearing before the board. The fees charged to applicants and licensees solely fund the board and the Department of Health Professions. If higher fees are not adopted, the agency would have to cut its staff, both within the Board of Nursing Home Administrators and within other divisions of the Department of Health Professions.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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 proposed regulation increases various fees paid by nursing home administrators and preceptors to the Board of Nursing Home Administrators. The purpose of these fee increases is to bring the board into compliance with the board's interpretation of § 54.1-113 of the Code of Virginia. Section 54.1-113 requires all regulatory boards under the Department of Health Professions to revise their fee schedules if, after the close of any biennium, there is more than a 10% difference between revenues and expenditures. The proposed fee changes are as follows:

Nursing Home Administrators

- Annual renewal of an active license will increase from \$125 to \$225.
- The penalty for late renewal of a license will increase from \$50 to \$65.
- Reinstatement of a lapsed license (a license not renewed within one year) will increase from \$225 to \$315.

Preceptors

- Annual renewal of an active license will increase from \$60 to \$100.
- The penalty for late renewal of a license will increase from \$25 to \$35.
- Reinstatement of a lapsed license (a license not renewed within one year) will increase from \$110 to \$150.

Miscellaneous fees

- Application for licensure will increase from \$150 to \$200.
- The fee for licensure verification to another jurisdiction will be raised from \$10 to \$25.
- The cost of obtaining a duplicate license would be reduced from \$25 to \$15.
- The cost of obtaining a duplicate wall certificate would be reduced from \$50 to \$25.

Estimated economic impact. There has not been a fee increase for licensees under the Board of Nursing Home Administrators since 1994. However, expenditures for the board have risen due to increases in staff salaries and benefits, expenses associated with new data systems and the health practitioner intervention program, and increases in enforcement activities. Under the current fee structure, the board projects a deficit of \$185,000 for the 2002-2004

biennium.¹ The level of the proposed fee increases is based on revenue and expenditure projections prepared by DHP for the Board of Nursing Home Administrators. The projections also assumed a continuing decline in the number of licensed nursing home administrators. However, if the number of licensees drops significantly, the board may be faced with additional deficits that would have to be addressed with further fee increases or other alternatives such as eliminating an independent board or sunseting the licensure requirement.

The effect of the new fee schedule will be an increase in application and licensure costs for all nursing home administrators and preceptors facilities licensed in Virginia. Specifically, renewal fees paid by licensees will increase by approximately \$75,000 per year. According to DHP, the proposed fee increases are necessary to cover the administrative and disciplinary activities of the Board of Nursing Home Administrators. Sufficient funding is essential to prevent a delay in application processing, license renewals, and the investigation of complaints and disciplinary proceedings against practitioners who are accused of substandard care or violations of law and regulation, in order to protect the public health and safety of residents of nursing homes in Virginia.

Although the total increase in compliance costs is substantial, from an individual perspective these fees represent a very small portion of the total cost of entry into the nursing home industry (e.g., the total cost of entry includes all education and training expenses). The recent decline in the supply of nursing home administrators is of concern; however, according to persons in the profession and affiliated with the nursing home industry, the root causes include the extraordinary regulatory burden of federal and state laws and rules governing the operation of a nursing home, the availability of similar professional opportunities in less-regulated environments (assisted living facilities) and the profession's lack of appeal to younger persons. While the increased fee will not enhance the prospects for increasing the number of licensees, the board does not believe that licensure fees alone will result in a reduction in the number of applicants for licensure or the number of licensed persons available to provide administrator services to the public. The proposed fee changes, therefore, are unlikely to have a significant effect on the decision of individuals to enter or exit this profession. For this reason, the proposed regulatory changes should have no economic consequences beyond the anticipated increase in licensing costs.

Businesses and entities affected. There are currently 674 nursing home administrators and 180 preceptors licensed by the Board of Nursing Home Administrators in Virginia.

Localities particularly affected. The proposed fee changes will not affect any particular localities since they apply statewide.

Projected impact on employment. Since the application and licensure renewal fees represent a very small portion of the total cost of entry into the nursing home industry, and the

significant decline in the supply of administrators is believed to stem from other factors, no significant impact on employment in Virginia is expected.

Effects on the use and value of private property. The proposed fee changes are not expected to have any significant effects 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 Board of Nursing Home Administrators concurs with the analysis of the Department of Planning and Budget for the fee increases in proposed regulation 18 VAC 95-20.

Summary:

The proposed amendments increase certain fees for the regulants of the board, including nursing home administrators and preceptors, as necessary to provide sufficient funding for the licensing and disciplinary functions of the board. The annual renewal fee for a nursing home administrator is increased from \$125 to \$225 and for a preceptor from \$60 to \$100. The application fee for licensure is increased from \$150 to \$200, but application fees for preceptors and administrators-in-training remain the same. Other fees are increased correspondingly; and some miscellaneous fees, such as the duplicate license and wall certificate charge, are reduced.

18 VAC 95-20-80. Required fees.

The applicant shall submit all fees below which apply:

1. A.I.T. program application	\$185
2. Preceptor application	\$125
3. Licensure application	\$450 200
4. Verification of licensure requests from other states	\$40 25
5. Nursing home administrator license renewal	\$425 225
6. Preceptor renewal	\$60 100
7. Penalty for nursing home administrator late renewal	\$50 65
8. Penalty for preceptor late renewal	\$25 35
9. Nursing home administrator reinstatement	\$225 315
10. Preceptor reinstatement	\$440 150
11. Duplicate license	\$25 15
12. Duplicate wall certificates	\$50 25

NOTICE: The forms used in administering 18 VAC 95-20, Regulations of the Board of Nursing Home Administrators, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Application for Licensure (rev. 1/98).

Endorsement Certification Form (rev. 1/98).

¹ This figure reflects the difference of the projected FY2002-2004 expenditures (\$369,994) and the projected revenue under the current fee structure (\$242,800) added to the beginning balance of -\$57,964.

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Application for Administrator-in-Training (rev. 1/98).

Application for Preceptor Registration (rev. 1/98).

Application for Reinstatement of License (rev. 1/98).

~~Form Letter and Affidavit of Completion for Required CE Documentation (rev. 10/98).~~

Renewal Notice and Application (rev. ~~7/97~~ 2002).

1701

RECEIPT—KEEP THIS PORTION FOR YOUR RECORDS—DO NOT RETURN

«First Name» «Last Name»	Renewal Fee—Amount «renewal_fee»
«License_Type» - «License_No»	License Status: «License_Status»
Renewal Period: «begin_period» to «end_period»	Current Expiration Date: «L_Expiration_Date»

- For name changes, cross out any incorrect information on the front of the renewal form, write the correct name and check the box on return envelope. Enclose a copy of your marriage license or court order for name changes.
- Address changes, cross out any incorrect information on the front of the renewal form, write the correct address and check the box on return envelope.
- Detach "renewal form" portion and return completed form with your check in attached return envelope.
- Make checks payable to "Treasurer of Virginia." Visit our website at www.dhp.state.va.us

Please fill and tear on perforated line

Renewal Form for «License_Status» «License_Type»	Amount Due: «renewal_fee»
«License_No» Renewal Period: «begin_period» to «end_period»	
«First Name» «Middle Name» «Last Name»	
«L_Address_Line_1» «L_Address_Line_2» «L_Address_Line_3»	

I wish to renew and I certify that I have met all continuing education requirements to renew an active license.

I swear that I have not made any misrepresentation on this renewal application and understand that furnishing false information constitutes cause for loss of license to practice. Signature _____

If Payment for active licensure is received by Board After «L_Expiration_Date», Amount Due «combined_late_fee»

Do not staple check to renewal form or fold renewal form.

«Scan_Line»

Disclosure of Addresses

Some licensees have expressed concern that their residence address is accessible. Consistent with Virginia law and the mission of the Department of Health Professions, addresses of licensees are made available to the public. This has been the policy and the practice of the Commonwealth for many years. However, the application of new technology makes such information more accessible.

In most cases it is permissible for an individual to provide an address of record other than a residence, such as a Post Office Box or a practice location. Changes of address may be made at the time of renewal or at anytime by written notification to the appropriate health regulatory board. Please be advised that all notices from the board, to include renewal notices, licenses, and other legal documents, will be mailed to the address provided.

Detach Along Perforation
MOISTEN AND FOLD TO SEAL



VA.R. Doc. No. R02-20; Filed July 11, 2002, 3:44 p.m.

Proposed Regulations

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

Title of Regulation: 18 VAC 120-30. Regulations Governing Polygraph Examiners (amending 18 VAC 120-30-10, 18 VAC 120-30-30, 18 VAC 120-30-40, 18 VAC 120-30-50, 18 VAC 120-30-70, 18 VAC 120-30-90, 18 VAC 120-30-100, 18 VAC 120-30-110, 18 VAC 120-30-130, 18 VAC 120-30-150, 18 VAC 120-30-160, 18 VAC 120-30-180, 18 VAC 120-30-190, 18 VAC 120-30-200, 18 VAC 120-30-220, 18 VAC 120-30-230, 18 VAC 120-30-240, 18 VAC 120-30-250, 18 VAC 120-30-270, and 18 VAC 120-30-280; adding 18 VAC 120-30-55, 18 VAC 120-30-290, 18 VAC 120-30-300, and 18 VAC 120-30-310).

Statutory Authority: §§ 54.1-201 and 54.1-1802 of the Code of Virginia.

Public Hearing Date: September 18, 2002 - 10 a.m.

Public comments may be submitted until October 11, 2002.

(See Calendar of Events section for additional information)

Agency Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, or e-mail polygraph@dpor.state.va.us.

Basis: Sections 54.1-201 and 54.1-1802 of the Code of Virginia authorize the Director of the Department of Professional and Occupational Regulation to promulgate regulations to assure continued competency, to prevent deceptive or misleading practices by practitioners, and to effectively administer the regulatory system established for polygraph examiners.

Purpose: The proposed amendments clarify changes to the regulation throughout and restructure some parts for ease of understanding and use. In addition, the school section, Part VI, is modified to clearly indicate the intentions of the board and director. The changes are to ensure that their intent is clearly reflected in the regulations so that the regulations are clear as possible, which will facilitate the regulants' complying with requirements. This in turn will better protect the health, safety and welfare of the public.

Substance: The proposed amendments make the following changes:

1. Clarify the definition of "advisory board" in 18 VAC 120-30-10.
2. Clarify wording in 18 VAC 120-30-30 A and 18 VAC 120-30-230 A regarding the board's authority.
3. Move 18 VAC 120-30-40 A 2 and 3 to 18 VAC 120-30-50 A for clarity so that all the requirements for interns are located in one place in the regulations.
4. Move 18 VAC 120-30-40 A 4 to a new section, 18 VAC 120-30-55, for clarity so that all the requirements for interns are located in one place in the regulations.
5. In 18 VAC 120-30-100 D, clarify that the \$45 fee is for reciprocity applicants.

6. In 18 VAC 120-30-190 A, clarify that the new expiration date shall be one year from the previous expiration date.

7. Revise the wording in 18 VAC 120-30-220 to more accurately reflect the intent and application of this section.

8. Reword the second sentence of 18 VAC 120-30-270 B for clarity.

9. Change the requirements in 18 VAC 120-30-280 A 1 from a Virginia licensed attorney to an attorney licensed in a state or jurisdiction of the U.S. to teach the legal aspects of polygraph examination. This change is appropriate for those schools located outside of Virginia.

10. Delete 18 VAC 120-30-280 C and insert three new sections (18 VAC 120-30-290, 300 and 310) into Part VI of the regulations regarding the reporting of any changes or amendments to approved programs as well as periodic requalification for continued course approval and grounds for withdrawing approval from schools.

11. Make numerous clarifications and grammatical changes.

Issues: The primary advantage to the public is that the proposed changes will help ensure that the regulants have a clearer set of regulations to use and understand, thereby facilitating compliance. It is also anticipated that applicants will find the regulations easier to use and understand. There are no anticipated disadvantages to the public 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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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 Professional and Occupational Regulation (DPOR) proposes to make several changes to these regulations. Most of the proposed amendments reflect clarifications of current policy or grammatical improvements. In addition, DPOR proposes to require that polygraphy schools report any changes in the information previously reported in obtaining approved status.

Estimated economic impact. The current regulations require that the instructor of a polygraphy school's course on the Legal Aspects of Polygraph Examination be a member of the Virginia State Bar. DPOR proposes to eliminate the Virginia State Bar membership requirement and replace it with a requirement to be licensed as an attorney in a state or jurisdiction of the United States. According to DPOR the Virginia State Bar requirement has not been enforced. The proposed language reflects DPOR's long-standing policy as it has been applied. Thus, this proposed change, as well as the

changes made for clarification will not substantially affect citizens, businesses, and other entities in Virginia.

DPOR also proposes to require that polygraphy schools provide the agency with any change in the information that the school provided to gain approved status within 30 days of the change. The schools are unlikely to report changes that would result in the loss of their approved status without prompting, but they would be more likely to keep DPOR's information on school names and addresses up-to-date. A more accurate list of approved school names and addresses would be beneficial to the public since DPOR informs inquiring prospective polygraph examiners as to which schools' courses are approved by the agency for satisfying licensure requirements. The cost to schools would be minimal, perhaps a short e-mail. Thus, this proposed change may provide a small net economic benefit.

Businesses and entities affected. The proposed regulations affect the 255 licensed polygraph examiners and one polygraphy school in Virginia.¹ The proposed regulations also affect the approximately 13 polygraph schools located outside of the Commonwealth that are approved by DPOR.²

Localities particularly affected. The proposed regulations potentially affect all Virginia localities. The one DPOR-approved polygraph school that is located in Virginia is in Norfolk.

Projected impact on employment. The proposed changes are not projected to affect employment.

Effects on the use and value of private property. The proposed changes are unlikely to affect the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Professional and Occupational Regulation concurs with the Department of Planning and Budget's analysis.

Summary:

The proposed amendments require that polygraphy schools report any changes in the information previously reported in obtaining approved status, establish grounds for withdrawing a school's approval, clarify current policy in several areas, and make grammatical improvements.

18 VAC 120-30-10. Definitions.

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

"*Affidavit*" means a written statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a notary or other person having the authority to administer such oath or affirmation.

"*Advisory board*" or "*board*" means the Polygraph Examiner's Advisory Board appointed by the director.

"*Department*" means the Department of Professional and Occupational Regulation.

"*Director*" means the Director of the Department of Professional and Occupational Regulation.

"*Polygraph*" means any mechanical or electronic instrument or device used to test or question individuals for the purpose of determining truthfulness.

"*Polygraph examination*" means the entire period of contact between a licensee and an examiner.

"*Polygraph examiner*" or "*examiner*" means any person who uses any device or instrument to test or question individuals for the purpose of determining truthfulness.

"*Polygraph examiner intern*" means any person engaged in the study of polygraphy and the administration of polygraph examinations under the personal supervision and control of a polygraph examiner.

"*Polygraph test*" means the part of the polygraph examination during which the examinee is connected to a polygraph instrument which is continuously recording the examinee's reactions to questions.

"*Reciprocity*" means any individual holding a current license in another jurisdiction may obtain a Virginia polygraph examiners license provided the requirements and standards under which the license was issued are substantially equivalent to those established in this chapter and the individual meets all other board requirements for licensure in Virginia.

"*Reinstatement*" means having a license restored to effectiveness after the expiration date on the license has passed. When a licensee fails to renew his license within one calendar month after its expiration date, the licensee is required to apply for reinstatement of the license. Six months after the expiration date on the license, reinstatement is no longer possible and the applicant must reapply and requalify for licensure.

"*Relevant question*" means a question asked of an examinee during a polygraph test which concerns an issue identified to the examinee during the pretest and which is to be reported by the licensee to any other person. "*Renewal*" means continuing the effectiveness of a license for another period of time.

18 VAC 120-30-30. Advisory board.

A. The Polygraph Examiners Advisory Board, consisting of eight members appointed by the director, shall *exercise the authority delegated by the director consistent with § 2.2-2100 of the Code of Virginia* and advise the department on any matters relating to the practice of polygraphy and the licensure of polygraph examiners in the Commonwealth of Virginia.

B. The advisory board shall be composed of three Virginia licensed polygraph examiners employed by law enforcement agencies of the Commonwealth, or any of its political subdivisions; three Virginia licensed polygraph examiners employed in private industry; and two citizen members as defined in §§ 54.1-107 and 54.1-200 of the Code of Virginia. All members must be residents of the Commonwealth of Virginia.

¹ Source: DPOR.

² Ibid.

Proposed Regulations

C. Each member shall serve a four-year term. No member shall serve more than two consecutive four-year terms.

18 VAC 120-30-40. Basic qualifications for licensure and registration.

A. Every applicant to the board for a license shall provide information on his application establishing that:

1. The applicant is at least 18 years old.

~~2. The applicant has met the experience requirements by having a high school diploma or its equivalent and a minimum of five years experience as an investigator, detective, or in a field acceptable to the department which demonstrates the ability to practice polygraphy.~~

~~a. The applicant will be credited two years of the five years of experience required in subdivision 2 of this subsection if he has an associate degree from an accredited college or university.~~

~~b. The applicant will be credited all five years of experience required in subdivision 2 of this subsection if he has a bachelor's degree from an accredited college or university.~~

~~3. The applicant has met the education requirements by either completing the required training in detection or deception at a polygraph school approved by the department, or by submitting evidence of satisfactory completion of substantially equivalent training if the polygraph school at which the applicant received the training in the detection or deception is not approved by the department.~~

~~4. The applicant has completed six months as a registered intern examiner under the personal and direct on-premise supervision of an examiner qualified under 18 VAC 120-30-60 who shall supervise each and every polygraph examination administered by the intern. The internship need not be accomplished in Virginia. However, any internship conducted outside of Virginia must comply fully with this regulation. An intern shall not be eligible to sit for the license examination until the intern's supervisor has submitted to the department a written statement that the internship has been satisfactorily completed. The department may waive the internship for any person who practiced polygraphy in the federal jurisdiction.~~

~~5.~~ 2. The applicant is in good standing as a licensed polygraph examiner in every jurisdiction where licensed. The applicant must disclose if he has had a license as a polygraph examiner which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia. At the time of application for licensure, the applicant must also disclose any disciplinary action taken in another jurisdiction in connection with the applicant's practice as a polygraph examiner and whether he has been previously licensed in Virginia as a polygraph examiner.

~~6.~~ 3. The applicant is fit and suited to engage in the profession of polygraphy. The applicant must disclose if he has been convicted in any jurisdiction of a felony or

misdemeanor involving lying, cheating, stealing, sexual offense, drug distribution, physical injury, or relating to the practice of the profession. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in the evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

~~7.~~ 4. The applicant has disclosed his physical address. A post office box is not acceptable.

~~8.~~ 5. The nonresident applicant for a license has filed and maintained with the department an irrevocable consent for the department to serve as a service agent for all actions filed in any court in this Commonwealth.

~~9.~~ 6. The applicant has signed, as part of the application, an affidavit certifying ~~the~~ that he has read and understands the Virginia polygraph examiner's license law and the regulations of the board.

~~10.~~ 7. The applicant has submitted two fingerprint cards with his application on forms provided by the department for a criminal background history.

B. The department may (i) make further inquiries and investigations with respect to the qualifications of the applicant, (ii) require a personal interview with the applicant, (iii) or both. Failure of an applicant to comply with a written request from the ~~advisory board or director~~ department for additional information within 30 days of receiving such notice, except in such instances where the advisory board or director has determined ineligibility for a clearly specified period of time, may be sufficient and just cause for disapproving the application.

C. The applicant shall pass all parts of the polygraph examiners licensing examination approved by the department at a single administration in order to be eligible for a polygraph examiners license.

18 VAC 120-30-50. Registration of polygraph examiner interns.

A. A polygraph examiner intern registration shall be issued to applicants who fulfill the requirements of ~~subdivisions A-2 and A-3 of~~ 18 VAC 120-30-40. and the following:

1. *The applicant has met the experience requirements by having a high school diploma or its equivalent and a minimum of five years of experience as an investigator or detective, or in a field acceptable to the department that demonstrates the ability to practice polygraphy.*

a. The applicant will be credited two years of the five years of experience required in subdivision 1 of this subsection if he has an associate degree from an accredited college or university.

b. The applicant will be credited all five years of experience required in subdivision 1 of this subsection if he has a bachelor's degree from an accredited college or university.

2. *The applicant has met the education requirements by either completing the required training in detection of*

deception at a polygraph school approved by the department, or by submitting evidence of satisfactory completion of substantially equivalent training if the polygraph school at which the applicant received the training in the detection of deception is not approved by the department.

B. An intern registration shall be valid for 12 months from the date of issue as indicated on the registration.

C. Each intern shall be supervised by a licensed polygraph examiner who meets the qualifications in 18 VAC 120-30-60.

D. A polygraph intern may apply for an extension of a polygraph intern registration after the expiration of the initial intern registration for no more than one year by submitting the fee referenced in 18 VAC 120-30-100. Additional extensions will be allowed if the individual repeats the education requirements set forth in subdivision A 3 2 of ~~18 VAC 120-30-40~~ this section.

18 VAC 120-30-55. Qualifications for licensure by examination.

A polygraph examiner license shall be issued to applicants who fulfill the requirements of 18 VAC 120-30-40, 18 VAC 120-30-50, and the following:

1. The applicant has completed six months as a registered intern examiner under the personal and direct on-premise supervision of an examiner qualified under 18 VAC 120-30-60 who shall supervise each and every polygraph examination administered by the intern. The internship need not be accomplished in Virginia. However, any internship conducted outside of Virginia must comply fully with this regulation. An intern shall not be eligible to sit for the license examination until the intern's supervisor has submitted to the department a written statement that the internship has been satisfactorily completed. The department may waive the internship for any person who practiced polygraphy in the federal jurisdiction.

2. Upon submission of the completed application and fee, the applicant will be considered for the examination required by 18 VAC 120-30-110. Upon passing such examination, the applicant shall be granted his polygraph examiner's license, provided the applicant is otherwise qualified.

18 VAC 120-30-70. Procedures for licensed polygraph examiners to certify the procedures to be used to supervise an intern during an internship.

A. Each licensee supervising an intern shall file with the application of the intern a description of the following:

1. The frequency of contact between the licensee and the intern; ~~and~~
2. The procedures to be employed by the licensee in reviewing and evaluating the intern's performance; and
3. The polygraph technique(s) to be used.

B. The licensee supervising the intern shall review the intern's charts prior to the rendering of any opinion or conclusion on any polygraph examination administered by the intern.

18 VAC 120-30-90. Waiver of internship requirement.

Any federal employee or military personnel who have administered polygraph examinations as one of their duties in their respective jobs, and who have received training from the federal government or United States military, may obtain a Virginia polygraph examiner's license without fulfilling the internship requirement by successfully passing the ~~board's~~ department's written examination.

18 VAC 120-30-100. Fees.

A. All application fees for licenses and registrations are nonrefundable and shall not be prorated. The date of receipt by the department is the date which will be used to determine whether or not the fee is on time.

B. Application and examination fees must be submitted with the application for licensure. All other fees are discussed in greater detail in later sections of this chapter.

C. In the event that a check, money draft, or similar instrument for payment of a fee required by statute or regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus the additional processing charge shown below.

D. The following fees listed in the table apply:

FEE TYPE	AMOUNT DUE	WHEN DUE
Application for Examiner's License by Reciprocity	\$45	With application
Application for Intern Registration	\$20	With application
Dishonored Check	\$25	Upon notification by financial institution
Examination	\$75	With application
Reexamination	\$75	With approval letter
Renewal	\$15	Up to one calendar month after the expiration date on license
Reinstatement	\$50	One to six calendar months after the expiration date on license
Duplicate Wall Certificate	\$25	With written request

18 VAC 120-30-110. Examinations.

All examinations required for licensure shall be approved by the advisory board and provided by the department, a testing service acting on behalf of the ~~advisory board~~ department, or another governmental agency or organization.

Applicants for licensure shall pass a two-part licensing examination approved by the board, of which Part I is a written examination and Part II is an Advisory Board Evaluation. Applicants must pass the written examination in order to sit for

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the advisory board evaluation being administered the same day.

The applicant shall follow all the rules established by the department with regard to conduct at the examination. Such rules shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all rules established by the department with regard to conduct at the examination shall be grounds for denial of application.

18 VAC 120-30-130. Procedures for renewal.

The department will mail a renewal application form to the licensee at the last known ~~home~~ address of *department record*. Failure to receive this notice shall not relieve the licensee of the obligation to renew. Prior to the expiration date shown on the license, each licensee desiring to renew his license must return to the department all required forms and the appropriate fee as referenced in 18 VAC 120-30-100.

18 VAC 120-30-150. Department discretion to deny renewal.

The department may deny renewal of a license for the same reasons as it may refuse initial licensure or discipline a licensee. The licensee is entitled to a review of such action. Appeals from such actions shall be in accordance with the provisions of the Administrative Process Act (§ ~~9-6.14:1~~ 2.2-4000 et seq. of the Code of Virginia).

Failure to timely pay a monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order shall result in delaying or withholding services provided by the department, such as, but not limited to, renewal, reinstatement, processing of a new application, or examination administration.

18 VAC 120-30-160. Qualifications for renewal.

Applicants for renewal of a license shall continue to meet the standards for entry as set forth in subdivisions A & 2 through A & 5 of 18 VAC 120-30-40.

18 VAC 120-30-180. Department discretion to deny reinstatement.

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

The licensee is entitled to a review of such action. Appeals from such actions shall be in accordance with the provisions of the Administrative Process Act (§ ~~9-6.14:1~~ 2.2-4000 et seq. of the Code of Virginia).

Failure to timely pay any monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order shall result in delaying or withholding the services provided by the department, such as, but not limited to, renewal, reinstatement, processing of a new application, or examination administration.

18 VAC 120-30-190. Status of a license during the period before reinstatement.

A. When a license is reinstated, the licensee shall continue to have the same license number and shall be assigned an expiration date one year from the previous *expiration* date of the license.

B. A licensee who reinstates his license shall be regarded as having been continually licensed without interruption. Therefore, the licensee shall remain under the disciplinary authority of the department during this entire period. Nothing in this chapter shall divest the department of its authority to discipline a licensee for a violation of the law or regulations during the period of licensure.

18 VAC 120-30-200. Polygraph examination procedures.

A. Each licensed polygraph examiner and registered polygraph examiner intern must post, in a conspicuous place for the examinee, his license or registration, or a legible copy of his license or registration to practice in Virginia.

B. The examiner shall provide the examinee with a written explanation of the provisions of 18 VAC 120-30-200, 18 VAC 120-30-210 and 18 VAC 120-30-220 at the beginning of each polygraph examination.

C. The examinee may request a tape recording of the polygraph examination being administered. Each examiner shall maintain tape recording equipment and tapes adequate for such recording. The examiner shall safeguard all examination recordings with the records he is required to keep ~~by~~ pursuant to 18 VAC 120-30-230. All recordings shall be made available to the department, the examinee or the examinee's attorney upon request. The examiner may charge the examinee a fee not to exceed \$25 only if the examinee requests and receives a copy of an examination tape recording.

D. The examinee shall be entitled to a copy of all portions of any written report pertaining to his examination which is prepared by the examiner and provided to any person or organization. The examinee shall make his request in writing to the examiner. The examiner shall comply within 10 business days of providing the written report to any person or organization or receiving the examinee's written request, whichever occurs later. The examiner may collect not more than \$1.00 per page from the examinee for any copy provided.

E. The provisions of subsections B, C, and D of this section shall not be applicable to any examination conducted by or on behalf of the Commonwealth or any of its political subdivisions when the examination is for the purpose of preventing or detecting crime or the enforcement of penal laws. However, examiners administering examinations as described in this section shall comply with subsection B of this section through a verbal explanation of the provisions of 18 VAC 120-30-210 and 18 VAC 120-30-220.

18 VAC 120-30-220. Examination standards of practice.

A. ~~To protect the rights of each examinee,~~ The examiner shall comply with the following standards of practice ~~by advising and shall disclose to each examinee in the manner prescribed of each of the following standards of practice~~ the provisions of

this subsection and shall not proceed to examine or continue the examination if it is or becomes apparent to the examiner that the examinee does not understand any ~~one~~ of these ~~standards disclosures~~:

1. All questions to be asked during the polygraph test(s) shall be reduced to writing and read to the examinee.
2. The examinee or the examiner may terminate the examination at any time.
3. If the examination is within the scope of § 40.1-51.4:3 of the Code of Virginia, the examiner shall explain the provisions of that statute to the examinee.
4. No questions shall be asked concerning any examinee's lawful religious affiliations, lawful political affiliations, or lawful labor activities. This provision shall not apply to any such affiliation which is inconsistent with the oath of office for public law-enforcement officers.
5. The examinee shall be provided the full name of the examiner and the name, address, and telephone number of the department.

~~B.~~ 6. The examiner shall not ask questions during any part of a pre-employment polygraph examination concerning an examinee's sexual preferences or sexual activities in accordance with § 40.1-51.4:3 or 54.1-1806 of the Code of Virginia.

~~C.~~ B. An examiner shall not perform more than 12 polygraph examinations in any 24-hour period.

~~D.~~ C. An examiner shall not ask more than 16 questions per chart on a single polygraph test. Nothing in this subsection shall prohibit an examiner from conducting more than one polygraph test during a polygraph examination.

~~E.~~ D. An examiner shall allow on every polygraph test a minimum time interval of 10 seconds between the examinee's answer to a question and the start of the next question.

~~F.~~ E. An examiner shall record at a minimum the following information on each polygraph test chart produced:

1. The name of the examinee;
2. The date of the examination;
3. The time that each test begins;
4. The examiner's initials;
5. Any adjustment made to component sensitivity;
6. The point at which each question begins and each answer is given;
7. Each question number; and
8. Each answer given by the examinee.

~~G.~~ F. An examiner shall render only three evaluations of polygraph tests:

1. Deception indicated;
2. No deception indicated; or
3. Inconclusive.

An examiner may include in his report any information revealed by the examinee during the polygraph examination.

Nothing in this section shall prohibit an examiner from explaining the meaning of the above evaluations.

~~H.~~ G. An examiner shall not render a verbal or written report based upon polygraph test chart analysis without having conducted at least two polygraph tests. Each relevant question shall have been asked at least once on each of at least two polygraph tests.

~~I.~~ H. An examiner may make a hiring or retention recommendation for the examiner's full-time employer provided the hiring or retention decision is not based solely on the results of the polygraph examination.

18 VAC 120-30-230. Records.

The licensed polygraph examiner or registered polygraph examiner intern shall maintain the following for at least one year from the date of each polygraph examination:

1. Polygraphic charts-;
2. Questions asked during the examination;
3. A copy of the results and the conclusions drawn;
4. A copy of any written report provided in connection with the examination-; and
5. Tape recordings of examinations made in compliance with subsection C of 18 VAC 120-30-200.

18 VAC 120-30-240. Grounds for fines, denial, suspension or revocation of licenses or denial or withdrawal of school approval.

The department may fine, deny, suspend, or revoke any license or registration, or deny or withdraw school approval upon a finding that the applicant, licensee, registrant, or school:

1. Has presented false or fraudulent information when applying for any license or registration, renewal of license or registration, or approval;
2. Has violated, aided, or abetted others to violate Chapters 1 through 3 of Title 54.1 or § *Chapter 18* (§ 54.1-1800 ~~through 54.1-1805 et seq.~~) of the Code of Virginia, or of any other statute applicable to the practice of the profession herein regulated, or of any provisions of this chapter;
3. Has been convicted of any misdemeanor directly related to the occupation or any felony. Any pleas of nolo contendere shall be considered a conviction for the purposes of this section. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where the conviction occurred shall be forwarded to the board within 10 days of entry and shall be admissible as prima facie evidence of such conviction;
4. Has made any misrepresentation or false promise or caused to be published any advertisement that is false, deceptive, or misleading;

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5. Has allowed one's license or registration to be used by anyone else;
6. Has failed, within a reasonable period of time, to provide any records or other information requested or demanded by the department; ~~or~~
7. Has displayed professional incompetence or negligence in the performance of polygraphy; *or*
8. *Has violated any provision of 18 VAC 120-30-220.*

18 VAC 120-30-250. Maintenance of license.

A. Notice in writing shall be given to the department in the event of any change of ~~business or individual~~ name or address. Such notice shall be mailed to the department within 30 days of the change of the name or location. The department shall not be responsible for the licensee's or registrant's failure to receive notices, communications and correspondence caused by the licensee's or registrant's failure to promptly notify the department in writing of any change of name or address.

B. All licensees or registrants shall operate under the name in which the license or registration was issued.

18 VAC 120-30-270. Minimum requirements for school curriculum.

A. There must be one type of accepted polygraph instrument per three students in the course.

B. To receive approval, the institution must offer a minimum of 240 hours of instruction, unless the school has obtained approval from the department for less than the minimum hours of course instruction. The following subject areas *must be included* in the school's curriculum ~~must include~~:

1. Polygraph theory;
2. Examination techniques and question formulation;
3. Polygraph interrogation;
4. Case observation;
5. Polygraph case practice;
6. Chart interpretation;
7. Legal aspects of polygraph examination;
8. Physiological aspects of polygraphy;
9. Psychological aspects of polygraphy;
10. Instrumentation;
11. History of polygraph; and
12. Reviews and examinations.

C Out-of-state schools seeking approval of their curriculum which has been approved by their state must have the appropriate regulatory agency of their state certify such approval to the department.

18 VAC 120-30-280. Instructor minimum requirements.

A. Any person teaching the subjects required by this regulation shall meet the following minimum requirements for the subjects to be taught:

1. Legal Aspects of Polygraph Examination. The instructor must be ~~a member of the Virginia State Bar~~ *licensed as an attorney in a state or jurisdiction of the United States.*
2. Polygraph Interrogation. The instructor must have five years experience in the field of interrogation.
3. Physiological Aspects of Polygraphy. The instructor must have a degree in a health related science with coursework in physiology from an accredited institution of higher learning.
4. Psychological Aspects of Polygraphy. The instructor must have a degree in psychology from an accredited institution of higher learning.
5. All other courses ~~may~~ *shall* be taught by individuals having at least five years of experience as a polygraph examiner.

B. The department may make exception to the above qualifications when an instructor is otherwise qualified by education or experience and provides such evidence in writing to the department.

~~C. Schools may be required to submit evidence of compliance with this section on a quarterly basis and shall allow observations of their compliance by the department's designated representatives.~~

18 VAC 120-30-290. Amendments and changes.

Any change in the information provided by the school to the department as required by 18 VAC 120-30-260, 18 VAC 120-30-270 or 18 VAC 120-30-280 shall be reported to the department in writing within 30 days of such an occurrence.

18 VAC 120-30-300. Periodic requalification for continued course approval.

At times established by the department, the department may require that schools that have previously obtained course approval provide the department with evidence, in a form set forth by the department, that they continue to comply with the requirements of 18 VAC 120-30-260, 18 VAC 120-30-270 and 18 VAC 120-30-280. Failure to continue to comply with the department's requirements or respond to such a request may result in the department withdrawing its approval.

18 VAC 120-30-310. Grounds for withdrawing approval from a school.

The department may withdraw approval from a school upon a finding that:

1. *An instructor of the approved school fails to teach the curriculum as provided for in 18 VAC 120-30-270.*
2. *The owner, employee, or instructor of the approved school permits or allows a person to teach in the school who does not meet the requirements of 18 VAC 120-30-280.*

3. The owner, employee, or teacher is guilty of any dishonest conduct, including but not limited to fraud or deceit, in the teaching of polygraphy.

VA.R. Doc. No. R01-178; Filed July 16, 2002, 1:20 p.m.

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Title of Regulation: 18 VAC 120-40. Virginia Professional Boxing and Wrestling Events Regulations (amending 18 VAC 120-40-10, 18 VAC 120-40-20, 18 VAC 120-40-40 through 18 VAC 120-40-90, 18 VAC 120-40-120, 18 VAC 120-40-140, 18 VAC 120-40-220 through 18 VAC 120-40-250, 18 VAC 120-40-290, 18 VAC 120-40-350, 18 VAC 120-40-430; repealing 18 VAC 120-40-30).

Statutory Authority: § 54.1-831 of the Code of Virginia and 15 USC § 6301 et seq.

Public Hearing Date: September 26, 2002, 9 a.m.
Public comments may be submitted until October 12, 2002.
(See Calendar of Events section for additional information)

Agency Contact: Karen W. O'Neal, Deputy Director, Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, or e-mail oneal@dpor.state.va.us.

Basis: Section 54.1-831 of the Code of Virginia gives the department the authority to promulgate regulations that implement the federal Professional Boxing Safety Act of 1996 as amended and "protect the public against incompetent, unqualified, unscrupulous or unfit persons engaging in the activities regulated by Chapter 8.1, Title 54.1 of the Code of Virginia."

Purpose: The purpose of the proposal is to:

1. Make general clarifying changes;
2. Incorporate changes to federal law that became effective 5/1/00 that protect the public health, safety and welfare by further ensuring the safety of boxers and protecting boxers from exploitation by promoters;
3. Ensure consistency with state law; and
4. Increase one fee, the wrestling event license fee, from \$50 to \$75 to cover a larger portion of the expenses associated with providing an official for the event.

Substance:

18 VAC 120-40-10 – Scope. Deletes the last paragraph regarding investigations. These provisions are in the statute and need not be repeated in the regulation.

18 VAC 120-40-20 – Definitions. Deletes all definitions that repeat the statute as follows: boxer; boxing; cable television system; contractor; department; director; event; license; manager; matchmaker; person; promote; promoter; trainer, second or cutman; wrestler; and wrestling. Amends definition of "boxer registry" to achieve consistency with federal law ("any entity certified by the Association of Boxing Commissions for the purposes of maintaining records and

identification of boxers," 15 USC § 6301). Adds a definition of "firm," referenced in many sections.

18 VAC 120-40-30 – License required. Deletes entire section. License-required provisions do not belong in the regulation; they belong in the statute and are contained in § 54.1-829 of the Code of Virginia.

18 VAC 120-40-40 – License expiration and renewal. Deletes "individual or firm" for clarity in subsection A.

18 VAC 120-40-50 – Fees. Increases the wrestling event license fee from \$50 to \$75 to cover a larger portion of the expenses associated with providing an official for the event.

18 VAC 120-40-70 – Application requirements.

A. Substitutes "applicants" for "individuals and firms desiring to be issued a license." Clarity is achieved by simply using the term "applicants."

C. Deletes entire paragraph. The provision regarding return of applications is not currently followed and should not be; applications should not be returned unless absolutely necessary (i.e., to obtain a signature). Further, regulations govern the licensees and should not mandate what the department will do. With regard to fees, the language regarding refunds should be in the fee section (see 18 VAC 120-40-50 above) and it is department policy to allow applicants/regulants to use an existing fee for up to one year.

D. Adds a provision giving the department the authority to deny an application if a criminal conviction or disciplinary action would adversely affect the applicant's ability while engaged in boxing, wrestling, or other athletic activities.

D 1. Adds a requirement for disclosure of all convictions. As currently written, it requires the applicant to make a determination regarding the department's judgment.

18 VAC 120-40-80 – Entry requirements for a boxer. Adds a provision requiring a federal ID prior to issuance of a boxer license. A Virginia license does not permit a boxer to box; a federal ID is also required (15 USC § 6305). Adds a requirement for a signed certification regarding health and safety risks as required by the Muhammad Ali Boxing Reform Act effective 5/26/00 (Section 7 of the amendments) and a requirement to provide a complete professional record. Both requirements will further protect public health, safety and welfare. Revises subsection B for clarity.

18 VAC 120-40-90 – Entry requirements for wrestler. Deletes language in subsection C regarding suspensions and revocation; this is a qualification provision. (Adds language to 18 VAC 120-40-430 giving the department the authority to discipline a licensee for the same reasons it may deny licensure).

18 VAC 120-40-120 - Entry requirements for a promoter. Adds a provision requiring the promoter to sign a disclosure statement required by the Muhammad Ali Boxing Reform Act effective 5/26/00 (Section 13 of the amendments).

18 VAC 120-40-140 - Requirements for approval to act as a boxing event inspector, inspector, referee, judge or timekeeper. Adds a provision requiring the judges and

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referees to sign a disclosure statement required by the Muhammad Ali Boxing Reform Act effective 5/26/00 (Section 14 of the amendments).

18 VAC 120-40-230 – Application for a license to conduct a boxing or wrestling event. Insurance is required by federal law; therefore, a reference to federal law (15 USC § 6304) is included in subdivision A 3.

18 VAC 120-40-240 – Equipment to be provided by boxing promoters. An ambulance is required by federal law; therefore, a reference to the federal law (15 USC § 6304) is included in subdivision 4.

18 VAC 120-40-250 – Promoter to provide copy of contract with boxer at weigh-in; penalty for noncompliance; contents of contract. Adds a provision stating that all contracts must provide minimum provisions as set forth in the Association of Boxing Commissions Guidelines. This provision is based on amendments to federal law (Muhammad Ali Boxing Reform Act effective 5/26/00) that require the Association of Boxing Commissions to develop guidelines for minimum contractual provisions to be included in bout agreements and boxing contracts and further requires the states to follow these guidelines.

18 VAC 120-40-290 – Boxing event conduct standards. A physical examination is required by federal law; therefore, a reference to federal law (15 USC § 6304) is included in subsection D.

18 VAC 120-40-430 – Grounds for disciplinary action by the department. Adds a general provision stating that the department may discipline a licensee for the same reasons it may deny licensure. Deletes language regarding denial of licensure; this is a standards of conduct provision. Adds a provision regarding unsportsmanlike conduct required by the Muhammad Ali Boxing Reform Act effective 5/26/00 (Section 7 of the amendments).

Issues: The advantage to the public and the Commonwealth resulting from the proposed regulatory changes is that the regulations will conform to federal and state law, thereby reducing confusion among the public and regulants. There are no apparent disadvantages to the Commonwealth or the department from the proposed changes.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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 Professional and Occupational Regulation (DPOR) proposes

to amend these regulations to incorporate changes made to the federal Muhammad Ali Boxing Reform Act (2000). Significant changes include increasing the minimum dollar amount of health insurance for boxers and requiring that all contracts with boxers comply with the minimum provisions set forth by the federal Association of Boxing Commissions guidelines. In addition, DPOR proposes to increase the wrestling event license fee.

Estimated economic impact. The Muhammad Ali Boxing Reform Act requires "health insurance for each boxer to provide medical coverage for any injuries sustained in the match." Under the current regulations, all boxers scheduled to compete in Virginia are required to be covered by a health insurance policy which covers medical expenses for injuries incurred during the boxing event and has a minimum coverage of at least \$5,000. DPOR proposes to increase the minimum coverage to \$25,000. Boxing does involve the risk of injuries that could cost well in excess of \$5,000 or even \$25,000 to treat. Thus, the agency's proposal to increase the minimum dollar amount of health insurance does appear to follow the spirit of the federal law. DPOR is not aware of how much additional cost there would be for \$25,000 coverage versus \$5,000 coverage, or how many boxers licensed in Virginia have less than \$25,000 of health insurance. The additional cost would likely be born by both boxers and their managers or promoters. If the boxer pays for additional health insurance, in many cases he or she would likely demand a higher purse from the promoter to fight. If the individual paying the boxer pays for the boxer's mandated additional health insurance, then he or she would likely on average lower the dollar amount that he or she would be willing to pay the boxer.

Pursuant to the Muhammad Ali Boxing Reform Act, DPOR proposes to require that boxing contracts "comply with the minimum provisions promulgated by the Association of Boxing Commissions." Since the Association of Boxing Commissions has yet to adopt their guidelines,¹ an analysis of the impact of this proposed amendment cannot be made at this time.

DPOR hires and pays officials for wrestling events. According to DPOR, the cost to cover an individual event exceeds \$100. The agency proposes to increase the wrestling event license fee from \$50 to \$75 to come closer to covering actual costs. Thus, public subsidies of wrestling events would decrease by \$25 per event. It seems unlikely that the elimination of a subsidy this small would significantly reduce the occurrence of wrestling events. Essentially the \$25 increase in wrestling event fees creates a wealth transfer of \$25 per event from wrestling promoters to Virginia taxpayers.

Businesses and entities affected. The proposed regulations affect the 219 boxers, 343 wrestlers, 10 managers, 13 wrestling promoters, 6 boxing promoters, 53 trainers, seconds, and cutmen, and 1 matchmaker licensed in the Commonwealth.

Localities particularly affected. The proposed amendments potentially affect localities throughout Virginia.

¹ Source: DPOR.

Projected impact on employment. The proposed changes are not projected to affect employment.

Effects on the use and value of private property. The proposed changes are unlikely to affect the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis performed by the Department of Planning and Budget.

Summary:

The proposed amendments incorporate changes to federal law effective May 1, 2000, ensure consistency with state law, and change the fee for a wrestling event license, making this fee cover more of the costs associated with providing an official for the event.

18 VAC 120-40-10. Scope.

These regulations contain procedures and requirements for the licensure of individuals and firms to engage in the conduct of professional boxing and wrestling events as provided for in Chapter 8.1 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia.

Amateur boxing and wrestling contests, where the participants receive no money, compensation, *including a promise of participation in a future event*, or reward other than a suitably inscribed memento are exempt from the provisions of Chapter 8.1 of Title 54.1 of the Code of Virginia and from the provisions of these regulations.

The director of the department is empowered to (i) promulgate these regulations, (ii) issue licenses, (iii) investigate to determine compliance with these regulations, and (iv) take disciplinary action, in accordance with the Virginia Administrative Process Act, against those who fail to comply with these regulations. Furthermore, to the extent applicable, these regulations shall be construed in accordance with and governed by Virginia's Administrative Process Act. The director is also empowered to contract with a vendor to perform certain tasks on the director's behalf. These tasks include examining and recommending licensure, investigating and ensuring that events are conducted in compliance with statutes and regulations, performing clerical duties, collecting fees, maintaining records, developing proposed regulations, and recommending enforcement actions.

~~The director is empowered by Chapter 8.1 of Title 54.1 of the Code of Virginia to conduct investigations as to whether monopolies, combinations, or other circumstances exist to restrain matches or exhibitions of professional boxing or wrestling.~~

18 VAC 120-40-20. Definitions.

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

~~"Boxer" means a person competing in the sport of boxing.~~

~~"Boxer registry" means an any entity that maintains certified by the Association of Boxing Commissions for the purposes of maintaining records and identification of boxers.~~

~~"Boxing" means the contact sport of attack or defense using fists, feet, or both, including professional kick boxing, boxing, or any similar contest.~~

~~"Cable television system" means any facility consisting of a set of closed transmission paths and associated equipment designed to provide video programming to multiple subscribers when subscriber interaction is required to select a specific video program for an access fee established by the cable television system for that specific video program.~~

~~"Contest," "bout," or "match" means the portion of an event wherein specific individuals (two boxers, or two or more wrestlers) engage in boxing or wrestling which ends when a decision is reached.~~

~~"Contractor" means any person who has entered into a contract with the department to provide services to assist the Commonwealth in complying with the provisions of this chapter.~~

~~"Department" means the Department of Professional and Occupational Regulation or its successor.~~

~~"Director" means the Director of the Department of Professional and Occupational Regulation.~~

~~"Event" means any professional boxing or wrestling show that includes one or more contests or matches.~~

~~"Event inspector" means the individual assigned to be in overall charge of the conduct of an event to assure compliance with this chapter.~~

~~"Event license" means a method of regulation whereby any promoter arranging or conducting a boxing or wrestling event is required to obtain a prior authorization from the department.~~

~~"Event officials" means those individuals assigned to carry out the duties of an event inspector, inspector, referee, timekeeper, judge, or ringside physician as established by this chapter.~~

~~"Firm" means any sole proprietorship, general partnership, limited partnership, limited liability company, association, corporation or other business entity.~~

~~"Inspector" means the individual assigned to assist the event inspector as provided for in this chapter.~~

~~"Judge" means an individual assigned to score a boxing contest as provided for in this chapter.~~

~~"License" means a method of regulation whereby any person arranging, conducting, or participating in boxing or wrestling activities is required to obtain a prior authorization from the department.~~

~~"Licensed event" means an event that has been issued a license from the department in accordance with this chapter.~~

~~"Manager" means any person who receives compensation for services as a representative or agent of a boxer or wrestler to arrange for his participation in an event.~~

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~~"Matchmaker" means any person who selects, arranges for, or in any manner procures specific individuals to be contestants in an event or match.~~

~~"Person" means a natural person, corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, or any other entity.~~

~~"Promote" or "promotion" means to organize, arrange, publicize, or conduct an event in the Commonwealth.~~

~~"Promoter" means any person who undertakes to promote an event.~~

~~"Rabbit punch" means a blow delivered by a boxer against his opponent that strikes the back of the opponent's neck with a chopping motion.~~

~~"Referee" means the event official assigned to a boxing contest to assure the proper conduct of the contest and the safety of the contestants or the licensed wrestler assigned to a wrestling contest to assure the safety of the spectators as provided for in this chapter.~~

~~"Responsible management" means the following individuals:~~

- ~~1. The sole proprietor of a sole proprietorship;~~
- ~~2. The partners of a general partnership;~~
- ~~3. The managing partners of a limited partnership;~~
- ~~4. The officers of a corporation;~~
- ~~5. The managers of a limited liability company; or~~
- ~~6. The officers and directors of an association.~~

~~"Ringside physician" means the medical doctor assigned to assure the medical health and safety of each boxer as provided for in this chapter.~~

~~"Task force" means the professional boxing and wrestling task force.~~

~~"Timekeeper" means the individual assigned to time each round and the interval between rounds, and to count for knockdowns as provided for in this chapter.~~

~~"Trainer," "second," or "cutman" means an individual who undertakes to assure the well-being of a boxer by providing instruction or advice concerning techniques or strategies of boxing, and who may work in the corner with a boxer between the rounds of a match to assure his well-being and provide necessary equipment and advice concerning match participation.~~

~~"Wrestler" means any person competing or participating as an opponent in wrestling.~~

~~"Wrestling" means any contact sport or exhibition in which individuals attempt to subdue or unbalance an opponent.~~

18 VAC 120-40-30. License required. (Repealed.)

~~A. No individual shall engage or offer to engage in the activities of a boxer, manager, matchmaker, promoter, trainer, second, cutman, or wrestler, as defined in Chapter 8.4 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia, without first possessing a valid license therefor.~~

~~B. No person shall promote or conduct a boxing or wrestling event without first having obtained a license for such event.~~

18 VAC 120-40-40. License expiration and renewal.

A. Except as set out in subsection B of this section, each license issued to an individual or to a firm, *other than an event license*, shall expire on December 31 of the year in which the license was issued, except that licenses issued during the last 45 days of any calendar year shall expire on December 31 of the following calendar year.

B. Each license to conduct a boxing or wrestling event issued to a licensed promoter shall be valid only for the duration of the event described in the application for licensure.

C. Prior to the expiration date shown on the license, each licensee desiring to renew the license shall cause the department or its contractor to receive a photocopy of his license and the fee specified in 18 VAC 120-40-50.

18 VAC 120-40-50. Fees.

A. Each applicant shall submit the following fee along with the application for licensure:

Boxer	\$20
Wrestler	\$20
Manager	\$30
Promoter	\$300
Trainer, second, and cutman	\$20
Matchmaker	\$50

B. Each application for a boxing event license shall be accompanied by the following fee:

1. Events of 42 rounds or fewer, with no more than one nontitle 10- or 12-round bout--\$850.
2. Events exceeding 42 rounds, with more than one nontitle 10- or 12-round bout or *any event* with a title bout--\$2,000.

C. Each application for a wrestling event license shall be accompanied by a fee of ~~\$50~~ \$75.

D. All fees are nonrefundable.

18 VAC 120-40-60. Professional boxing and wrestling task force.

A. The director may appoint a professional boxing and wrestling task force, consisting of ~~four~~ five members, which shall advise the director on any matters relating to professional boxing and wrestling events in the Commonwealth.

B. The task force shall be composed of ~~two representatives~~ one representative of the sport of boxing, one representative of the sport of wrestling and one representative of either the sports sport of boxing or wrestling, and two citizen members as defined in §§ 54.1-107 and 54.1-200 of the Code of Virginia. All members shall be residents of the Commonwealth.

C. Each task force member shall serve a four-year term, except that of the initial appointments, one shall be for two years and one shall be for three years. No member shall serve more than two consecutive four-year terms.

18 VAC 120-40-70. Application requirements.

~~A. Individuals and firms desiring to be issued a license Applicants shall apply on forms supplied by the department or its contractor.~~

B. Individual applicants shall be at least 18 years of age.

~~C. The application shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant. Fees shall remain valid for 90 days and shall not be refunded.~~

~~D. C.~~ The applicant shall disclose the following information about himself, in the case of an individual, or about the firm and every member of the responsible management of the firm, in the case of a firm:

1. Any guilty finding by the department, or by a court of any competent jurisdiction, of any material misrepresentation while engaged in boxing, wrestling, or other athletic activities, or any conviction, guilty plea or finding of guilty, regardless of adjudication or deferred adjudication, of any felony or misdemeanor which, in the judgment of the department, adversely affects the applicant's ability while engaged in boxing, wrestling, or other athletic activities;

2. Any disciplinary action taken by the department or another jurisdiction in connection with the applicant's participation in or promotion of professional athletic contests or activities including, but not limited to, monetary penalty, fine, suspension, revocation, or surrender of a license in connection with a disciplinary action; and

3. Any currently or previously held boxing or wrestling licenses issued by this Commonwealth or any other jurisdiction.

Any plea of nolo contendere shall be considered a conviction for the purposes of this subsection. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction or discipline. *The department may deny an application for a license if, in its judgment, the actions disclosed in subdivisions 1 and 2 of this subsection would render the applicant unfit or unsuited to engage in boxing, wrestling, or other athletic activities.*

~~E. D.~~ Each individual applicant shall disclose his physical address and each firm applying for licensure shall disclose the physical addresses of the firm and the firm's responsible management. A post office box shall not be accepted in lieu of a physical address.

~~F. E.~~ The fee established by 18 VAC 120-40-50 A shall accompany the application and shall not be refunded.

~~G. F.~~ The receipt of an application and the deposit of fees in no way indicates approval by the department.

18 VAC 120-40-80. Entry requirements for boxer.

A. Each applicant for a license as a boxer shall submit a completed application as described in 18 VAC 120-40-70 and ~~the following shall:~~

1. *Have a satisfactory record of professional boxing or, in the case of applicants who have participated in fewer than 10 professional boxing bouts, evidence of competency in the elements of offense and defense. Such evidence may take the form of signed statements from individuals who have provided training to the applicant or records of the applicant's conduct in amateur as well as professional boxing competition and shall be sufficient to satisfy the department that the applicant has the ability to compete; and.*

2. *Submit a list of all ring names under which the applicant has competed as a boxer in this Commonwealth or elsewhere.*

3. *Have a current personal identification number as required by 15 USC § 6305.*

4. *Submit the following certification:*

I understand as a professional boxer I should be aware that this sport includes many health and safety risks, in particular the risk of brain injury. As such I will take the necessary medical exams that detect brain injury. If I need further information about these exams I will ask my doctor or staff of the department.

5. *Submit a complete professional record, including date and result of last fight.*

~~B. All licenses issued by~~ The department shall ~~conform~~ approve and issue all licenses in accordance with the standards established by the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.), as amended.

18 VAC 120-40-90. Entry requirements for wrestler.

A. Each applicant for a license as a wrestler shall submit a completed application as described in 18 VAC 120-40-70 and a signed statement from a licensed physician that the applicant is in good physical health and has no abnormalities or deficiencies which would prevent his participation in a wrestling event or endanger the applicant's health when engaging in a wrestling exhibition.

B. The department may deny the application for a license as a wrestler to any applicant who has suffered a serious head injury or other serious physical injury, and may, in any case, require an additional, specific medical examination to determine the applicant's suitability before approving the applicant for licensure as a wrestler.

C. The department may deny the application for a license as a wrestler of any applicant, ~~or suspend or revoke the license as a wrestler of any licensee~~ who has been subject to the following actions by agencies in other jurisdictions that regulate wrestling:

1. Denial or suspension of a license as a wrestler for reasons of medical safety when it has been determined by competent medical examination that participation in a wrestling event by the applicant may pose a risk to the applicant's health; or

2. A violation of a law or regulation governing wrestling which is substantially the same as that found in Chapter 8.1

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(§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia or in this chapter.

18 VAC 120-40-120. Entry requirements for promoter.

Each applicant for a license as a promoter shall submit a completed application as described in 18 VAC 120-40-70 and, a statement that the applicant possesses knowledge of this chapter- and the following certification:

I understand that I am not entitled to compensation in connection with a boxing match, including gate fees, until I provide the department with a copy of any agreement in writing to which I and any boxer participating in the match are parties; a statement made under penalty of perjury that there are no other agreements; a statement of fees, charges and expenses that will be assessed by or through me on the boxer, including any portion of the boxer's purse that I receive and training expenses; all payments, gifts or benefits I am providing to any sanctioning organization affiliated with the event; any reduction in the boxer's purse contract to a previous agreement between myself and the boxer. Further, I understand that I am not entitled to compensation in connection with a boxing match until I provide the boxer I promote with the amounts of any compensation or consideration that I have contracted to receive from such match; all fees, charges and expenses that will be assessed by or through me on the boxer pertaining to the event, including any portion of the boxer's purse that I will receive and training expenses; and any reduction in a boxer's purse contract to a previous agreement between myself and the boxer.

18 VAC 120-40-140. Requirements for approval to act as a boxing event inspector, inspector, referee, judge, or timekeeper.

A. To qualify to act on the department's behalf as an event inspector, inspector, referee, judge, or timekeeper of boxing contests, a person must:

1. Be at least 18 years of age;
2. Not have been convicted or found guilty, regardless of adjudication, of any felony or other crime involving lying, cheating or stealing, or involving illegal drugs or other acts involving the sport of boxing. Any plea of nolo contendere shall be considered a conviction for the purposes of this chapter. The record of conviction, authenticated in such form as to be admissible as evidence under the laws of the jurisdiction where convicted, shall be admissible as prima facie evidence of such conviction; and
3. Submit verifications from three persons of his proficiency as an event inspector, inspector, referee, judge, or timekeeper, whichever is appropriate. Evidence of approval by the department, its contractor, or another jurisdiction with a regulatory program substantially equivalent to this chapter, may be submitted in lieu of the verifications from three persons.

B. In addition to requirements set forth in subsection A of this section, each referee or judge shall submit the following certification:

I understand that I am not entitled to receive any compensation in connection with a boxing match until I provide the department a statement of all consideration, including reimbursement for expenses that will be received from any source for participation in the match.

18 VAC 120-40-220. Duties of ringside physicians.

The assigned ringside physician shall perform the following duties before, during, and after each assigned contest:

1. Conduct a physical examination *and take a medical history* of each boxer immediately before the contest to assure his fitness to compete. ~~In addition, for female boxers, examine the breasts and note any masses, determine whether she is experiencing her menstrual period, and obtain her verbal assurance that she is not pregnant.~~ Tests, including a pregnancy test, may be conducted if the ringside physician determines it is necessary to assure the health and safety of the boxer;
2. Report to the event inspector or his designee promptly at the time directed and remain at ringside during the entire duration of all contests assigned;
3. Signal the referee immediately in the event an injury is observed which the referee has not observed and enter the ring only after the referee has stopped or suspended the contest;
4. Render immediate medical aid to any boxer injured during a contest and, where appropriate, accompany the boxer to the hospital or other place where competent medical aid may be delivered. In no case shall the assigned ringside physician cease the direct application of his skills as a physician to an injured boxer until such time as the ringside physician, in his best medical judgment, determines that his services are no longer necessary or the injured boxer is under the care of other medically competent individuals;
5. Assure all substances in the possession of seconds, trainers, or cutmen are appropriate for use on boxers during the course of the contest; and
6. Report immediately to the department or its contractor his determination of the fitness of each boxer to participate in the boxing contest. A written report summarizing the results of his examination of each boxer shall be provided to the department or its contractor within 24 hours after the date of the licensed boxing event.

18 VAC 120-40-230. Application for a license to conduct a boxing or wrestling event.

A. At least 14 days before the date of any boxing or wrestling event in the Commonwealth, the licensed promoter desiring to conduct the event shall deliver an application for a license to conduct a boxing or wrestling event to the department or its contractor. The application shall be on forms provided by the department and shall include:

1. The card of boxing or wrestling contests to be exhibited, including the name of each contestant, and, in the case of a boxing contest, the number of rounds each is scheduled to compete. The promoter may modify the card at any time up

to the day of the event by providing the required documents for the additions to and notice of the deletions from the card which accompanied the application;

2. The date, location, and time of the event for which a license is sought;

3. Evidence that all boxers scheduled to compete are covered by a health insurance policy ~~to cover~~ that covers medical expenses for injuries incurred during the boxing event ~~which shall have~~, has a minimum of coverage of ~~\$5,000~~ \$25,000, and meets all requirements specified in 15 USC § 6304;

4. Evidence of a surety bond filed with the department or its contractor conditioned on the payment of gate fees and penalties imposed by Chapter 8.1 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia and on the fulfillment of contracts made with boxers and wrestlers. The bond shall be in form and substance satisfactory to the department and in an amount equal to the sum of (i) the total gate fee required by this chapter if all seats were to be sold and (ii) the total amount due to all boxers and wrestlers for their appearance in the event, but shall not exceed \$100,000. The bond shall be executed by a surety authorized to do business in the Commonwealth-;

5. Acknowledgment that the boxing promoter will provide a copy of the contract between the promoter applying for an event license and each licensed boxer at weigh-in. No contract shall be required from wrestling promoters;

6. A copy of each contract by the promoter for the sale of rights to distribute in any manner such event by any video, telephonic, or other communication method involving the control of electrons or other charge carriers; and

7. A statement that the applicant has read and understands this chapter and will conduct the event in full compliance with same.

B. In no case shall the applicant for an event license announce or advertise, either directly or indirectly, the event to the public until the department has approved the application and issued the event license.

18 VAC 120-40-240. Equipment to be provided by boxing promoters.

The promoter shall assure that each event shall have the following:

1. A boxing ring which shall be in the shape of a square not less than 16 feet nor more than 24 feet on each side within the ropes. The ring floor must extend at least 18 inches beyond the ropes and shall be padded with ensolite or another similar closed-cell foam. Padding must extend beyond the ring ropes and over the edge of the platform with a top covering of canvas, duck, or similar material tightly stretched and laced to the ring platform. Material that tends to gather in lumps or ridges shall not be used. The ring platform shall not be more than five feet above the floor of the building and shall be provided with suitable steps for use by contestants. Ring posts shall be of metal, not more than three inches in diameter, extending from the floor of the building to a height of 58 inches above the ring floor.

The ring posts must be at least 18 inches away from the ropes. There shall be four ring ropes not less than one inch in diameter and wrapped in soft material. The lower rope shall be 18 inches above the ring floor;

2. A bell or gong located at the ring no higher than the floor level of the ring. The bell or gong must produce a clear tone easily heard by the contestants;

3. Dressing rooms adequate in number and equipment to reasonably facilitate the boxer's activities before and after the contest. Separate dressing rooms shall be provided when both male and female boxers are scheduled to compete;

4. A fully equipped ambulance with a currently trained ambulance crew at the site of any boxing event for the entire duration of the event *and any additional personnel or equipment required by 15 USC § 6304*;

5. A notice to the nearest hospital and the persons in charge of its emergency room of the date, time, and location of the boxing event;

6. Boxing gloves of at least 10 ounces for all contestants, except that during all championship bouts, boxers weighing under 147 pounds shall wear at least eight-ounce gloves; and

7. Boxing gloves having the distal portion of the thumb attached to the body of the glove so as to minimize the possibility of injury to the opponent's eye and shall, if not new, be whole, clean and in sanitary condition with no displacement or lumping of the padding material. Gloves shall be inspected by the event inspector or his designee before each contest and those found defective shall be replaced before the contest begins.

18 VAC 120-40-250. Promoter to provide copy of contract with boxer at weigh-in; penalty for noncompliance; contents of contract.

A. The promoter shall provide a copy of his contract with each boxer scheduled to compete in the event to the event inspector at the time of weigh-in for the event.

B. Failure to provide a copy of the contract for a boxer at weigh-in shall result in the boxer's disqualification to compete in the event.

C. Each contract shall contain the name of the promoter, the name of the boxer, ~~and~~ the amount of compensation to be paid to the boxer by the promoter *and shall comply with the minimum provisions promulgated by the Association of Boxing Commissions*.

18 VAC 120-40-290. Boxing event conduct standards.

A. Bandaging of each boxer's hands shall not exceed one winding of surgeon's adhesive tape, not over 1-1/2 inches wide, placed directly on the hand to protect the part of the hand near the wrist. The tape may cross the back of the hand twice but may not extend within three-fourths of an inch of the knuckles when the hand is clenched to make a fist. Soft surgical bandage, not over two inches wide, held in place by not more than six feet of surgeon's adhesive tape for each hand shall be used. Up to one 15-yard roll of bandage may be

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used to complete the wrappings for each hand. Strips of tape may be used between the fingers to hold down the bandages. Bandages shall be adjusted in the dressing room in the presence of the event inspector or his designee.

B. Any boxer who has signed a contract to box on a promoter's program shall be subject to be called by the department to appear at any time to be weighed or to be examined by a physician designated by the department when the department has reason to believe the boxer may not be qualified or may not be medically sound to participate in the contest.

C. Each boxer who signs a contract to box on a promoter's program shall appear at a time and place designated by the department or its contractor to be weighed on department-approved scales in the presence of each other and a representative designated by the department. Boxers shall have all weights removed from their bodies before the weigh-in but may wear shorts in the case of males, and shorts and shirts in the case of females.

D. *In accordance with 15 USC § 6304*, each boxer shall be examined immediately before the contest by a ringside physician assigned to the event and shall not participate in the contest unless pronounced medically able to compete by the ringside physician.

18 VAC 120-40-350. Boxing fouls, duties of referee, and deduction of points.

A. Any of the following acts committed by a boxer during a boxing contest shall constitute a foul:

1. Hitting below the belt.
2. Hitting an opponent who is down or is getting up after being down.
3. Holding an opponent with one hand and hitting with the other.
4. Holding or deliberately maintaining a clinch.
5. Wrestling or kicking.
6. Striking an opponent who is helpless as a result of previous blows and so supported by the ropes that he does not fall after being instructed by the referee to a neutral corner.
7. Butting with the head or shoulder or using the knee.
8. Hitting with the open glove, the butt of the hand, the wrist or the elbow, and all backhand blows.
9. Purposely going down without being hit.
10. Striking deliberately at that part of the body over the kidneys.
11. Deliberately using the rabbit punch.
12. Jabbing the opponent's eyes with the thumb of the glove.
13. Using abusive language in the ring.
14. Engaging in any unsportsmanlike trick or action which causes injury to an opponent.

15. Hitting on the break.

16. Hitting after the bell has sounded signaling the end of the round.

17. Hitting an opponent whose head is between or outside of the ropes.

18. Pushing an opponent about the ring or into the ropes.

B. Referees are responsible for enforcing the rules of the contest and shall not permit fouls or other unfair practices which may cause an injury to a boxer. Referees shall warn each boxer who commits a foul during a boxing contest.

C. Any boxer who commits any foul after being warned by the referee may have points deducted by the referee or may lose the contest by disqualification by the referee.

D. Boxers who commit fouls or any other infraction may be penalized by the referee through the deduction of points from his score. The number of points to be deducted shall be determined by the referee based on his determination of the severity of the foul and its adverse effect on the opponent and shall be reported to the judges and both contestants as soon as practical. The points shall be deducted from the score of the round in which the fouls were committed.

E. The referee shall stop a contest when he determines that a foul has occurred and determine whether the fouled boxer is able to continue. The referee may order the contest suspended for a reasonable period of time to allow the fouled boxer to recover if the referee determines the boxer's chance of winning has not been seriously jeopardized. The referee shall inform the event inspector or his designee of his determination that the foul was accidental.

F. The referee shall stop a contest when he determines that an injury resulting from an accidental foul is so severe as to adversely affect the fouled boxer's chances of winning. The contest shall be a draw if the accidental foul occurs during the first ~~three~~ *four* rounds. The contest shall be determined by a tabulation of the scores of the completed rounds if the accidental foul occurs after the ~~third~~ *fourth* round.

G. The referee shall stop a contest when he determines that an injury resulting from an accidental foul has been aggravated by fair blows. The outcome of the contest shall be determined by scoring the completed rounds.

18 VAC 120-40-430. Grounds for disciplinary action by the department.

A. The department shall have the authority to ~~deny application for a license or event license and to deny renewal of a license as well as to~~ discipline a licensee through a fine, license suspension, or license revocation for *the same reason it may deny licensure*, and for the following reasons:

1. Violating or inducing another person to violate any provisions of *the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.)*, Chapters 1, 2, 3 or 8.1 of Title 54.1 of the Code of Virginia or of this chapter.
2. Using misrepresentation or fraud to obtain or attempt to obtain a license or event license.

- 3. Having a medical condition which makes participation in boxing or wrestling events a health hazard.
- 4. Altering a license issued by the department.
- 5. Having been convicted in any jurisdiction of any felony or of any misdemeanor involving lying, cheating or stealing, or of any misdemeanor for acts carried out while engaged in boxing, wrestling, or other athletic activities. Any plea of nolo contendere shall be considered a conviction for the purposes of this subsection. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction or discipline.
- 6. Having been the subject of disciplinary action taken by Virginia or another jurisdiction in connection with the participation in or promotion of professional athletic contests or activities, including but not limited to, monetary penalties, fines, suspension, revocation, or surrender of a license in connection with a disciplinary action.
- 7. Failing or refusing to appear when directed by the department or its contractor for the purposes of weighing or conducting a medical examination.
- 8. Failing to furnish a valid reason or a doctor's certificate to explain any failure to appear at an event in which an applicant or licensee agreed to participate by signing a contract.
- 9. *Using unsportsmanlike conduct or other inappropriate behavior inconsistent with generally accepted methods of competition in a professional boxing match.*

B. The department, ~~or its contractor if the contractor's duties include the conduct of disciplinary proceedings,~~ shall conduct disciplinary procedures in accordance with the Administrative Process Act (§ ~~9-6.14:4.1~~ 2.2-4000 et seq. of the Code of Virginia).

NOTICE: The forms used in administering 18 VAC 120-40, Virginia Professional Boxing and Wrestling Events Regulations, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

- Boxing and Wrestling Non-Participant License Application, 41INPLIC (rev. ~~4/99~~ 6/01).
- Boxing and Wrestling Promoter License Application, 41PRLIC (rev. ~~4/99~~ 1/01).
- Boxing and Wrestling Event License Application, 41EVLIC (rev. ~~4/99~~ 6/00).
- Boxing and Wrestling Event Card Additions and Deletions Form, 41VCHG (rev. ~~4/99~~ 6/00).

- ~~Boxing and Wrestling Approved~~ Boxing and Wrestling Official Application, 41OFAPP (rev. ~~4/99~~ 2/01).
- Boxing and Wrestling Event Surety Bond Form, 41EVBOND (rev. ~~4/99~~ 6/00).
- Boxing and Wrestling Participant License Application, 41PLIC (rev. ~~4/99~~ 10/00).
- Boxing and Wrestling Deposit Verification, 41DEPOSIT (rev. ~~6/99~~ 6/00).
- Boxing and Wrestling Promoter's Fee Report, ~~B&WPER-FIN, eff. 10/98~~ 41PFRFIN (rev. 5/00).
- Boxing and Wrestling Participant Sign-In Sheet, 41SIGNIN (eff. 11/01).

VA.R. Doc. No. R01-119; Filed July 18, 2002, 11:48 a.m.

BOARD OF VETERINARY MEDICINE

Title of Regulation: 18 VAC 150-20. Regulations Governing the Practice of Veterinary Medicine (amending 18 VAC 150-20-10, 18 VAC 150-20-30, 18 VAC 150-20-70, 18 VAC 150-20-75, 18 VAC 150-20-100, 18 VAC 150-20-110, 18 VAC 150-20-120 through 18 VAC 150-20-140, 18 VAC 150-20-180 through 18 VAC 150-20-200, and 18 VAC 150-20-210; adding 18 VAC 150-20-171, 18 VAC 150-20-172, and 18 VAC 150-20-181; repealing 18 VAC 150-20-205).

Statutory Authority: § 54.1-2400 and Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1 of the Code of Virginia.

Public Hearing Date: August 22, 2002 - 9 a.m.

Public comments may be submitted until October 11, 2002.

(See Calendar of Events section for additional information)

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Basis: Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1 of the Code of Virginia provides the statutory authority for licensure and regulation of veterinarians, veterinary technicians, and veterinary practices.

Purpose: The purpose of the amended regulation is to clarify certain provisions as follows:

- 1. Amendments related to the terminology of animal facilities, veterinary facilities, animal hospitals, or veterinary practices were added to clarify that each establishment is responsible for registering with the board. For the health, safety and welfare of the animals and their owners, each establishment must be accountable to the board.

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2. The amendment to change the renewal cycle to a calendar year is intended to provide a logical time for expiration of a license rather than an arbitrary date of March 1. It is believed that renewal compliance may improve and late fees may be avoided.

3. Amendments to further specify and clarify the duties of the veterinarian-in-charge (VIC) address questions about whether the VIC is always required to practice on-site and concerns about notification to the board if the VIC leaves the practice and discontinues serving in that role. The purpose is to ensure that there is someone responsible and accountable to the board for the establishment and for the stock of controlled substances on premises without unduly burdening either the veterinarian or the practice if the discontinuation of the VIC is unexpected or on short notice.

4. Other amendments set the parameters for delegation of certain tasks by a licensed veterinarian to unlicensed assistants. Those tasks that may be delegated are those that do not require independent judgment and discretion; they are tasks that may be taught on the job and do not require a formal education. Patients are protected by requirements for the veterinarian to remain responsible for any tasks delegated to an unlicensed person.

Substance: Amendments clarify that the board registers the veterinary establishment and will further specify the duties and responsibilities of the veterinarian in charge of each practice. To provide guidance for standards of practice, the amendments set in regulation the delegation of duties to a veterinary technician or unlicensed veterinary personnel.

Issues: The primary advantages to the public of implementing the amended regulations are as follows:

1. By determining that dental extractions and closures do not constitute surgery and may be performed by a veterinary technician, the veterinarian may delegate those duties and spend more time seeing patients and making diagnoses.

2. By specifying in regulations the expanded tasks that may be delegated to veterinary assistants, the veterinarian may train additional staff to provide care to animals in his practice.

While it could be argued that the treatment and care being delivered by a technician or an assistant rather than by a veterinarian is not the optimum for patients, the availability of persons to deliver that treatment and the access to veterinary care may be enhanced by changes to regulations. Given that veterinarians remain wholly responsible for the animals in their care and for the actions of unlicensed persons in their employ, the public is reasonably protected.

There are no specific disadvantages to the public. As stated above, some consumers of veterinary services are critical of an expansion of the duties for technicians and assistants. In testimony before the board, many expressed their concern about a diminution in the quality of care, but others, including veterinarians, testified that the delegation of tasks to trained assistants was no different from the practice of human medicine.

There are no advantages or disadvantages to the agency; the amended regulation does not impose a new responsibility on the board and does not involve additional cost or staff time.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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. Following a periodic review of this regulation, the Board of Veterinary Medicine proposes to amend the Regulations Governing the Practice of Veterinary Medicine to address issues that have been confusing to licensees and members of the public, including delegation of veterinary tasks, veterinary facility requirements, duties of the veterinarian-in-charge, and the licensure renewal date. The proposed changes include the following:

1. The definition of surgery is revised to specify that dental extractions and closures do not constitute surgery and may therefore be performed by a veterinary technician;

2. A provision is added to the regulation to set the parameters for tasks that may be delegated to unlicensed veterinary assistants. This area is currently only addressed by guidance documents issued by the Board of Veterinary Medicine;

3. The term "animal facility" is replaced throughout the regulation with the term "veterinary establishment" to clarify the entities that are required to register with the board;

4. The requirement for the biennial drug inventory is revised to comply with updated Drug Enforcement Administration rules;

5. Record-keeping requirements are relaxed to permit one record per group of animals in the same litter up to the age of four months. Currently, separate records must be kept on each animal;

6. The rules concerning facility requirements are amended to (i) specify that there must be a door, rather than a partition or small opening, to the surgery room, (ii) remove antiquated and nonessential equipment from the list of required equipment, and (iii) specify that a small animal practice may be conducted in a mobile, as well as a stationary, establishment;

7. The provisions addressing the duties and responsibilities of the veterinarian in charge (VIC) are amended to (i) clarify responsibilities of the VIC when leaving a practice or no longer serving in that role, and (ii) specify that a veterinarian must regularly (at least monthly) be on site and provide routine oversight of the practice at the establishment for which he is named VIC. The existing regulations require the VIC to practice on the premises full-time; and

8. The licensure renewal date is changed from March 1 to January 1 or each year.

Estimated economic impact. The majority of the proposed changes are clarifications of current practices and do not represent any change in the Board of Veterinary Medicine's implementation of these regulations. Although these clarifications may make the regulation easier to understand and more useful for licensees, they are not likely to have any economic effects. Other proposed changes, such as permitting a joint record for animals in the same litter up to four months and removing nonessential items from the list of required equipment, are less stringent than the current requirements. Since these changes are not expected to reduce the quality of veterinary services provided, the reduction in regulatory burden may provide some economic benefit.

The amendment to change the renewal cycle to a calendar year is intended to provide a logical time for expiration of a license rather than an arbitrary date of March 1. The board believes that renewal compliance may improve and late fees may be avoided. The change in the renewal schedule should not result in any additional cost, as the board plans to prorate the fee for during the one-time transition from March to January.

The board also proposes to set into this regulation the parameters for delegation of duties to a veterinary technician or unlicensed veterinary personnel. Those tasks that may be delegated are those that do not require independent judgment and discretion; they are tasks that may be taught on the job and do not require a formal education. According to the board, patients are protected by requirements for the veterinarian to remain responsible for any tasks delegated to an unlicensed person. By delegating appropriate tasks, veterinarians may be able to spend more time seeing patients and making diagnoses. Some consumers of veterinary services are critical of an expansion of the duties for technicians and assistants. In testimony before the board, many expressed their concern about a diminution in the quality of care, but others, including veterinarians, testified that the delegation of tasks to trained assistants was no different from the practice of human medicine. Since the guidelines for delegation of duties in the proposed regulation mirror the guidance documents issued by the Board of Veterinary Medicine over the past several years, this proposed change is unlikely to have any significant economic impact aside from providing a regulatory basis for this policy.

Businesses and entities affected. There are currently 2,924 veterinarians, 792 veterinary technicians, and 800 veterinary facilities licensed by the Board of Veterinary Medicine in Virginia.

Localities particularly affected. The proposed changes will not affect any particular localities as they apply statewide.

Projected impact on employment. The proposed changes are not expected to have any significant impact on employment in Virginia.

Effects on the use and value of private property. The proposed changes are not expected to have any significant effects 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 Board of Veterinary Medicine concurs with the analysis of the Department of Planning and Budget for the fee increases in the proposed regulation, 18 VAC 150-20.

Summary:

The proposed amendments update facility requirements and clarify certain provisions that have been confusing or problematic to licensees, especially related to the appropriate delegation of veterinary tasks to licensed technicians or unlicensed assistants.

18 VAC 150-20-10. Definitions.

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

~~"Animal facility" or "veterinary facility" means any fixed or mobile establishment, veterinary hospital, animal hospital or premises wherein or whereon or out of which veterinary medicine is practiced.~~

"Automatic emergency lighting" is lighting which that is powered by battery, generator, or alternate power source other than electrical power, is activated automatically by electrical power failure, and provides sufficient light to complete surgery or to stabilize the animal until surgery can be continued or the animal moved to another facility establishment.

"AVMA" means the American Veterinary Medical Association.

"Board" means the Virginia Board of Veterinary Medicine.

~~"Full-service facility establishment" means a stationary or ambulatory facility which shall provide that provides surgery and encompass encompasses all aspects of health care for small or large animals, or both.~~

"Immediate and direct supervision" means that the licensed veterinarian is immediately available to the licensed veterinary technician, either electronically or in person, and provides a specific order based on observation and diagnosis of the patient within the last 24 hours.

"Preceptorship" means a formal arrangement between an AVMA accredited college of veterinary medicine or an AVMA accredited veterinary technology program and a veterinarian who is licensed by the board and responsible for the practice of the preceptee.

"Professional judgment" includes any decision or conduct in the practice of veterinary medicine, as defined by § 54.1-3800 of the Code of Virginia.

~~"Restricted service facility establishment" means a stationary or ambulatory facility which does not meet the requirements of a full-service facility establishment.~~

"Surgery" means treatment through revision, destruction, incision or other structural alteration of animal tissue. Surgery does not include routine dental extractions or closures performed by a licensed veterinary technician upon a diagnosis and pursuant to direct orders from a veterinarian.

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"*Veterinarian in charge*" means a veterinarian who holds an active license in Virginia and who is responsible for maintaining a ~~licensed facility~~ *veterinary establishment* within the standards for ~~facilities~~ set by this chapter, for complying with federal and state ~~drug laws and regulations~~, and for notifying the board of the ~~facility's establishment's~~ closure.

"*Veterinary establishment*" means any fixed or mobile practice, veterinary hospital, animal hospital or premises wherein or out of which veterinary medicine is being conducted.

18 VAC 150-20-30. Posting of licenses; accuracy of address.

A. All licenses and permits issued by the board shall be posted in a place conspicuous to the public at the ~~facility~~ *establishment* where veterinary services are being provided.

B. It shall be the duty and responsibility of each licensee and holder of a registration permit to operate ~~an animal facility~~ a *veterinary establishment* to keep the board apprised at all times of his current address. All notices required by law or by this chapter to be mailed to any veterinarian, certified veterinary technician, or holder of a permit to operate ~~an animal facility~~ a *veterinary establishment*, shall be validly given when mailed to the address furnished to the board pursuant to this regulation. All address changes shall be furnished to the board within 30 days of such change.

18 VAC 150-20-70. Licensure renewal requirements.

A. Every person licensed by the board shall, ~~before March~~ by *January 1* of every year, submit to the board a completed renewal application and pay to the board a renewal fee as prescribed in 18 VAC 150-20-100. Failure to renew shall cause the license to lapse and become invalid.

B. On and after March 1, 1997, veterinarians shall be required to have completed a minimum of 15 hours, and veterinary technicians shall be required to have completed a minimum of six hours, of approved continuing education for each annual renewal of licensure. Continuing education credits or hours may not be transferred or credited to another year.

1. Approved continuing education credit shall be given for courses or programs related to the treatment and care of patients and shall be clinical courses in veterinary medicine or veterinary technology.

2. An approved continuing education course or program shall be sponsored by one of the following:

- a. The AVMA or its constituent and component/branch associations, specialty organizations, and board certified specialists in good standing within their specialty board;
- b. Colleges of veterinary medicine approved by the AVMA Council on Education;
- c. National or regional conferences of veterinary medicine;
- d. Academies or species specific interest groups of veterinary medicine;
- e. State associations of veterinary technicians;

f. North American Veterinary Technicians Association;

g. Community colleges with an approved program in veterinary technology;

h. State or federal government agencies;

i. American Animal Hospital Association (AAHA) or its constituent and component/branch associations;

j. Journals or veterinary information networks recognized by the board as providing education in veterinary medicine or veterinary technology; or

k. A sponsor approved by the Virginia Board of Veterinary Medicine provided the sponsor has submitted satisfactory documentation on forms provided by the board.

3. A licensee is exempt from completing continuing education requirements and considered in compliance on the first renewal date following his initial licensure.

4. The board may grant an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

5. The board may grant an extension for good cause of up to one year for the completion of continuing education requirements upon written request from the licensee prior to the renewal date. Such an extension shall not relieve the licensee of the continuing education requirement.

6. Licensees are required to attest to compliance with continuing education requirements on their annual license renewal and are required to maintain original documents verifying the date and subject of the program or course, the number of continuing education hours or credits, and certification from an approved sponsor. Original documents must be maintained ~~at the location where the original license is posted~~ for a period of two years following renewal. *The board shall periodically conduct a random audit to determine compliance. Practitioners selected for the audit shall provide all supporting documentation within 10 days of receiving notification of the audit.*

7. Continuing education hours required by disciplinary order shall not be used to satisfy renewal requirements.

C. A licensee who has requested that his license be placed on inactive status is not authorized to perform acts which are considered the practice of veterinary medicine or veterinary technology and, therefore, shall not be required to have continuing education for annual renewal. To reactivate a license, the licensee is required to submit evidence of completion of continuing education hours as required by § 54.1-3805.2 of the Code of Virginia equal to the number of years in which the license has not been active for a maximum of two years.

18 VAC 150-20-75. Expired license; reinstatement; practice with an expired or lapsed license not permitted.

A. A license may be renewed up to 30 days after the expiration date, provided a late fee as prescribed in 18 VAC 150-20-100 is paid in addition to the required renewal fee.

B. Reinstatement of licenses expired for more than 30 days shall be at the discretion of the board. *To reinstate a license, the licensee shall pay the renewal and reinstatement fees as prescribed in 18 VAC 150-20-100 and submit evidence of completion of continuing education hours as required by § 54.1-3805.2 of the Code of Virginia equal to the number of years in which the license has been expired, for a maximum of two years.* The board may require *additional* documentation of clinical competency and professional activities ~~and payment of the reinstatement fee as prescribed in 18 VAC 150-20-100.~~

18 VAC 150-20-100. Fees.

Veterinary initial license or renewal (active)	\$125
Veterinary license renewal (inactive)	\$50
Veterinary reinstatement of expired license	\$175
Veterinary license late renewal	\$25
Veterinarian reinstatement after disciplinary action	\$200
Veterinary technician initial license or renewal	\$25
Veterinary technician license late renewal	\$15
Veterinary technician reinstatement of expired license	\$50
Veterinary technician reinstatement after disciplinary action	\$75
Initial animal facility <i>veterinary establishment</i> permit registration	\$150
Animal facility <i>Veterinary establishment</i> renewal	\$50
Animal facility <i>Veterinary establishment</i> late renewal	\$25
Animal facility <i>Veterinary establishment</i> reinstatement	\$100
Animal facility <i>Veterinary establishment</i> reinspection	\$150
Animal facility <i>Veterinary establishment</i> -- change of location	\$150
Animal facility <i>Veterinary establishment</i> -- change of veterinarian-in-charge	\$20
Duplicate license	\$10
Duplicate wall certificate	\$25
Returned check	\$25
Licensure verification to another jurisdiction	\$10

18 VAC 150-20-110. Requirements for licensure by examination as a veterinarian.

A. The applicant, in order to be licensed by the board to practice veterinary medicine, shall:

1. Have received a degree in veterinary medicine from a college or school of veterinary medicine accredited by the AVMA or have fulfilled the requirements of the Educational Commission of Foreign Veterinary Graduates (ECFVG) of the AVMA *or any other substantially equivalent credentialing body as determined by the board.*
2. File the following documents with the board:
 - a. A complete and notarized application on a form obtained from the board;
 - b. An official copy, indicating veterinary degree, of the applicant's college or school transcript;
 - c. Certification of a full and unrestricted license to practice veterinary medicine by each board from which the applicant holds a license.
3. Pass the *North American Veterinary License Examination or the National Board Examination and the Clinical Competency Test approved by the American Association of*

Veterinary State Boards or any other substantially equivalent national examination as approved by the board with a score acceptable to the board.

4. Sign a statement attesting that the applicant has read, understands, and will abide by the statutes and regulations governing veterinary practice in Virginia.

5. Have committed no acts which would constitute a violation of § 54.1-3807 of the Code of Virginia.

B. If the application for licensure has not been successfully completed within one year from the date of initial submission, a new application and fee shall be required.

18 VAC 150-20-120. Requirements for licensure by endorsement as a veterinarian or veterinary technician.

A. The board may, in its discretion, grant a license by endorsement to an applicant who is licensed to practice veterinary medicine or who is licensed, certified or registered to practice as a veterinary technician in another state, the District of Columbia or possessions or territories of the United States, provided that:

1. All licenses, certificates or registrations are in good standing;
2. The applicant has been regularly engaged in clinical practice for at least two of the past four years; and
3. The applicant has met all applicable requirements of 18 VAC 150-20-110 or 18 VAC 150-20-115, except foreign-trained veterinarians who have attained specialty recognition by a board recognized by the AVMA are exempt from the requirements of ECFVG *or any other substantially equivalent credentialing body as determined by the board.*

B. Provided that the applicant has met the requirements of subsection A of this section, the board may, in its discretion, waive the requirement that the applicant pass the national board exam or the clinical competency test, or both.

18 VAC 150-20-130. Requirements for practical training in a preceptorship.

A. The practical training and employment of qualified students of veterinary medicine or veterinary technology shall be governed and controlled as follows:

1. No student shall be qualified to receive practical training unless such student shall be duly enrolled and in good standing in a veterinary college or school or veterinary technology program, ~~and accredited or approved by the AVMA and in the final year of his training or after completion of an equivalent number of hours as approved by the board.~~ *The student shall be engaged in a preceptorship as defined by the board and authorized by his college or school.*
2. A veterinary preceptee may perform duties that constitute the practice of veterinary medicine under the on-premises supervision of a licensed veterinarian.
3. A veterinary technician preceptee may perform duties that constitute the practice of veterinary technology under the on-premises supervision of a licensed veterinarian or licensed veterinary technician.

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B. Prior to allowing a preceptee in veterinary medicine to perform surgery on a patient unassisted by a licensed veterinarian, a licensed veterinarian shall receive written approval from the client.

18 VAC 150-20-140. Unprofessional conduct.

Unprofessional conduct as referenced in § 54.1-3807 (5) of the Code of Virginia shall include the following:

1. Representing conflicting interests except by express consent of all concerned given after a full disclosure of the facts. Acceptance of a fee from both the buyer and the seller is prima facie evidence of a conflict of interest.
2. Practicing veterinary medicine where an unlicensed person has the authority to control the professional judgment of the licensed veterinarian.
3. Issuing a certificate of health unless he shall know of his own knowledge by actual inspection and appropriate tests of the animals that the animals meet the requirements for the issuance of such certificate on the day issued.
4. Revealing confidences gained in the course of providing veterinary services to a client, unless required by law or necessary to protect the health, safety or welfare of other persons or animals.
5. Advertising in a manner which is false, deceptive, or misleading or which makes subjective claims of superiority.
6. Violating any state law, federal law, or board regulation pertaining to the practice of veterinary medicine.
7. Practicing veterinary medicine in such a manner as to endanger the health and welfare of his patients or the public, or being unable to practice veterinary medicine with reasonable skill and safety.
8. Performing surgery on animals in an ~~unlicensed facility~~ *unregistered veterinary establishment* or not in accordance with the ~~facility establishment~~ permit or with accepted standards of practice.
9. Refusing the board or its agent the right to inspect a ~~facility~~ *an establishment* at reasonable hours.
10. Allowing unlicensed persons to perform acts restricted to the practice of veterinary medicine or veterinary technology including any invasive procedure on a patient.
11. Failing to provide immediate and direct supervision to a licensed veterinary technician in his employ.
12. *Refusing to release a copy of a valid prescription upon request from a client.*

PART IV. STANDARDS OF PRACTICE.

18 VAC 150-20-171. Specialty practice in a limited setting.

A licensed veterinarian may conduct drug testing at animal shows and events or examine any animal and express a professional judgment as to its health at (i) genetic screening clinics where animals are examined for cardiac, ophthalmic and auditory diseases, (ii) agricultural fairs, (iii) 4-H or other youth organization competitions, (iv) livestock auctions, (v)

horse races, (vi) hunt club events, (vii) pet adoption events, or (viii) animal shows including but not limited to dog, cat, and horse shows.

18 VAC 150-20-172. Delegation of duties to unlicensed veterinary personnel.

A. A licensed veterinarian may delegate the administration (including by injection) of schedule VI drugs to a properly trained assistant under his direction and supervision. The prescribing veterinarian has a specific duty and responsibility to determine that the assistant has had adequate training to safely administer the drug in a manner prescribed.

B. Additional tasks that may be delegated by a licensed veterinarian to a properly trained assistant include but are not limited to the following:

1. Grooming;
2. Feeding;
3. Cleaning;
4. Restraining;
5. Assisting in radiology;
6. Setting up diagnostic tests;
7. Prepping for surgery;
8. Dental polishing;
9. Drawing blood samples; or
10. Filling of schedule VI prescriptions under the direction of a veterinarian licensed in Virginia.

C. A licensed veterinarian may delegate duties electronically to appropriate veterinary personnel provided the veterinarian has physically examined the patient within the previous 36 hours.

PART ~~IV~~ V. ~~ANIMAL FACILITIES~~ VETERINARY ESTABLISHMENTS.

18 VAC 150-20-180. Requirements to be registered as an ~~animal facility~~ a veterinary establishment.

A. Every ~~animal facility~~ *veterinary establishment* shall ~~register with~~ *apply for registration on a form provided by the board and* may be issued a permit as a full-service or restricted service ~~facility establishment~~. Every veterinary ~~facility establishment~~ shall have a veterinarian-in-charge registered with the board in order to operate.

1. Veterinary medicine may only be practiced out of a registered ~~facility establishment~~ except in emergency situations or in limited specialized practices as provided in ~~18 VAC 150-20-205~~ 18 VAC 150-20-171.

2. Applications for permits must be made to the board 45 days in advance of opening or changing the location of the ~~facility establishment~~ or requesting a change in category to a full-service ~~facility establishment~~.

B. An ~~animal facility~~ A veterinary establishment will be registered by the board when:

1. It is inspected by the board and is found to meet the standards set forth by 18 VAC 150-20-190 and 18 VAC 150-20-200 where applicable. If, during a new or routine ~~facility~~ inspection, violations or deficiencies are found necessitating a reinspection, the prescribed reinspection fee will be levied. Failure to pay the fee shall be deemed unprofessional conduct and, until paid, the ~~facility establishment~~ shall be deemed to be unregistered.

2. A veterinarian currently licensed by and in good standing with the board is registered with the board in writing as veterinarian-in-charge and has paid the ~~facility establishment~~ registration fee.

18 VAC 150-20-181. Requirements for veterinarian-in-charge.

~~a.~~ A. The veterinarian-in-charge of a *veterinary establishment* is responsible for:

1. Regularly being on site on a schedule of no less than monthly and providing routine oversight to the *veterinary establishment*.

~~(4)~~ 2. Maintaining the facility within the standards set forth by ~~18 VAC 150-20-190 and 18 VAC 150-20-200; this chapter.~~

~~(2)~~ 3. Performing the biennial controlled substance inventory and ensuring compliance at the facility with any federal or state law relating to controlled substances as defined in § 54.1-3404 of the Code of Virginia;

~~(3)~~ 4. Notifying the board in writing of the closure of the permitted facility 10 days prior to closure.

5. Notifying the board immediately if no longer acting as the *veterinarian-in-charge*.

~~b.~~ B. Upon any change in veterinarian-in-charge, these procedures shall be followed:

1. The *veterinarian-in-charge* registered with the board remains responsible for the establishment and the stock of controlled substances until a new *veterinarian-in-charge* is registered or for five days, whichever occurs sooner.

~~(4)~~ 2. An application for a new permit, naming the new veterinarian-in-charge, shall be made ~~40~~ five days prior to the change of the veterinarian-in-charge. *If no prior notice was given by the previous veterinarian-in-charge, an application for a new permit naming a new veterinarian-in-charge shall be filed as soon as possible but no more than 10 days after the change.*

~~(2)~~ 3. The previous ~~facility establishment~~ permit is void on the date of the change of veterinarian-in-charge and shall be returned by the former veterinarian-in-charge to the board ~~40~~ five days following the date of change.

~~(3)~~ 4. Prior to the opening of the business, on the date of the change of veterinarian-in-charge, the new veterinarian-in-charge shall take a complete inventory of all Schedule II-V drugs on hand. He shall date and sign the inventory and maintain it on premises for two years. ~~Unless the change of the veterinarian-in-charge is in conjunction with a change of ownership, this would not change~~ That

inventory may be designated as the official biennial controlled substance inventory date.

18 VAC 150-20-185. Renewal of ~~animal facility~~ veterinary establishment permits.

A. Every ~~animal facility~~ *veterinary establishment* shall be required to renew the registration permit by ~~March~~ January 1 of each year and pay to the board a registration fee as prescribed in 18 VAC 150-20-100.

B. Failure to renew the ~~facility establishment~~ permit by ~~March~~ January 1 of each year shall cause the permit to expire and become invalid. The permit may be reinstated without reinspection within 30 days of expiration, provided the board receives a properly executed renewal application, renewal fee, and a late fee as prescribed in 18 VAC 150-20-100.

C. Reinstatement of an expired permit after 30 days shall be at the discretion of the board and contingent upon a reinspection and payment of the late fee, the reinspection fee, the renewal fee and the ~~facility~~ *veterinary establishment permit* reinstatement fee.

18 VAC 150-20-190. Requirements for drug storage, dispensing, destruction, and records for all facilities establishments, full service and restricted.

A. All drugs shall be maintained, administered, dispensed, prescribed and destroyed in compliance with state and federal laws, which include applicable parts of the federal Food, Drug, and Cosmetic Control Act (21 USC § 301 et seq.), the Prescription Drug Marketing Act (21 USC § 301 et seq.), and the Controlled Substances Act (21 USC § 801 et seq.), as well as applicable portions of Title 21 of the Code of Federal Regulations.

B. All repackaged tablets and capsules dispensed for companion animals shall be in approved safety closure containers, except safety caps shall not be required when any person who requests that the medication not have a safety cap, or in such cases in which the medication is of such form or size that it cannot be reasonably dispensed in such containers (e.g., topical medications, ophthalmic, or otic).

C. All drugs dispensed for companion animals shall be labeled with the following:

1. Name and address of the facility;
2. Name of client;
3. Animal identification;
4. Date dispensed;
5. Directions for use;
6. Name, strength (if more than one dosage form exists), and quantity of the drug; and
7. Name of the prescribing veterinarian.

D. All drugs shall be maintained in a secured manner with precaution taken to prevent diversion.

1. All Schedule II drugs shall be maintained under lock at all times, with access to the veterinarian only, provided, however, that a working stock of Schedule II drugs under

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separate lock may be accessible to the licensed veterinary technician.

2. Whenever a veterinarian discovers a theft or any unusual loss of Schedule II, III, IV, or V drugs, he shall immediately report such theft or loss to the Board of Veterinary Medicine and to the U.S. Drug Enforcement Administration.

E. Schedule II, III, IV and V drugs may be destroyed by following the instructions contained in the drug destruction packet available from the board office which provides the latest U.S. Drug Enforcement Administration approved drug destruction guidelines.

F. The drug storage area shall have appropriate provision for temperature control for all drugs and biologics, including a refrigerator with the interior thermometer maintained between 36°F and 46°F. Drugs stored at room temperature shall be maintained between 59°F and 86°F. The stock of drugs shall be reviewed frequently and removed from the working stock of drugs at the expiration date.

G. A distribution record shall be maintained in addition to the patient's record, in chronological order, for the administration and dispensing of all Schedule II-V drugs.

This record is to be maintained for a period of two years from the date of transaction. This record shall include the following:

1. Date of transaction;
2. Drug name, strength, and the amount dispensed, administered and wasted;
3. Client and animal identification; and
4. Identification of the veterinarian authorizing the administration or dispensing of the drug.

H. Invoices for all Schedule II, III, IV and V drugs received shall be maintained in chronological order on the premises where the stock of drugs is held. Invoices for Schedule II drugs shall be maintained separately from other records. All drug records shall be maintained for a period of two years from the date of transaction.

I. A complete and accurate inventory of all Schedule II, III, IV and V drugs shall be taken, dated, and signed ~~on the same day every~~ on any date that is within two years of the previous biennial inventory. Drug strength must be specified. This inventory shall indicate if it was made at the opening or closing of business and shall be maintained on the premises where the drugs are held for two years from the date of taking the inventory.

18 VAC 150-20-195. Recordkeeping.

A. A daily record of each patient treated shall be maintained by the veterinarian at the permitted ~~animal facility~~ *veterinary establishment* and shall include pertinent medical data such as drugs administered, dispensed or prescribed, and all relevant medical and surgical procedures performed.

B. Individual records shall be maintained on each patient, except that records for economic animals or litters of companion animals under the age of four months may be maintained on a per client basis. Client records shall be kept for a period of three years following the last office visit or

discharge of such animal from a veterinary ~~facility~~ *establishment*.

C. An animal identification system must be used by the ~~facility~~ *establishment*.

D. Upon the sale or closure of a veterinary establishment involving the transfer of patient records to another location, the veterinarian shall follow the requirements for transfer of patient records in accordance with § 54.1-2405 of the Code of Virginia.

18 VAC 150-20-200. Standards for ~~facilities~~ *veterinary establishments*.

A. Full-service ~~facilities~~ *establishments*. A full-service ~~facility is a stationary facility which~~ *establishment* shall provide surgery and encompass all aspects of health care for small or large animals, or both. All full-service ~~facilities~~ *establishments* shall meet the requirements set forth below:

1. Buildings and grounds must be maintained to provide sanitary facilities for the care and medical well-being of patients.

a. Temperature, ventilation, and lighting must be consistent with the medical well-being of the patients.

b. Water and waste. There shall be on-premises:

(1) Hot and cold running water of drinking quality, as defined by the Virginia Department of Health;

(2) An acceptable method of disposal of deceased animals; and

(3) Refrigeration exclusively for carcasses of companion animals that require storage for 24 hours or more.

c. Sanitary toilet and lavatory shall be available for personnel and clients.

2. Areas within building. The areas within the facility shall include the following:

a. A reception area separate from other designated rooms;

b. Examination room or rooms;

c. Surgery room. There shall be a room which is reserved only for surgery and used for no other purpose. The walls of the surgery room must be constructed of nonporous material and extend from the floor to the ceiling. In order that surgery can be performed in a manner compatible with current veterinary medical practice with regard to anesthesia, asepsis, life support, and monitoring procedures, the surgery room shall:

(1) Be of a size adequate to accommodate a surgical table, anesthesia support equipment, surgical supplies, the veterinarian, an assistant, and the patient; ~~and~~

(2) Be kept so that storage in the surgery room shall be limited to items and equipment normally related to surgery and surgical procedures; ~~and~~

(3) For small animal facilities, have a door to close off the surgery room from other areas of the practice.

d. Laboratory. The ~~animal facility~~ *veterinary establishment* shall have, as a minimum, proof of use of either in-house laboratory service or outside laboratory services for performing the following lab tests, consistent with appropriate professional care for the species treated:

- (1) Urinalysis, including microscopic examination of sediment;
- (2) Complete blood count, including differential;
- (3) Flotation test for ova of internal parasites;
- (4) Skin scrapings for diagnosing external parasites;
- (5) Blood chemistries;
- (6) Cultures and sensitivities;
- (7) Biopsy;
- (8) Complete necropses, including histopathology; and
- (9) Serology.

e. Animal housing areas. These shall be provided with:

- (1) Separate compartments constructed in such a way as to prevent residual contamination;
- (2) Accommodations allowing for the effective separation of contagious and noncontagious patients; and
- (3) Exercise runs which provide and allow effective separation of animals or walking the animals at medically appropriate intervals.

3. Radiology. An ~~animal facility~~ *A veterinary establishment* shall:

a. Have proof of use of either in-house or outside services for obtaining diagnostic-quality radiographs.

b. If radiology is in-house:

(1) Each radiograph shall be permanently imprinted with the identity of the facility or veterinarian, patient and the date of exposure. Each radiograph shall also be clearly labeled by permanent imprinting to reflect anatomic specificity.

(2) Document that radiographic equipment complies with all requirements of 12 VAC 5-480-8520, Veterinary Medicine Radiographic Installations, of the Virginia Department of Health document, "Ionizing Radiation Rules and Regulations" (1988), which requirements are adopted by this board and incorporated herewith by reference in this chapter.

c. Maintain radiographs as a part of the patient's record. If a radiograph is transferred to another ~~facility~~ *establishment* or released to the client, a record of this transfer must be maintained on or with the patient's records.

4. Equipment; minimum requirements.

a. Examination room containing a table with nonporous surface.

b. Surgery suite.

- (1) Surgical table with nonporous surface;
- (2) Surgical supplies, instruments and equipment commensurate with the kind of surgical services provided;

~~(3) All new small animal facilities that perform surgeries and all existing facilities that change their veterinarian in charge shall be required to have a gas anesthesia machine;~~

(4 3) Automatic emergency lighting;

(5 4) Surgical lighting;

(6 5) Instrument table, stand, or tray; and

(7 6) Waste receptacle.

c. Radiology (if in-house).

(1) Lead aprons and gloves;

(2) Radiation exposure badges; and

(3) X-ray machine.

d. General equipment.

(1) Steam pressure sterilizer or an appropriate method of sterilizing instruments;

(2) Internal and external sterilization monitors, if steam pressure sterilizers are used;

(3) Stethoscope;

(4) Thermometer;

~~(5) Ophthalmoscope;~~

~~(6) Otoscope;~~

(7 5) Equipment for delivery of assisted ventilation, including but not necessarily limited to:

(a) A resuscitation bag; and

(b) Endotracheal tubes.

(8 6) Scales; and

(9 7) Storage for records.

B. Restricted ~~facilities~~ *establishments*. When the scope of practice is less than full service, a specifically restricted ~~facility~~ *establishment* permit shall be required. Upon submission of a completed application, satisfactory inspection and payment of the permit fee, a restricted ~~facility~~ *establishment* permit may be issued. Such restricted ~~facilities~~ *establishments* shall have posted in a conspicuous manner the specific limitations on the scope of practice on a form provided by the board.

1. Large animal ~~facility~~ *establishment*, ambulatory practice. A large animal ambulatory ~~facility~~ *establishment* is a mobile practice in which health care of large animals is performed at the location of the animal. Surgery on large animals may be performed as part of a large animal ambulatory practice

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provided the facility has surgical supplies, instruments and equipment commensurate with the kind of surgical services provided. All large animal ambulatory ~~facilities~~ *establishments* shall meet the requirements of a full-service ~~facility establishment~~ in subsection A of this section with the exception of those set forth below:

- a. All requirements for buildings and grounds.
- b. All requirements for an examination room and surgery suite.
- c. Equipment for assisted ventilation.
- d. Scales.

2. Small animal ~~facility establishment~~, house call practice. A small animal house call ~~facility establishment~~ is a mobile practice in which health care of small animals is performed at the residence of the owner of the small animal. Surgery may be performed only in a ~~permitted~~, surgical ~~facility suite that has passed inspection~~. Small animal house call facilities shall meet the requirements of a full-service ~~facility establishment~~ in subsection A of this section with the exception of those set forth below:

- a. All requirements for buildings and grounds.
- b. All requirements for an examination room or surgery suite.
- c. Steam pressure sterilizer.
- d. Internal or external sterilization monitor.

3. Small animal ~~facility establishment~~, outpatient practice. A small animal outpatient ~~facility establishment~~ is a stationary facility *or ambulatory practice* where health care of small animals is performed. This practice may include surgery, provided the facility is equipped with a surgery suite as required by subdivision A 2 c of this section. Overnight hospitalization shall not be required. All other requirements of a full-service ~~facility establishment~~ shall be met.

18 VAC 150-20-205. Specialty practice in a limited setting. (Repealed.)

~~No regulation of the board shall prohibit any licensed veterinarian from conducting drug testing at animal shows and events or from examining any animal and expressing a professional judgment as to its health at (i) genetic screening clinics where animals are examined for cardiac, ophthalmic and auditory diseases; (ii) agricultural fairs; (iii) 4-H or other youth organization competitions; (iv) livestock auctions; (v) horse races; (vi) fox hunts; (vii) pet adoption events; or (viii) animal shows including but not limited to dog, cat, and horse shows.~~

18 VAC 150-20-210. Revocation or suspension of registration certificate a veterinary establishment permit.

A. The board may revoke or suspend *or take other disciplinary action deemed appropriate against* the registration permit of an ~~animal facility~~ *a veterinary establishment* if it finds the ~~facility establishment~~ to be in violation of any provisions of ~~this chapter laws or regulations governing veterinary medicine~~ or may declare it as not meeting the standards set forth in this chapter if:

1. The board or its agents are denied access to the ~~facility establishment~~ to conduct an inspection;
2. The licensee does not pay any and all prescribed fees *or monetary penalties*;
3. The ~~facility establishment~~ is performing procedures beyond the scope of a restricted ~~facility establishment~~ permit; or
4. The ~~facility establishment~~ has no veterinarian-in-charge registered ~~at the facility with the board~~.

B. The Administrative Process Act, ~~Chapter 1.1:4 (9-6.14:4 § 2.2-4000 et seq.) of Title 9~~ of the Code of Virginia, shall apply to any determination under this section.

NOTICE: The forms used in administering 18 VAC 150-20, Regulations Governing the Practice of Veterinary Medicine, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Instructions to Applicants for Licensure to Practice Veterinary Medicine (rev. ~~7/97~~ 12/98).

Application for a License to Practice Veterinary Medicine (rev. 10/98).

Instructions to Applicants for Licensure to Practice Veterinary Technology (rev. 7/97).

Application for a License to Practice Veterinary Technology (rev. 10/98).

Application for an Animal Facility Permit (rev. 7/97).

Application for Reinstatement of License to Practice Veterinary Medicine (rev. 7/97).

Application for Reinstatement of Veterinary Technician License (rev. 7/97).

Renewal Notice and Application (rev. ~~7/97~~ 2002).

COMMONWEALTH OF VIRGINIA

Department of Health Professions
 6606 West Broad Street, Fourth Floor
 Richmond, Virginia 23230-1717
 FAX (804) 683-7098
 TDD (804) 682-7197

Board of Veterinary Medicine
 (804) 682-8816
 E-mail: vbem@dep.state.va.us
 Board of Optometry
 (804) 682-9010
 E-mail: otomr@dep.state.va.us



Elizabeth A. Carter, Ph.D.
 Executive Director for the Board
 E-mail: ecarter@dep.state.va.us

BOARD OF VETERINARY MEDICINE

LICENSURE PROCEDURE FOR VETERINARIANS

THE NEW REGULATIONS OF THE VIRGINIA BOARD OF VETERINARY MEDICINE, EFFECTIVE 12/23/98, ELIMINATE THE JURISPRUDENCE STATE BOARD EXAMINATION. AN APPLICANT FOR LICENSURE WILL SIGN A NOTORIZED STATEMENT ON THE BACK OF THE APPLICATION THAT THEY HAVE READ, UNDERSTAND AND WILL ABIDE BY THE REGULATIONS. ONCE ALL REQUIRED DOCUMENTS AND FEES HAVE BEEN RECEIVED, A LICENSE WILL BE ISSUED.

APPLICATIONS WHICH ARE NOT ACCOMPANIED BY THE FEE OR WHICH CONTAIN INCOMPLETE INFORMATION WILL BE RETURNED TO THE APPLICANT.

To be considered for licensure, applicants must be graduates of American Veterinary Medical Association (AVMA) accredited schools of veterinary medicine or, if a graduate of a foreign veterinary school, the applicant must complete the Educational Commission for Foreign Veterinary Graduates (E.C.F.V.G.) of the AVMA (for information on the E.C.F.V.G. call 1-800/248-AVMA) prior to applying for licensure.

- Applicants must file a completed, properly executed application and the prescribed fee with the Board.
- Payment of the licensure fee must accompany the application. The fee for an active license is \$125. The inactive licensure fee is \$50. An active license is required if you intend to practice in any capacity in Virginia. An inactive license is for veterinarians who will not be practicing in Virginia at this time, even on a limited basis.

The following documents should be submitted either with the application or separately:

- Transcript certifying graduation with a doctorate in veterinary medicine from an AVMA accredited school and the date the degree was conferred. The transcript may be received directly from the school or will be accepted in a sealed envelope from the applicant provided the seal from the school has not been broken. Copies of diplomas will not be accepted in lieu of official transcripts.
- A report from the American Association of Veterinary State Boards (AAVSB) Veterinary Information Verification Agency (VIVA) of a passing score on the National Board Examination and Clinical Competency Test. A form is included to have these scores transferred to Virginia. If you have any questions regarding this form please call VIVA toll free at (877) 698-VIVA. **DO NOT SEND THESE FORMS TO THE STATE BOARD. THEY SHOULD BE SENT TO THE ADDRESS ON THE FORM.** (If you sat for the NBE and CCT in Virginia, you will not have to have these scores transferred but be sure to indicate this in the space provided on the front of the application.)
- Certification of licensure from each state board from which the applicant currently holds or has ever held a license to practice veterinary medicine. This should be sent directly by the state board or again, may be sent in a sealed envelope from the state board by the applicant.

After reading the enclosed booklet which contains the Laws and Regulations governing the practice of veterinary medicine in Virginia and the Drug Control Act, please retain it for your reference.

PLEASE FORWARD YOUR APPLICATION AND FEE TO:

VIRGINIA BOARD OF VETERINARY MEDICINE
 6606 W. BROAD ST., 4TH FLOOR
 RICHMOND, VA 23230-1717

PLEASE NOTE: THE BOARD WILL USE YOUR SOCIAL SECURITY NUMBER OR DMV NUMBER AS THE PRIMARY MEANS OF IDENTIFICATION FOR BOARD RECORD KEEPING PURPOSES. SUCH INFORMATION WILL BE PROVIDED TO THE AMERICAN ASSOCIATION OF VETERINARY STATE BOARDS TO ENABLE STATE AND PROVINCIAL VETERINARY BOARDS TO VERIFY LICENSURE AND DISCIPLINARY DATA ACROSS JURISDICTIONS. THIS INFORMATION WILL NOT BE DISSEMINATED FURTHER EXCEPT AS REQUIRED UNDER FEDERAL OR STATE STATUTES.

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0301

RECEIPT—KEEP THIS PORTION FOR YOUR RECORDS—DO NOT RETURN

«First_Name» «Last_Name»	Renewal Fee—Amount «renewal_fee»
«License_Status» «License_Type» - «License_No»	License Status: «License_Status»
Renewal Period: «begin_period» to «end_period»	Current Expiration Date: «L_Expiration_Date»

1. For name changes, cross out any incorrect information on the front of the renewal form, write the correct name and check the box on return envelope. Enclose a copy of your marriage license or court order for name changes.
2. Address changes, cross out any incorrect information on the front of the renewal form, write the correct address and check the box on return envelope.
3. Detach "renewal form" portion and return completed form with your check in attached return envelope.
4. Make checks payable to "Treasurer of Virginia." Visit our website at www.dhp.state.va.us

Please fold and tear on perforated line

Renewal Form for «License_Status» «License_Type»	Amount Due: «renewal_fee»
«License_No»	Renewal Period: «begin_period» to «end_period»
«First_Name» «Middle_Name» «Last_Name»	
«L_Address_Line_1» «L_Address_Line_2» «L_Address_Line_3»	

I wish to renew and I certify that I have met all continuing education requirements to renew an active license.

I wish to renew in an inactive status and enclose the fee of «inactive_fee». (No practice authorized)

If you wish to reactivate your inactive license at this time, contact the Board office for instructions at (804) 662-9915
 More detailed information on inactive licensure is provided at our website www.dhp.state.va.us or call the board office at 804-662-9915.

I swear that I have not made any misrepresentation on this renewal application and understand that furnishing false information constitutes cause for loss of licensure to practice.

Signature _____

If Payment for active licensure is received by Board After «L_Expiration_Date», Amount Due «combined_late_fee»
 If Payment for inactive licensure is received by Board After «L_Expiration_Date», Amount Due «combined_inactive_late_fees»

Do not staple check to renewal form or fold renewal form.

«Scan_Line»

Disclosure of Addresses
 Some licensees have expressed concern that their residence address is accessible. Consistent with Virginia law and the mission of the Department of Health, Professions addresses of licensees are made available to the public. This has been the policy and the practice of the Commonwealth for many years. However, the application of new technology makes such information more accessible.
 In most cases it is permissible for an individual to provide an address of record other than a residence, such as a Post Office Box or a practice location. Changes of address may be made at the time of renewal or at anytime by written notification to the appropriate health regulatory board. Please be advised that all notices from the board, to include renewal notices, licenses, and other legal documents, will be mailed to the address provided.

Detach Along Perforation
MOISTEN AND FOLD TO SEAL

Proposed Regulations

* * * * *

Title of Regulation: 18 VAC 150-20. Regulations Governing the Practice of Veterinary Medicine (amending 18 VAC 150-20-100).

Statutory Authority: § 54.1-2400 and Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1 of the Code of Virginia.

Public Hearing Date: August 22, 2002 - 9:30 a.m.

Public comments may be submitted until October 11, 2002.
(See Calendar of Events section for additional information)

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Board of Veterinary Medicine, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Basis: Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations and levy fees.

The specific statutory mandate for an increase in fees is found in § 54.1-113 of the Code of Virginia.

Purpose: Section 54.1-113 of the Code of Virginia requires that at the end of each biennium, an analysis of revenues and expenditures of each regulatory board shall be performed. It is necessary that each board have sufficient revenue to cover its expenditures. It is projected that by the close of the 2000-2002 biennium, the Board of Veterinary Medicine will incur a deficit and that the board will continue to have a deficit through the next biennium. Since the fees from licensees will no longer generate sufficient funds to pay operating expenses for the board, a fee increase is essential.

The purpose of the proposed amendments is to establish fees sufficient to cover the administrative, inspection and disciplinary activities of the board. Without adequate funding, the licensing of practitioners and facilities by the board and the inspections required for opening or remodeling a veterinary facility could be delayed. Sufficient funding is essential to continue with routine and opening inspections, investigation of complaints, and disciplinary proceedings against practitioners who are accused of substandard care, impaired practice or unsanitary facility conditions in order to protect the public health and safety.

Substance: 18 VAC 150-20-100 is being amended to comply with a statutory mandate for the board to provide sufficient funding to cover expenses related to licensing, inspections, investigations and disciplinary proceedings. Annual renewal fees for a veterinarian would be increased from \$125 to \$140, for a veterinary technician from \$25 to \$35 and for a veterinary facility from \$50 to \$150. Most of the fees charged to applicants, licensees and facilities are being increased accordingly as required in the Principles for Fee Development adopted by the department. Miscellaneous fees, such as the late renewal fee for technicians, the duplicate license fee and the returned check charge are not being amended.

Issues:

A. The primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions:

Fee increases proposed by the Board of Veterinary Medicine should have no disadvantage to the consuming public. There is no projection of a reduction in the number of applicants for licensure or the number of licensed persons available to provide veterinary services to the public. For example, an increase in the renewal fee will result in an additional \$15 per year for a veterinarian license and \$10 per year for a veterinary technician. It is not anticipated that the proposed fee increases will have any effect on prices for consumers.

There would be considerable disadvantages to the public if the board took no action to address its deficit by increasing its fees to cover expenses. The only alternative currently available under the Code of Virginia would be a reduction in services and staff, which would result in delays in licensing applicants who would be unable to work and delays in approval or disapproval of candidates to sit for examinations. Likewise, the cost of a delay in issuing a facility permit would far exceed the additional application cost of \$100. If an opening is delayed, the veterinary facility would lose revenue from patients but would still incur costs for leasing, personnel and promotional advertising.

Potentially, the most serious consequence would be a reduction in or reprioritization of inspections intended to detect unsanitary or unsafe conditions in facilities and of investigation of complaints against veterinarians and veterinary technicians. In addition, there may be delays in adjudicating cases of substandard practice, resulting in potential danger to animals in the Commonwealth.

Practitioners and facilities licensed by the Board of Veterinary Medicine will experience increased renewal fees under the proposed regulations. While that is a disadvantage to the licensees, the alternative of reduced services for the board would be unacceptable to applicants, licensees and the general public. As a special-fund agency, renewal fees pay the vast majority of the expenses of board operations, which include inspections, investigation of complaints, adjudication of disciplinary cases, review and approval of applicants, verification of licensure and education to other jurisdictions and entities, and communications with licensees about current practice and regulation.

B. The primary advantages and disadvantages to the agency or the Commonwealth:

As is stated above, the consequence of not increasing fees of the Board of Veterinary Medicine would be a reduction in services and staff, resulting in delays in licensing, reductions or delays in the cases investigated and brought through administrative proceedings to a hearing before the board and fewer inspections of veterinary facilities by the department. The fees charged to applicants and licensees solely fund the board and the Department of Health Professions. If higher fees are not adopted, the agency would have to cut its staff, both within the Board of Veterinary Medicine and within other divisions of the Department of Health Professions.

C. Other pertinent matters of interest to the regulated community, government officials, and the public:

During the development of the NOIRA and proposed regulations, representatives of Virginia Veterinary Medicine Association have been present. While the regulated community will not welcome any increase in fees, the board believes that it will recognize that there has not been an increase in fees for 14 years, during which time the consumer price index has risen more than 37.4%. For the past several years, expenditures of the board have exceeded revenue, but surpluses of previous years have delayed the need for a fee increase. By the conclusion of FY 02, the carry-over income will be exhausted and the board will experience a deficit that will carry over to FY 03 and beyond.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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 proposed regulation increases various fees paid by veterinarians, veterinary technicians, and veterinary facilities to the Board of Veterinary Medicine. The purpose of these fee increases is to bring the Board into compliance with the Board's interpretation of § 54.1-113 of the Code of Virginia. Section 54.1-113 requires all regulatory boards under the Department of Health Professions to revise their fee schedules if, after the close of any biennium, there is more than a 10 percent difference between revenues and expenditures. The proposed fee changes are as follows:

Veterinarians.

1. The annual renewal or initial licensure fee for an active license will increase from \$125 to \$140;
2. Annual renewal of an inactive license will increase from \$50 to \$70;
3. The penalty for late renewal of a license will increase from \$25 to \$45;
4. The reinstatement application fee for a license that has been revoked or suspended indefinitely will increase from \$200 to \$300;

Veterinary Technicians.

1. The annual renewal or initial licensure fee for an active license will increase from \$25 to \$30;

2. Annual renewal of an inactive license will be set at \$20, currently inactive licensees pay the annual renewal fee of \$25;

Veterinary Facilities.

1. The initial application fee for a veterinary facility permit registration will increase from \$150 to \$200;
2. The annual renewal fee will increase from \$50 to \$150;
3. The penalty for late renewal of a license will increase from \$25 to \$50;
4. The fee for reinspection or a change of location (which involves an inspection) will increase from \$150 to \$200;
5. The fee to record a change of veterinarian-in-charge will increase from \$20 to \$30;

Miscellaneous fees.

- The fee for licensure verification to another jurisdiction will be raised from \$10 to \$15.

Estimated economic impact. For the past several years, expenditures of the Board of Veterinary Medicine have exceeded revenue, but surpluses of previous years have delayed the need for a fee increase. The agency cites increases in staff salaries and benefits, expenses associated with new data systems and the health practitioner intervention program, and increases in the number of inspections required for veterinary facilities as factors contributing to the rising expenditures. By the conclusion of FY02, the carry-over income will be exhausted and, under the current fee structure, the Board of Veterinary Medicine projects a deficit of \$350,000 for the 2002-2004 biennium.¹ There has not been a fee increase for licensees under this board for 14 years. The level of the proposed fee increases is based on revenue and expenditure projections prepared by DHP for the Board of Veterinary Medicine. The proposed amounts were selected such that projected revenues would be sufficient to cover projected expenditures but would not result in anything more than a modest surplus.

The effect of the new fee schedule will be an increase in application and licensure costs for all veterinarians, veterinary technicians, and veterinary facilities licensed in Virginia. Specifically, renewal fees paid by licensed veterinary practitioners and facilities will increase by approximately \$135,000 per year. According to DHP, the proposed fee increases are necessary to prevent a delay in the performance or the elimination of investigations and disciplinary proceedings, application processing, and license renewals, a delay that could negatively affect public health and safety and reduce the supply of veterinary services in Virginia.

Although the total increase in compliance costs is substantial, from an individual perspective these fees represent a very small portion of the total cost of entry into the veterinary profession (e.g., the total cost of entry includes all education

¹ This figure reflects the difference of the projected FY2002-2004 expenditures (\$1,216,728) and the projected revenue under the current fee structure (\$904,850) added to the beginning balance of -\$42,266.

Proposed Regulations

and training expenses). The proposed fee changes, therefore, are unlikely to have a significant effect on the decision of individuals to enter or exit this profession. For this reason, the proposed regulatory changes should have no economic consequences beyond the anticipated increase in licensing costs.

Businesses and entities affected. There are currently 2,924 veterinarians, 792 veterinary technicians, and 800 veterinary facilities licensed by the Board of Veterinary Medicine in Virginia.

Localities particularly affected. The proposed fee changes will not affect any particular localities since they apply statewide.

Projected impact on employment. Since the application and licensure renewal fees represent a very small portion of the total cost of entry into the veterinary profession, no significant impact on employment in Virginia is expected.

Effects on the use and value of private property. The proposed fee changes are not expected to have any significant effects 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 Board of Veterinary Medicine concurs with the analysis of the Department of Planning and Budget for amendments to 18 VAC 150-20 to increase certain fees charged to applicants and licensees.

Summary:

The proposed amendments increase certain fees for the regulants of the board, including veterinarians, veterinary technicians and facilities, as necessary to provide sufficient funding for the licensing, inspection and disciplinary functions of the board. An annual renewal fee for a veterinarian is increased from \$125 to \$140, for a veterinary technician from \$25 to \$35 and for a veterinary facility from \$50 to \$150. Other fees are increased correspondingly, and some miscellaneous fees remain the same.

18 VAC 150-20-100. Fees.

Veterinary initial license or renewal (active)	\$125 \$140
Veterinary license renewal (inactive)	\$50 \$70
Veterinary reinstatement of expired license	\$175
Veterinary license late renewal	\$25 \$45
Veterinarian reinstatement after disciplinary action	\$200 \$300
Veterinary technician initial license or renewal	\$25 \$35
Veterinary technician license renewal (inactive)	\$20
Veterinary technician license late renewal	\$15
Veterinary technician reinstatement of expired license	\$50
Veterinary technician reinstatement after disciplinary action	\$75
Initial animal facility permit registration	\$150 \$200
Animal facility renewal	\$50 \$150
Animal facility late renewal	\$25 \$50
Animal facility reinstatement	\$100
Animal facility reinspection	\$150 \$200
Animal facility--change of location	\$150 \$200
Animal facility--change of veterinarian-in-charge	\$20 \$30
Duplicate license	\$10
Duplicate wall certificate	\$25
Returned check	\$25

Licensure verification to another jurisdiction \$10 \$15

NOTICE: The forms used in administering 18 VAC 150-20, Regulations Governing the Practice of Veterinary Medicine, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Veterinary Medicine, 6606 W. Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Instructions to Applicants for Licensure to Practice Veterinary Medicine (rev. ~~7/97~~ 7/02).

Application for a License to Practice Veterinary Medicine (rev. ~~4/98~~ 7/02).

Instructions to Applicants for Licensure to Practice Veterinary Technology (rev. ~~7/97~~ 7/02).

Application for a License to Practice Veterinary Technology (rev. ~~4/98~~ 7/02).

Applicant Instructions for New, Upgrading to Full Service, or Change of Location Inspections (eff. 7/02).

Application for an ~~Animal Facility~~ Veterinary Establishment Permit (rev. ~~7/97~~ 7/02).

Application for Reinstatement of License to Practice Veterinary Medicine (rev. 7/97).

Application for Reinstatement of Veterinary Technician License (rev. 7/97).

Renewal Notice and Application -0301 (rev. ~~7/97~~ 7/02).

Renewal Notice and Application -0302 (rev. 7/02).

Instructions to Applicants for Veterinary Licensure by Endorsement (rev. 7/02).

Instructions to Applicants for Veterinary Technician Licensure by Endorsement (rev. 7/02).

VA.R. Doc. No. R02-19; Filed July 24, 2002, 9:25 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Title of Regulation: 22 VAC 40-680. Virginia Energy Assistance Program -- Low Income Home Energy Assistance Program (LIHEAP) (amending 22 VAC 40-680-20; adding 22 VAC 40-680-63 and 22 VAC 40-680-67).

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

Public Hearing Date: N/A -- Public comments may be submitted until October 11, 2002.

(See Calendar of Events section for additional information)

Agency Contact: Margaret Friedenberg, Energy Assistance Program Manager, Department of Social Services, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-1728, FAX (804) 692-1469, or e-mail mjf900@dcse.ss.state.va.us.

Basis: Pursuant to § 63.1-25 of the Code of Virginia, the State Board of Social Services has authority to promulgate rules and regulations necessary for operation of all assistance programs. The Virginia Energy Assistance Program is funded by a federal block grant through the Low-Income Home Energy Assistance (LIHEA) Act. The block grant gives flexibility to design program components and eligibility requirements within broad parameters established by the LIHEA Act.

Purpose: The goal of the Low-Income Home Energy Assistance Program (LIHEAP) 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.

The purpose of this regulation is to:

1. Provide the program with flexibility to respond to federal funding fluctuations by adjusting the maximum income limit, not to exceed the maximum allowed by federal law;
2. Assist households with summer energy needs by establishing a cooling assistance component in the Virginia Energy Assistance Program. A cooling component will serve the needs of those households with high-energy bills and those in need of cooling equipment to alleviate extreme temperatures inside homes of young children, the disabled, and the elderly; and
3. Require mandatory participation by all local departments.

Substance: The proposed regulation will:

1. Provide the program with flexibility to respond to federal funding fluctuations by adjusting the maximum income limit, not to exceed the maximum allowed by federal law;
2. Add a cooling assistance component to the Virginia Energy Assistance Program. Extreme summer temperatures have increased energy costs of low-income households, and the lack of cooling equipment in homes creates an environment conducive to heat-related medical emergencies for young children, the disabled, and the elderly; and
3. Require mandatory participation by all local departments.

Issues: The regulation establishes a cooling assistance component that provides low-income households containing a vulnerable person with a means of supplementing the additional costs associated with cooling their homes. Utilities and local businesses will benefit from revenue for services and/or equipment purchased. Local departments of social services, area agencies on aging and community action programs will have an additional resource available to families faced with social service or health-related issues.

Limited administrative funds and the mandatory requirement that all local departments participate in a cooling assistance component are disadvantages to the localities. Most local

departments currently opt to participate based on their remaining administrative funds. Use of LIHEAP funds for administration are capped at 10% of the grant. Of that amount, seven percent is allocated to local departments for administering all components of the Virginia Energy Assistance Program. Some local departments experience difficulty in stretching their administrative allocation to cover all components for the entire fiscal year.

Mandatory participation in the cooling assistance component by all local departments is an advantage to residents statewide and ensures that all types of energy assistance are equally available to residents of neighboring localities.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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 proposed regulations will establish rules for the cooling assistance component already administered by the Department of Social Services (the department) under the Virginia Energy Assistance Program, require statewide mandatory participation of local departments of social services in the cooling assistance program, and allow the maximum income limit eligibility for the Virginia Energy Assistance Program to be adjusted upward, but not to exceed the maximum allowed by federal law.

Estimated economic impact. The Virginia Energy Assistance program is a seasonal program that assists low-income households in meeting their energy needs. The program is fully funded by the federal Low Income Home Energy Assistance (LIHEA) block grant, which provides flexibility to the states in program administration. There are four components of the program: weatherization, fuel assistance, crisis assistance, and cooling assistance. The weatherization component is funded by 15% of the LIHEA block grant, but administered by the Virginia Department of Housing and Community Development and is not subject to these regulations. Thus, this report does not discuss the weatherization component.

The purpose of the fuel assistance component is to partially offset the home heating costs of eligible households during the heating season. The crisis assistance component provides help to households in energy related emergencies that may include lack of heat, imminent utility cut-offs, and failing heating equipment. Households in these cases may be eligible for payment of the utility security deposit or the bill, purchase or repair of heating equipment, and purchase of fuel. The cooling assistance component provides help with cooling

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needs, which may include purchase, installment, and repair of cooling equipment, payment of electric security deposit or the bill.

The program operates in the following manner. First, local departments accept applications for fuel, crisis, and cooling components until a seasonal deadline. Second, information is input into the computer system and the system determines eligibility. For the fuel component, the computer system assigns points to each application. Based on the available funds and the total points assigned, a dollar value is calculated for each point assigned to fuel assistance applications and benefits are distributed based on the number of points the applicant is awarded. For the crisis and cooling

assistance components, benefits, within the maximum amounts preestablished, are distributed on a first-come, first-served basis statewide. Finally, vendors submit billing information to local departments for the crisis and cooling components and to the central office for the fuel assistance and are issued payments through the Department of Accounts. In federal fiscal year 2001, the portion of the program administered by the department provided help to 105,058 households out of 130,615 applicants in the amount of \$30.2 million. The average benefit per household served was \$287. The table below provides detailed summary statistics.

Table: Summary Statistics for Energy Assistance Program in 2001

	Fuel Assistance	Crisis Assistance	Cooling Assistance	TOTAL
Expenditures	\$24,166,367	\$3,128,323	\$2,900,000	\$30,194,690
Applications Received	95,834	12,823	21,958	130,615
Households Served	84,051	9,890	11,117	105,058
Average Benefit	\$288	\$316	\$261	\$287

Source: Effectiveness of Low-Income Energy Assistance Programs, Report of the Virginia Department of Social Services, House Document No. 7, Commonwealth of Virginia, 2002.

One of the proposed changes will establish rules in the regulations for the cooling assistance component. The proposed rules will set out the eligibility criteria for the cooling component, the benefit determination method, and the application period. For eligibility, income and citizenship criteria must be met and there must be a cooling need and a vulnerable member in the household. Eligible households will be able to submit applications from June 15 through August 15. The funds will be distributed on a first-come, first-served basis as explained above. These proposed rules are the same as the rules under which the cooling component is currently administered. Thus, the proposed language to establish the cooling assistance component in the regulations will not have any impact in practice and consequently is not expected to have any significant economic effects.

Another proposed change will require mandatory participation of local departments of social services in the cooling assistance component. All of the local departments will be required to accept applications for the cooling assistance. Unlike other components, the availability of the cooling assistance in an area is currently contingent upon the local implementation choice. The local departments of social services have discretion over whether to administer the cooling component. With the proposed change, the cooling assistance will be offered statewide.

Statewide expansion will increase the number of applicants for the cooling assistance, but is unlikely to increase the total number of households served unless the Board of Social Services reduces the maximum benefit amount or there is an increase in available cooling funds. This is because the cooling funds are distributed on a first-come, first-served basis. The proposed expansion is estimated to increase the

number of households served in expanded areas by roughly 2,311.¹ Since the average cooling benefit per household is \$261, the proposed change is estimated to increase funds distributed in expanded areas by about \$603,000 and reduce the benefits in areas where cooling assistance is currently administered by about the same amount. Additionally, an increase in the number of applications for cooling assistance is likely to reduce the chance of receiving benefits before the funds run out and may discourage some of the applicants from applying in following years. In short, the proposed change will make the cooling assistance available to a larger number of low-income households, but also reduce the likelihood of receiving assistance. Overall, the households living in localities where cooling assistance is not offered are likely to benefit from the proposed change while the households living in localities where the assistance offered are likely to lose from it.

The types of associated costs and benefits may take many different forms depending on the household's consumption pattern. Households make choices on the allocation of available income between the cooling needs and all other goods and services. While a household may prefer to spend the income on cooling needs at the expense of all other goods and services, another may prefer other goods or services at the expense of the cooling need. Thus, the benefits for those who will be qualified for the assistance may be in terms of newly available cooling or additional goods and services that can be purchased by the cooling assistance subsidy. Similarly, the costs to the households who will lose from the proposed requirement may be in terms of cooling or

¹ The estimate is based on the number of served households as a fixed percentage of the population. The source for Virginia county and city population data is from U.S. Census Bureau, Census 2000 Summary File 1.

some other goods and services. While it is unfeasible to explore the effects associated with all other goods and services, the cooling assistance may reduce health-related illnesses and deaths. For example, high indoor temperatures may cause hyperthermia, a condition described as heat stress or high body temperature. Other heat-related disorders include heat cramps, heat exhaustion, heat rash, and heat stroke. The Department of Health statistics indicate that Virginia suffered seven heat-related deaths in 1999 and four in 2000. In short, the proposed statewide expansion will likely reduce the heat-related health and safety risks to households in expanded areas and will likely reduce the assistance afforded to current recipients against these risks.

Statewide expansion is likely to slightly change the distribution of administrative cost reimbursements among the local departments. Last year, the cooling component was administered in 67 counties and 22 cities. With the proposed change, this component will be administered in an additional 28 counties and six cities. There is a federal cap on the administrative costs of this program. No more than 10% of the grant may be spent on administrative costs. Of the 10% cap, 7% is distributed to local departments administrating the cooling component based on the number of applications received and 3% is used for the administrative costs at the central social services office. Last year, local departments were reimbursed \$14.88 per application. Holding everything else constant, the proposed change is estimated to reduce the reimbursement rate to \$14.62. Thus, local offices currently administering the program are expected to lose about \$33,800 in reimbursements and local offices in expanded new areas are expected to receive about an additional \$33,800 for cooling component administration.

Moreover, the proposed changes may impose additional costs on local departments in expanded areas and will likely increase the statewide total costs actually incurred by the local departments. The department believes that the local departments that do not administer the cooling component do so for several reasons including the cap on the administrative costs, lack of human resources, the belief that the climate is cool enough, and wanting to serve only the elderly and disabled population instead of serving young families who would be eligible for cooling assistance. The choice of not administrating the cooling component may be indicative of administrative costs being higher than the reimbursement rates. If this is so, statewide expansion may introduce additional administrative costs to localities that are not currently offering this component. Most importantly, an

increase in the number of applications will likely increase the total actual administrative costs in the Commonwealth.

Finally, the statewide expansion is likely to change the distribution of revenues to vendors participating in the cooling assistance component. The types of vendors include electric companies and cooling equipment and service companies. Based on the historical data it is estimated that vendors receive approximately 44% of the funds for electric security deposits and electric bills, 31% of the funds for air conditioner and fan installation, 24% of the funds for air conditioner and fan equipment, and 2.0% for equipment repair. The department indicates that since the utility and equipment companies already serve on a statewide basis and repair vendors do not, most of the effect is likely to be on repair revenues. The proposed expansion is expected to reduce the revenues of the repair vendors in the areas where the cooling assistance is currently offered and increase revenues of the repair vendors in the areas where the program will be expanded. Because the funds are capped, the proposed change will not increase total vendor revenues in the Commonwealth.

The proposed changes will also allow the department to adjust the minimum income eligibility level for the Energy Assistance Program up to the maximum allowed by the federal government, which is currently 150% of the poverty guidelines published by US Department of Health and Human Resources or 60% of state median income, whichever is greater. The maximum income limit is currently set at 130% of the poverty guidelines and the present language allows downward adjustment. Although the department does not have any current plans to increase the maximum income level, the proposed change will provide discretion to do so. If the maximum income level is increased, more households are likely to be eligible for the energy assistance under all of the three program components and the number of applications is likely to increase. A higher number of applications would reduce the average fuel benefits per household served because the available funds are distributed based on the number of qualified applicants. The following table presents the estimated effect for two hypothetical cases where the income limit is set at 140% and 150% of the poverty guidelines. However, the small decrease in average fuel benefit would be likely to discourage a number of applicants and may result in a slightly lower than expected number of applications in following years. If this occurs, average benefit after the proposed change would be slightly higher than the estimated amount in the table.

Table: Estimated Effect on the Fuel Assistance Recipients²

	130% Poverty	140% Poverty	150% Poverty
Eligible Households	347,044	388,381	427,871
Households Served	84,051	94,062	103,627
Average Benefit	\$359	\$321	\$291

² To obtain these estimates for the 140% poverty level, first, the estimated number of eligible households for the 125% to 150% poverty cohort provided by LIHEA administration (FY 2000 State Level Estimates of the Number of Households Eligible for LIHEAP by using the federal poverty level, Revised, 02/08/02) is converted to the 140% poverty cohort assuming a uniform distribution. Then, the number of households served is estimated based on the fixed ratio of total eligible households in Virginia. The number of eligible households for 130% and 150% poverty levels estimated by the LIHEAP administration are directly adopted.

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On the other hand, the effect on crisis and cooling assistance applicants would be in terms of transfer of benefits from lower income groups to higher income groups because the funds are allocated on a first-come, first-served basis. With a higher maximum income limit, some households with incomes higher than 130% of the poverty level would be likely to apply before other households with incomes lower than their poverty level and reduce available funds for applicants who would otherwise receive assistance.

The proposed change also has the potential to increase the administrative costs due to increase in the number of applications if and when the income limit is adjusted upward. When the limit is increased, this will likely create additional administrative costs due to a higher number of applications. The higher number of applications would reduce reimbursement rates per application and widen the gap between actual costs and reimbursements that would be absorbed by the local departments.

Businesses and entities affected. The proposed changes for the cooling assistance component are likely to affect local departments of social services, households receiving cooling assistance, and vendors providing services. Last year, 89 local departments administered the cooling component, 11,117 households received cooling assistance, and 229 vendors in the areas provided services. Based on last year's data, it is estimated that about 32 local departments will start administering cooling assistance, about 2,311 additional households will likely receive cooling assistance in expanded areas, and about 32 additional repair vendors may participate in expanded program.

Localities particularly affected. The cooling assistance is not offered statewide. The number of localities that offer cooling assistance changes every year. Last year, the following localities did not offer cooling assistance: Counties of Appomattox, Arlington, Bath, Bland, Carroll, Chesterfield, Craig, Cumberland, Essex, Giles, Gloucester, Grayson, Greene, Greensville, Halifax, King George, Lunenburg, Mecklenburg, Middlesex, Nelson, Nottoway, Orange, Pittsylvania, Rappahannock, Richmond, Scott, Spotsylvania, Washington and Cities of Colonial Heights, Emporia, Hopewell, Petersburg, Roanoke, and Williamsburg. Though the proposed regulations will apply throughout the Commonwealth, the counties and cities where the cooling assistance is not offered will be particularly affected.

Projected impact on employment. Because the proposed changes are not expected to increase the total cooling assistance benefits provided but redistribute a small portion of repair revenues among the localities, no significant impact on private sector employment is expected. On the other hand, the number of applications for cooling assistance is likely to increase, which would increase the demand for human resources at the local departments in expanded areas. However, the additional workload is likely to be absorbed by the current staff because the department is not aware of any plans to hire any new employees. Thus, no significant impact on employment is expected.

Effects on the use and value of private property. The proposed changes will not affect the total revenues reimbursed to vendors under the cooling component but only the distribution of repair revenues to a small degree. Normally, redistribution of revenues would affect the value of repair businesses, but the total repair revenues are slightly over \$50,000. Thus, no significant impact on the value of repair businesses is expected. However, funds for cooling equipment and services will likely be redistributed among localities as well. If used for permanent cooling equipment additions to homes and home cooling improvements, the funds are expected to affect the value of homes owned by recipients. Thus, there is likely to be a positive impact on the value of houses owned by recipients in expanded areas while a negative impact is expected on the value of houses owned by recipients in areas where the available assistance will decrease.

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:

The proposed amendments allow flexibility in adjusting the maximum eligibility income limit for applicants, establishes a cooling assistance component within the Virginia Energy Assistance Program, and requires mandatory participation in the cooling assistance component by all local departments.

CHAPTER 680.

VIRGINIA ENERGY ASSISTANCE PROGRAM -- LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP).

PART II.

FUEL ASSISTANCE.

22 VAC 40-680-20. Eligibility criteria.

A. The purpose of the fuel assistance component is to provide heating assistance to eligible households to offset the costs of home heating energy that are excessive in relation to household income.

B. Eligibility criteria is are set out in this subsection.

1. Income limits. Maximum income limits shall ~~be at or below 130% of the poverty guidelines~~ not exceed the maximum allowed by federal law. In order to be eligible for fuel assistance, a household's income must be at or below the maximum income limits.

2. Alien status. Any alien who has obtained the status of an alien lawfully admitted for temporary residence is ineligible for a period of five years from the date such status was obtained. This shall not apply to a Cuban or Haitian entrant or to an alien who is an aged, blind or disabled individual.

3. Ineligible households. The households that are ineligible to receive fuel assistance are:

- a. Subsidized households whose total heating costs are included in their rent.
- b. Persons living in institutions.
- c. Persons living in temporary shelters or group homes who have no heating expense or who pay a nominal fee to live there.
- d. Persons who reside in only one room within a larger dwelling.
- e. Subsidized households who are responsible for payment of individual excess fuel usage charges even though heating expenses are included in their rent.

PART IV.
COOLING ASSISTANCE.

22 VAC 40-680-63. Eligibility criteria; benefits.

A. The purpose of the cooling assistance component is to assist low-income households with their cooling needs when other resources cannot meet those needs. Assistance provided through the program must continue or provide cooling services.

B. In order to be eligible for cooling assistance, a household shall:

- 1. Meet all of the fuel assistance criteria as set forth in 22 VAC 40-680-20;*
- 2. Have at least one vulnerable household member as set forth in 22 VAC 40-680-10;*
- 3. Be unable to meet the emergency requirements through applicant or community resources; and*
- 4. Not have received the cooling assistance maximum benefit during the current year.*

C. The benefit amount for each type of assistance offered is the average cost as determined by a statewide survey and the availability of federal block grant funding. Various types of assistance, contingent upon funds available, shall be provided.

22 VAC 40-680-67. Application period.

Cooling assistance will be offered when sufficient federal funding is available. The application period shall begin on June 15 and end no later than August 15 unless funds are depleted earlier. Applications shall be accepted by all local departments.

PART ~~IV~~ V.
ADMINISTRATIVE COSTS.

VA.R. Doc. No. R02-3; Filed July 16, 2002, 2:02 p.m.



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 6. CRIMINAL JUSTICE AND CORRECTIONS

STATE BOARD OF JUVENILE JUSTICE

Title of Regulation: **6 VAC 35-150. Standards for Nonresidential Services Available to Juvenile and Domestic Relations District Courts (amending 6 VAC 35-150-10, 6 VAC 35-150-55, 6 VAC 35-150-70 through 6 VAC 35-150-165, 6 VAC 35-150-175, 6 VAC 35-150-180, [6 VAC 35-150-190,] 6 VAC 35-150-200 through 6 VAC 35-150-350, 6 VAC 35-150-370 through 6 VAC 35-150-420, 6 VAC 35-150-440, 6 VAC 35-150-450, 6 VAC 35-150-460, 6 VAC 35-150-490 through 6 VAC 35-150-540, 6 VAC 35-150-620 through 6 VAC 35-150-650, 6 VAC 35-150-670 through 6 VAC 35-150-720; adding 6 VAC 35-150-35 [and 6 VAC 35-150-427]; repealing [6 VAC 35-150-170 and] 6 VAC 35-150-360).**

Statutory Authority: §§ 16.1-233, 16.1-309.2 and 66-10 of the Code of Virginia.

Effective Date: October 1, 2002.

Summary:

The amendments accommodate changes in agency operations since the regulation was adopted in 1997, such as the automated statewide intake system, the manual of standard operating procedures, and the development of risk assessment instruments for use by court service unit personnel.

Other amendments clarify that the standards contained in this regulation individually and collectively establish statewide policies governing the operation of court service units and nonresidential programs for which the department is responsible.

The amendments also establish standards for the development, implementation, operation and evaluation of the nonresidential community-based programs and services such as those established by the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq. of the Code of Virginia). This revision clarifies the regulatory requirements for background checks of persons who provide direct supervision or direct service to juveniles in varying situations.

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: Donald Carignan, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre, 700 E. Franklin St., 4th Floor, Richmond, VA 23219, telephone (804) 371-0743, FAX (804) 371-0773 or e-mail carigndr@djj.state.va.us.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:6 VA.R. 855-868 December 3, 2001, with the additional changes shown below. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out at length; however, the changes from the proposed regulation are printed below.

6 VAC 35-150-10. Definitions.

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

"Agency" means any governmental entity of the Commonwealth or any unit of local government including counties, cities, towns and regional governments and the departments thereof, and including any entity, whether public or private, with which any of the foregoing has entered into a contractual relationship for the provision of services as described in this chapter.

"Alternative day services" or "structured day treatment" means nonresidential programs that provide services, which may include counseling, supervision, recreation, and education, to juveniles at a central facility.

"Approved procedures" means (i) standard procedures issued by the Department of Juvenile Justice, which apply to all state operated court service units and which may be voluntarily observed by locally operated court service units; or (ii) variants to the standard procedures approved by the director or his designee for individual state operated court service units; or (iii) procedures for locally operated court service units approved in accordance with local policies [and reviewed by the director or his designee].

"Behavior management" means the planned and systematic use of various techniques selected according to group and individual differences of juveniles and designed to teach awareness of situationally appropriate behavior, strengthen desirable behavior, and reduce or eliminate undesirable behavior.

"Board" means the Board of Juvenile Justice.

"Case record" means written or electronic information regarding one person, and the person's family if applicable.

"Counseling" means the planned use of interpersonal relationships to promote behavioral change or social adjustment.

"Counselor" means an individual who provides counseling.

"Department" means the Department of Juvenile Justice.

"Diversion" means the provision of programs and services, consistent with the protection of the public safety, to youth who can be cared for or treated through alternatives to the

juvenile justice system as provided for in § 16.1-227 of the Code of Virginia.

"*Electronic monitoring*" means the use of electronic devices to verify a person's compliance with certain judicial orders or conditions of release from incarceration, or short term sanction for noncompliance with rules of probation or parole.

"*Human research*" means any medical or psychological investigation designed to develop or contribute to general knowledge by using human subjects who may be exposed to possible physical or psychological injury as a consequence of participation as subjects and which departs from the application of established and accepted methods appropriate to meet the subjects' needs.

"*Individual service plan*" means a written plan of action developed, and modified at intervals, to meet the needs of each juvenile. It specifies short-term and long-term goals, the methods and times frames for reaching the goals and the individuals responsible for carrying out the plan.

"*Intake*" means the process for screening complaints and requests alleged to be within the jurisdiction of the juvenile and domestic relations district court.

"*Intake officer*" means the probation officer who is authorized to perform the intake function.

"*Intensive supervision*" means frequent contacts, strict monitoring of behavior, and counseling provided to predispositional or postdispositional youth who are at high risk of committing new offenses.

"*Juvenile*," "*youth*" or "*child*" means a person less than 18 years of age.

"*Local plan*" means a document or set of documents prepared by one or more localities pursuant to § 16.1-309 3 D of the Code of Virginia, describing a range of community-based sanctions and services addressing individual juvenile offenders' needs and local juvenile crime trends.

"*Mechanical restraint*" means equipment used to physically restrain or control a person's behavior, such as handcuffs, shackles or straightjackets.

"*Nonresidential services*" means services that are not part of a residential program, including those provided by a residential program to nonresidents.

"*Outreach detention*" means intensive supervision of youth who might otherwise be in secure detention.

"*Parole*" means supervision of an individual released from commitment to the department as provided for by § 16.1-293 of the Code of Virginia.

"*Physical restraint*" means the application of approved techniques by trained program staff to control the actions of juveniles by means of physical contact.

"*Probation*" means a court-ordered disposition placing an individual under the supervision of a probation officer.

"*Program*" means the planned application of staff and resources to achieve the stated mission for working with

juveniles identified in Article 12.1 (§ 16.1-309.2 et seq.) of Chapter 11 of Title 16.1 of the Code of Virginia.

"*Provider*" means an agency, organization or association that runs a program or service.

"*Shall*" means an obligation to act is imposed.

"*Substance abuse assessment and testing*" means a qualified professional's assessment and evaluation of the nature of, and the factors that contribute to, individual or family problems associated with substance abuse, and recommendations for treatment and related services.

"*Supervision*" means visiting or making other contact with, or providing treatment, rehabilitation or services to a juvenile as required by the court or an intake officer.

"*Supervision plan*" means a written plan of action, updated as needed, to provide supervision and treatment for a specific individual. It specifies needs, goals, methods, time frames, and who is responsible for each step. A single supervision plan may include, as appropriate, specific plans for supervision during probation and parole, and for treatment of a youth and services for the youth's family during commitment.

"*Surveillance officer*" means a person, other than a probation or parole officer, who makes contact with a juvenile under supervision to verify the juvenile's presence at work, school, home, etc. A surveillance officer may be an employee of a court service unit or other service provider, or a properly trained and supervised volunteer.

"*Tamper*" means any accidental or purposeful alteration to electronic monitoring equipment that interferes with or weakens the monitoring system.

"*Time-out*" means a systematic behavior management technique designed to reduce or eliminate inappropriate behavior by temporarily removing a juvenile from contact with people or other reinforcing stimuli.

"*Unit*" or "*CSU*" means court service unit.

"*Volunteer*" means any individual or group who of their own free will and without any financial gain provides goods or services to the program without compensation.

6 VAC 35-150-35. [No change from proposed.]

6 VAC 35-150-55. Probation officers' caseload.

The ~~average~~ caseload for probation officers in the unit shall ~~not exceed 30 cases~~ be determined in accordance with approved procedures, [~~which may provide for weighting taking into account the relative weight~~] of cases based on the frequency and intensity of contacts indicated by an assessment of the juvenile's risk of reoffending, case complexity, [~~geographical dispersion of cases~~] and other factors.

6 VAC 35-150-70. Court service unit director and staff.

~~Consistent with policies and procedures of the department or the locality, as applicable, the court service unit director shall:~~

- ~~1. Plan, coordinate, and direct all services, programs, and personnel of the unit;~~

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~~2. With involvement of the staff, set specific written unit goals and objectives and communicate these to all staff;~~

~~3. Request and manage the spending of state and local budget allocations;~~

~~4. Provide required financial, managerial and programmatic reports;~~

~~5. Coordinate the unit's relations with the court, the public, other agencies and the press;~~

~~6. Ensure that there is supervision for all staff, as provided for in job descriptions and consistent with performance evaluations;~~

~~7. Ensure availability of appropriate staff to respond to emergencies; and~~

~~8. Ensure that there are unit procedures for processing complaints about staff or services.~~

A. For every employee and volunteer in the unit there shall be a current position description indicating the minimum qualifications required and the incumbent's duties and responsibilities.

B. [Unless otherwise provided by local or state policy,] a performance plan and a performance evaluation shall be completed annually for each employee in accordance with approved procedures.

[C. The Court Service Unit Director shall provide financial, managerial and programmatic reports as required by department and local policy.]

6 VAC 35-150-80. [No change from proposed.]

6 VAC 35-150-90. Training.

~~Written policy, procedure and practice shall provide that:~~

~~1- A. All staff employees, volunteers and interns shall receive documented orientation and annual training appropriate to their duties and to address any needs identified by the individual and the supervisor;~~

~~2- B. All full-time employees who provide direct services to juveniles and their families shall receive 40 hours of [juvenile justice-related] training annually;~~

~~3- C. All clerical staff shall receive at least 20 hours of training annually [to upgrade skills]; and~~

~~4. All volunteers and interns shall receive documented orientation and training appropriate to their duties.~~

6 VAC 35-150-100. [No change from proposed.]

6 VAC 35-150-110 through 6 VAC 35-150-130. [No change from proposed.]

6 VAC 35-150-140. Records management.

~~Written policy, procedure and practice shall provide that:~~

~~1. The unit shall have a system for indexing all case records;~~

~~2- A. Case records shall be indexed and kept up to date, and uniform in content and arrangement within the unit; in accordance with approved procedures.~~

~~3- B. Juvenile case records shall be kept in a secure location accessible only to authorized staff;~~

~~4- C. All records shall be maintained and disposed of in accordance with The Library of Virginia requirements as provided for in department regulations and [record retention schedules, and with] approved procedures;~~

~~5- D. Any disclosure or release of information shall be in accordance with the Code of Virginia; and applicable federal regulations (i.e., 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records) and approved procedures.~~

~~6- E. The case records of youth placed in any postdispositional residential care shall contain:~~

~~a- 1. Social history;~~

~~b- 2. Order or agreement concerning the placement;~~

~~c- 3. Dates of acceptance and placement;~~

~~d- 4. Reason for placement;~~

~~e- 5. Financial and tuition arrangements, if appropriate; and~~

~~f- 6. Supervision and visitation agreements.~~

6 VAC 35-150-150 through 6 VAC 35-150-165. [No change from proposed.]

[6 VAC 35-150-170. Services to cases in which the court has ordered support payments. (Repealed.)

~~If the unit provides services to cases in which the court has ordered support payments, unit procedures developed in consultation with the judge or judges of the court shall set forth the criteria for returning persons to court for the nonpayment of court ordered support.]~~

6 VAC 35-150-175. [No change from proposed.]

6 VAC 35-150-180. [No change from proposed.]

[6 VAC 35-150-190. Procedures for handling funds.

~~The court service unit director shall establish written policies, procedures and practice for handling funds within the unit. All court service units shall adhere to all Commonwealth of Virginia purchasing and fiscal requirements when expending state funds.]~~

6 VAC 35-150-200. [No change from proposed.]

6 VAC 35-150-210. Physical force.

~~Written policy, procedure and practice shall provide that:~~

~~1- A. Physical force shall be used only to protect self or others; and~~

~~2- B. Each use of physical force shall be reported in writing to the CSU director [, who shall ensure that all reportable incidents are further reported in accordance with the department's policies for reporting serious incidents].~~

6 VAC 35-150-220. [No change from proposed.]

6 VAC 35-150-230. Weapons.

~~Written policy, procedure and practice shall provide that:~~

~~1. If A. A probation officer carries may obtain authorization to carry a weapon in the performance of his duties, he may do so only when he is authorized as provided by § 16.1-237 H of the Code of Virginia and when he is in compliance with a written policy promulgated by the department concerning the training, carrying and use of weapons, and which shall include requirements for only in accordance with approved procedures that require at least: firearms safety training, a psychological or mental health assessment, the successful completion of department approved training with annual department approved training thereafter, and written notification to the department that the probation officer will carry a weapon; and approval by the court service unit director and the [individual to whom the director reports director's supervisor].~~

~~2. B. All court service unit staff authorized to carry weapons shall have received training approved by the department regarding the limited circumstances when weapons may be carried and used as required by law and liability insurance coverage.~~

6 VAC 35-150-240 through 6 VAC 35-150-260. [No change from proposed.]

6 VAC 35-150-270. Intake duties.

~~Written policy, procedure and practice shall provide that~~

[A.] When making an intake determination as provided for by the Code of Virginia, whether in person or by telephone or interactive video conferencing, the intake officer shall, *in accordance with approved procedures*:

1. Explain the steps and options in the intake process to each person present, including their constitutional and statutory rights;
2. Make all required entries into the department's Juvenile Tracking System;
3. Consult with available parents, guardians, legal custodian or other person standing in loco parentis to determine the appropriate placement, unless a court has ordered detention; and
4. Notify the juvenile's parents, guardians, legal custodian or other person standing in loco parentis in cases involving the juvenile's detention.

[B. When making a detention decision pursuant to § 16.1-248.1 of the Code of Virginia and when making recommendations to the court at a detention hearing pursuant to § 16.1-250 of the Code of Virginia, court service unit personnel shall make use of the uniform risk assessment instrument and related procedure mandated by Chapter 648 of the 2002 Acts of Assembly.]

6 VAC 35-150-280. [No change from proposed.]

6 VAC 35-150-290. [No change from proposed.]

6 VAC 35-150-300. Predispositionally placed youth.

~~A. Written policy, procedure and practice shall provide that In accordance with approved procedures, a representative of the court service unit shall make [face-to-face] contact [, either face-to-face or via videoconferencing,] with each youth~~

placed in predispositional detention, jail or shelter care, within five days of the placement and shall make contact with the youth at least once every 10 days thereafter, either face-to-face or by telephone or videoconferencing.

~~B. Written policy, procedure and practice shall provide that at least every 10 days, the CSU director or designee shall make and document a review The case of each predispositionally placed youth shall be reviewed at least every 10 days in accordance with approved procedures to determine whether there has been a material change sufficient to warrant recommending a change in placement.~~

~~C. Written policy, procedure and practice shall provide that When the unit has placed or is supervising a youth in a residential facility, designated staff [of the court service unit] shall be available to the facility's staff 24 hours a day in case of emergency.~~

6 VAC 35-150-310. Postdispositional detention.

~~Written policy, procedure and practice shall provide that When a court orders a juvenile is ordered by a court, pursuant to § 16.1-248.1 B of the Code of Virginia, into a facility that houses to be detained postdispositionally detained youth, the court service unit shall within for more than 30 days of the court order have, the court service unit shall develop a written plan with the facility to enable such youth to take part in one or more community treatment programs appropriate for their rehabilitation and available to youth in the community. The postdispositionally detained youth, which may receive the services be provided at the facility or while on temporary release status, as determined by their risk to public safety and other relevant factors. [The court service unit shall provide a copy of the juvenile's social history to the postdispositional detention program upon request.]~~

6 VAC 35-150-320 through 6 VAC 35-150-340. [No change from proposed.]

6 VAC 35-150-350. Supervision plan plans.

~~A. Written policy, procedure and practice shall require that To provide for the public safety and address the needs of subjects and their families, subjects shall be supervised according to a written supervision plan, developed in accordance with approved procedures and timeframes, that describes the range and nature of field and office contact with the subject, with the parents or guardians of a juvenile subject, and with other agencies providing treatment or services.~~

~~B. Written policy, procedure and practice shall provide that the supervision plan for juvenile probation shall be written and approved, in accordance with unit procedures, within 30 days of receiving a case after disposition, after consulting with the youth and, when appropriate, the youth's family.~~

~~C. Written policy, procedure and practice shall provide that B. When the youth resides in or is expected to return to the family home, the probation officer shall write, in accordance with approved procedures, develop and implement a family involvement plan within 30 days of a committed youth's arrival at the reception and diagnostic center, after consulting with the youth's family, to involve the family with the youth during the youth's commitment, to prepare for the youth's release~~

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~~and, when appropriate, to work to change family members' behaviors. D. Written policy, procedure and practice shall provide that a [and periodically]~~

~~[C. When the youth is in direct state care, the probation officer shall, in accordance with approved procedures and 6 VAC 35-150-420, send a] report on the family's progress toward planned goals shall be sent to the facility at which the juvenile is housed [in direct state care] at least once every 90 days.~~

~~E. Written policy, procedure and practice shall provide that a written supervision plan for parole shall be prepared for all committed juveniles [C. D.] At least 60 days before their prior to a juvenile's anticipated release after consulting with the subject and the juvenile correctional center staff and, when appropriate, staff of the Virginia Department of Rehabilitative Services, the Department of Correctional Education, the local school division in which the youth will be enrolled, and the youth's family from commitment, a written parole supervision plan shall be prepared in accordance with approved procedures.~~

~~F. Written policy, procedure and practice shall provide that [D. E.] A supervision plan for parole shall be prepared for all judicial review hearings for serious juvenile offenders as required by law and in accordance with the department's internal review process approved procedures.~~

~~G. Written policy, procedure and practice shall provide that [E. F.] If the court has not ordered specific conditions of supervision, a supervision plan for an adult probation subject shall be prepared within 30 days of receiving the case after disposition, after consulting with the adult and, if appropriate, his family.~~

~~[F. G.] At least once every 90 days, in accordance with approved procedures, each written supervision plan or family involvement plan shall be (i) reviewed with the subject individual or family and (ii) reviewed by a supervisor from both a treatment and a case management perspective to confirm the appropriateness of the plan.~~

6 VAC 35-150-360 through 6 VAC 35-150-400. [No change from proposed.]

6 VAC 35-150-410. Commitment information.

~~A. Written policy, procedure and practice shall provide that~~ When a youth is transferred into direct state care, the following items either accompany or precede the youth to the reception and diagnostic center: the order of commitment, copies of clinical reports, predisposition studies, record of immunizations when available, and any other information required by the Code of Virginia [or ,] department policy [, or approved procedures].

~~B. Written policy, procedure and practice shall provide that~~ If a juvenile is transferred to the department directly from the court, in addition to ensuring the delivery of the items required in subsection A of this section, unit staff shall immediately notify the reception and diagnostic center by telephone of the youth's impending arrival.

6 VAC 35-150-420. [No change from proposed.]

PART III. STANDARDS FOR PROGRAMS AND SERVICES.

Article 1.

General Requirements of Programs and Services.

[6 VAC 35-150-427. Written policies and procedures required.

Each program shall be responsible for adopting written policies and procedures necessary to implement all applicable requirements of 6 VAC 35-150-430 through 6 VAC 35-140-740.]

6 VAC 35-150-430. Written statements required.

A. Each nonresidential program or service shall have a written statement of its:

1. Purpose;
2. Supervision and treatment objectives, including criteria for admission and for measuring a juvenile's progress;
3. General rules of juvenile conduct and the behavior management system with specific expectations for behavior and appropriate [consequences incentives and sanctions] which shall be made available to juveniles and parents upon acceptance into the program;
4. Criteria and procedures for terminating services, including terminations prior to the juvenile's successful completion of the program;
5. Methods and criteria for evaluating program effectiveness;
6. Drug-free workplace policy; and
7. Policy regarding contacts with the news media.

~~B. [Written policy, procedure and practice shall provide that]~~ The department administration shall be notified in writing of any plan to change any of the elements listed in subsection A of this section.

6 VAC 35-150-435. Contracted services.

A. When a program contracts for services with public or private providers, it shall follow written procedures that govern the recruitment, screening and selection of providers.

B. Contracts with public or private sector [service] providers shall identify the case coordinator.

C. Designated program staff shall monitor the delivery of services under the terms of the contract.

D. Contracts with public or private service providers shall require the provider to:

1. Develop a plan for the scope of services to the individuals served;
2. Document receipt of the referral, services provided, and termination of services;
3. Make available to the purchasing agency all information specified in the contract;

- 4. Conduct the records checks required by 6 VAC 35-150-440 on all staff who provide services to individuals under the contract;
- 5. Participate in program evaluation as required by the Department of Juvenile Justice; and
- 6. Provide appropriate evidence of fiscal accountability and responsibility.

E. The standard of services provided by contractual vendors shall not be less than those required by this chapter.

6 VAC 35-150-440. Employee and volunteer background check.

~~Written policy, procedure and practice shall provide that no person shall provide services or conduct programs in direct contact with juveniles who has not had A. [When] An agency or program [that] provides direct services or supervision to juveniles[; shall conduct the following background checks on] all employees and volunteers who provide such direct service or supervision [shall undergo a reference check, criminal history checks with the automated Virginia Criminal Information Network (VCIN) and the National Criminal Information Center (NCIC), and fingerprint checks by the State Police and the FBI, a central registry check, and a driving record check if applicable to the person's job duties,] to ascertain whether there are criminal acts or other circumstances that would be detrimental to the safety of juveniles in the program [- :~~

- 1. A reference check;
- 2. A fingerprint check with the Virginia State Police and FBI if the State Police determine that the requesting agency is a qualified entity, or a criminal history request or a noncriminal justice interface with the Virginia State Police if the State Police determine that the requesting agency is not a qualified entity to receive fingerprint-based criminal information;
- 3. A central registry check with Child Protective Services; and
- 4. A driving record check if applicable to the individual's job duties.

~~The requirements of this subsection do not apply to programs that merely supervise juveniles in community service, nor to persons licensed by the Commonwealth of Virginia who are providing professional services to juveniles within the scope of such license.]~~

~~B. When an agency or program refers juveniles to other service providers, [excluding community service programs and licensed professionals in private practice,] the referring agency shall require the service provider to document that all persons who provide services or supervision through substantial one-on-one contact with juveniles have undergone a background check as required in subsection A of this section.~~

~~[C. An agency that refers juveniles to a licensed professional in private practice shall check with the appropriate licensing authority's Internet web page or by other appropriate means to ascertain whether there are notations of criminal acts or other~~

~~circumstances that would be detrimental to the safety of juveniles.]~~

6 VAC 35-150-450 through 6 VAC 35-150-720. [No change from proposed.]

VA.R. Doc. No. R01-271; Filed July 24, 2002, 9:24 a.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Title of Regulation: **9 VAC 25-260. Water Quality Standards (amending 9 VAC 25-260-140 and 9 VAC 25-260-155).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Effective Date: Thirty days after notice of EPA approval in the Virginia Register.

Summary:

Water Quality Standards consist of designated uses of the water body and narrative and numeric criteria that protect those uses by describing water quality in general terms and specifically as numerical limits for physical, chemical and biological characteristics of water.

The amendments update the statewide ammonia criteria to match updates published by the Environmental Protection Agency (EPA). The criteria adopted are designed to protect aquatic life in all state waters. These amendments will be used in calculating Virginia Pollutant Discharge Elimination System permit limits where appropriate and for water quality assessments per the Clean Water Act 305(b) and 303(d) reports.

Agency Contact: Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111 or e-mail emdaub@deq.state.va.us.

9 VAC 25-260-140. [No change from proposed.]

9 VAC 25-260-155. Ammonia surface water quality criteria.

A. *The one-hour average concentration of total ammonia nitrogen (in mg N/L) in freshwater shall not exceed, more than once every three years on the average¹, the acute criteria below:*

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Acute Ammonia Freshwater Criteria Total Ammonia Nitrogen (mg N/L)

pH	Trout Present	Trout Absent
6.5	32.6	48.8
6.6	31.3	46.8
6.7	29.8	44.6
6.8	28.1	42.0
6.9	26.2	39.1
7.0	24.1	36.1
7.1	22.0	32.8
7.2	19.7	29.5
7.3	17.5	26.2
7.4	15.4	23.0
7.5	13.3	19.9
7.6	11.4	17.0
7.7	9.65	14.4
7.8	8.11	12.1
7.9	6.77	10.1
8.0	5.62	8.40
8.1	4.64	6.95
8.2	3.83	5.72
8.3	3.15	4.71
8.4	2.59	3.88
8.5	2.14	3.20
8.6	1.77	2.65
8.7	1.47	2.20
8.8	1.23	1.84
8.9	1.04	1.56
9.0	0.885	1.32

The acute criteria for trout present shall apply to all Class V-Stockable Trout Waters and Class VI-Natural Trout Waters as listed in 9 VAC 25-260-390 through 9 VAC 25-260-540.

To calculate total ammonia nitrogen acute criteria values in freshwater at different pH values than those listed in this subsection, use the following formulas:

Where trout are present: Acute Criterion Concentration (mg N/L) = $\left[\frac{0.275}{(1 + 10^{7.204-pH})} + \frac{39.0}{(1 + 10^{pH-7.204})} \right]$

$$\left[\frac{0.275}{(1 + 10^{7.204-pH})} + \frac{39.0}{(1 + 10^{pH-7.204})} \right]$$

Or where trout are absent: Acute Criterion Concentration (mg N/L) = $\left[\frac{0.411}{(1 + 10^{7.204-pH})} + \frac{58.4}{(1 + 10^{pH-7.204})} \right]$

$$\left[\frac{0.411}{(1 + 10^{7.204-pH})} + \frac{58.4}{(1 + 10^{pH-7.204})} \right]$$

¹The default design flow for calculating steady state waste load allocations for the acute ammonia criterion is the 1Q10 (see 9 VAC 25-260-140 B footnote 10) unless statistically valid methods are employed which demonstrate compliance with the duration and return frequency of the water quality criteria.

B. The 30-day average concentration of total ammonia nitrogen (in mg N/L) where early life stages of fish are present in freshwater shall not exceed, more than once every three years on the average², the chronic criteria below:

Chronic Ammonia Freshwater Criteria Early Life Stages of Fish Present Total Ammonia Nitrogen (mg N/L)

pH	Temperature (. C)									
	0	14	16	18	20	22	24	26	28	30
6.5	6.67	6.67	6.06	5.33	4.68	4.12	3.62	3.18	2.80	2.46
6.6	6.57	6.57	5.97	5.25	4.61	4.05	3.56	3.13	2.75	2.42
6.7	6.44	6.44	5.86	5.15	4.52	3.98	3.50	3.07	2.70	2.37
6.8	6.29	6.29	5.72	5.03	4.42	3.89	3.42	3.00	2.64	2.32
6.9	6.12	6.12	5.56	4.89	4.30	3.78	3.32	2.92	2.57	2.25
7.0	5.91	5.91	5.37	4.72	4.15	3.65	3.21	2.82	2.48	2.18
7.1	5.67	5.67	5.15	4.53	3.98	3.50	3.08	2.70	2.38	2.09
7.2	5.39	5.39	4.90	4.31	3.78	3.33	2.92	2.57	2.26	1.99
7.3	5.08	5.08	4.61	4.06	3.57	3.13	2.76	2.42	2.13	1.87
7.4	4.73	4.73	4.30	3.78	3.32	2.92	2.57	2.26	1.98	1.74
7.5	4.36	4.36	3.97	3.49	3.06	2.69	2.37	2.08	1.83	1.61
7.6	3.98	3.98	3.61	3.18	2.79	2.45	2.16	1.90	1.67	1.47
7.7	3.58	3.58	3.25	2.86	2.51	2.21	1.94	1.71	1.50	1.32
7.8	3.18	3.18	2.89	2.54	2.23	1.96	1.73	1.52	1.33	1.17
7.9	2.80	2.80	2.54	2.24	1.96	1.73	1.52	1.33	1.17	1.03
8.0	2.43	2.43	2.21	1.94	1.71	1.50	1.32	1.16	1.02	0.897
8.1	2.10	2.10	1.91	1.68	1.47	1.29	1.14	1.00	0.879	0.773
8.2	1.79	1.79	1.63	1.43	1.26	1.11	0.973	0.855	0.752	0.661
8.3	1.52	1.52	1.39	1.22	1.07	0.941	0.827	0.727	0.639	0.562
8.4	1.29	1.29	1.17	1.03	0.906	0.796	0.700	0.615	0.541	0.475
8.5	1.09	1.09	0.990	0.870	0.765	0.672	0.591	0.520	0.457	0.401
8.6	0.920	0.920	0.836	0.735	0.646	0.568	0.499	0.439	0.386	0.339
8.7	0.778	0.778	0.707	0.622	0.547	0.480	0.422	0.371	0.326	0.287

8.8	0.661	0.661	0.601	0.528	0.464	0.408	0.359	0.315	0.277	0.244
8.9	0.565	0.565	0.513	0.451	0.397	0.349	0.306	0.269	0.237	0.208
9.0	0.486	0.486	0.442	0.389	0.342	0.300	0.264	0.232	0.204	0.179

To calculate total ammonia nitrogen chronic criteria values in freshwater when fish early life stages are present at different pH and temperature values than those listed in this subsection, use the following formulas:

$$\text{Chronic Criteria Concentration} = \left[\frac{0.0577}{(1 + 10^{7.688 - \text{pH}})} + \frac{2.487}{(1 + 10^{\text{pH} - 7.688})} \right] \times \text{MIN}$$

$$\left(\frac{0.0577}{(1 + 10^{7.688 - \text{pH}})} + \frac{2.487}{(1 + 10^{\text{pH} - 7.688})} \right) \times \text{MIN}$$

Where MIN = 2.85 or $1.45 \times 10^{0.028(25-T)}$, whichever is less.

[T = temperature in °C]

² The default design flow for calculating steady state waste load allocations for the chronic ammonia criterion where early life stages of fish are present is the 30Q10 (see 9 VAC 25-260-140 B footnote 10) unless statistically valid methods are employed which demonstrate compliance with the duration and return frequency of the water quality criteria.

C. The 30-day average concentration of total ammonia nitrogen (in mg N/L) where early life stages of fish are absent (procedures for making this determination are in subdivisions 1 through 4 of this subsection) in freshwater shall not exceed, more than once every three years on the average³, the chronic criteria below:

Chronic Ammonia Freshwater Criteria
Early Life Stages of Fish Absent
Total Ammonia Nitrogen (mg N/L)

pH	Temperature (. C)									
	0-7	8	9	10	11	12	13	14	15	16
6.5	10.8	10.1	9.51	8.92	8.36	7.84	7.35	6.89	6.46	6.06
6.6	10.7	9.99	9.37	8.79	8.24	7.72	7.24	6.79	6.36	5.97
6.7	10.5	9.81	9.20	8.62	8.08	7.58	7.11	6.66	6.25	5.86
6.8	10.2	9.58	8.98	8.42	7.90	7.40	6.94	6.51	6.10	5.72
6.9	9.93	9.31	8.73	8.19	7.68	7.20	6.75	6.33	5.93	5.56
7.0	9.60	9.00	8.43	7.91	7.41	6.95	6.52	6.11	5.73	5.37
7.1	9.20	8.63	8.09	7.58	7.11	6.67	6.25	5.86	5.49	5.15
7.2	8.75	8.20	7.69	7.21	6.76	6.34	5.94	5.57	5.22	4.90
7.3	8.24	7.73	7.25	6.79	6.37	5.97	5.60	5.25	4.92	4.61
7.4	7.69	7.21	6.76	6.33	5.94	5.57	5.22	4.89	4.59	4.30
7.5	7.09	6.64	6.23	5.84	5.48	5.13	4.81	4.51	4.23	3.97
7.6	6.46	6.05	5.67	5.32	4.99	4.68	4.38	4.11	3.85	3.61
7.7	5.81	5.45	5.11	4.79	4.49	4.21	3.95	3.70	3.47	3.25
7.8	5.17	4.84	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89
7.9	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89	2.71	2.54
8.0	3.95	3.70	3.47	3.26	3.05	2.86	2.68	2.52	2.36	2.21
8.1	3.41	3.19	2.99	2.81	2.63	2.47	2.31	2.17	2.03	1.91
8.2	2.91	2.73	2.56	2.40	2.25	2.11	1.98	1.85	1.74	1.63
8.3	2.47	2.32	2.18	2.04	1.91	1.79	1.68	1.58	1.48	1.39
8.4	2.09	1.96	1.84	1.73	1.62	1.52	1.42	1.33	1.25	1.17
8.5	1.77	1.66	1.55	1.46	1.37	1.28	1.20	1.13	1.06	0.990
8.6	1.49	1.40	1.31	1.23	1.15	1.08	1.01	0.951	0.892	0.836
8.7	1.26	1.18	1.11	1.04	0.976	0.915	0.858	0.805	0.754	0.707
8.8	1.07	1.01	0.944	0.885	0.829	0.778	0.729	0.684	0.641	0.601
8.9	0.917	0.860	0.806	0.756	0.709	0.664	0.623	0.584	0.548	0.513
9.0	0.790	0.740	0.694	0.651	0.610	0.572	0.536	0.503	0.471	0.442

At 15°C and above, the criterion for fish early life stages absent is the same as the criterion for fish early life stages present.

To calculate total ammonia nitrogen chronic criteria values in freshwater when fish early life stages are absent at different pH and temperature values than those listed in this subsection, use the following formulas:

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$$\text{Chronic Criteria Concentration} = \left[\frac{0.0577}{(1 + 10^{7.688 - \text{pH}})} + \frac{2.487}{(1 + 10^{7.688 - \text{pH}})} \right] \times 1.45(10^{0.028(25 - \text{MAX})})$$

MAX = temperature in °C or 7, whichever is greater.

³The default design flow for calculating steady state waste load allocations for the chronic ammonia criterion where early life stages of fish are absent is the 30Q10 (see 9 VAC 25-260-140 B footnote 10) unless statistically valid methods are employed that demonstrate compliance with the duration and return frequency of the water quality criteria.

1. Site-specific modifications to the ambient water quality criteria for ammonia to account for the absence of early life stages of fish shall be conducted in accordance with the procedures contained in this subdivision. Because the department presumes that most state waterbodies have early life stages of fish present during most times of the year, the criteria shall be calculated assuming early life stages of fish are present using subsection B of this section unless the following demonstration that early life stages are absent is successfully completed. Early life stages of fish are defined in subdivision 2 of this subsection. Modifications to the ambient water quality criteria for ammonia based on the presence or absence of early life stages of fish shall only apply at temperatures below 15°C.

a. During the review of any new or existing activity that has a potential to discharge ammonia in amounts that may cause or contribute to a violation of the ammonia criteria contained in subsection B of this section, the department may examine data from the following approved sources in subdivisions 1 a (1) through (5) of this subsection or may require the gathering of data in accordance with subdivisions 1 a (1) through (5) on the presence or absence of early life stages of fish in the affected waterbody.

(1) Species and distribution data contained in the Virginia Department of Game and Inland Fisheries Wildlife Information System database.

(2) Species and distribution data contained in *Freshwater Fishes of Virginia, 1994*.

(3) Data and fish species distribution maps contained in *Handbook for Fishery Biology, Volume 3, 1997*.

(4) Field data collected in accordance with U.S. EPA's *Rapid Bioassessment Protocols for Use in Streams and Wadeable Rivers, Second Edition, EPA 841-B-99-002*. Field data must comply with all quality assurance/quality control criteria.

(5) *The American Society for Testing and Materials (ASTM) Standard E-1241-88, Standard Guide for Conducting Early Life-Stage Toxicity Tests with Fishes*.

b. If data or information from sources other than subdivisions 1 a (1) through (5) of this subsection are considered, then any resulting site-specific criteria modifications shall be reviewed and adopted in

accordance with the site-specific criteria provisions in 9 VAC 25-260-140 D, and submitted to EPA for review and approval.

c. If the department determines that the data and information obtained from subdivisions 1 a (1) through (5) of this subsection demonstrate that there are periods of each year when no early life stages are expected to be present for any species of fish that occur at the site, the department shall issue a notice to the public and make available for public comment the supporting data and analysis along with the department's preliminary decision to authorize the site-specific modification to the ammonia criteria. Such information shall include, at a minimum:

(1) Sources of data and information.

(2) List of fish species that occur at the site as defined by subdivision 3 of this subsection.

(3) Definition of the site. Definition of a "site" can vary in geographic size from a stream segment to a watershed to an entire eco-region.

(4) Duration of early life stage for each species in subdivision 1 c (2) of this subsection.

(5) Dates when early life stages of fish are expected to be present for each species in subdivision 1 c (2) of this subsection.

(6) Based on subdivision 1 c (5) of this subsection, identify the dates (beginning date, ending date), if any, where no early life stages are expected to be present for any of the species identified in subdivision 1 c (2) of this subsection.

d. If, after reviewing the public comments received in subdivision 1 c of this subsection and supporting data and information, the department determines that there are times of the year where no early life stages are expected to be present for any fish species that occur at the site, then the applicable ambient water quality criteria for ammonia for those time periods shall be calculated using the table in this subsection, or the formula for calculating the chronic criterion concentration for ammonia when fish early life stages are absent.

e. The department shall maintain a comprehensive list of all sites where the department has determined that early life stages of fish are absent. For each site the list will identify the waterbodies affected and the corresponding times of the year that early life stages are absent. This list is available either upon request from the Office of Water Quality Programs at 629 E. Main Street, Richmond, VA 23219 or from the department website <http://deq.state.va.us/wqs/>.

2. The duration of the "early life stages" extends from the beginning of spawning through the end of the early life stages. The early life stages include the pre-hatch embryonic period, the post-hatch free embryo or yolk-sac fry, and the larval period, during which the organism feeds. Juvenile fish, which are anatomically similar to adults, are not considered an early life stage. The duration of early life stages can vary according to fish species. The department

considers the sources of information in subdivisions 1 a (1) through (5) of this subsection to be the only acceptable sources of information for determining the duration of early life stages of fish under this procedure.

3. "Occur at the site" includes the species, genera, families, orders, classes, and phyla that: are usually present at the site; are present at the site only seasonally due to migration; are present intermittently because they periodically return to or extend their ranges into the site; were present at the site in the past or are present in nearby bodies of water, but are not currently present at the site due to degraded conditions, and are expected to return to the site when conditions improve. "Occur at the site" does not include taxa that were once present at the site but cannot

exist at the site now due to permanent physical alteration of the habitat at the site.

4. Any modifications to ambient water quality criteria for ammonia in subdivision 1 of this subsection shall not likely jeopardize the continued existence of any [~~federally~~ federal or state] listed, threatened or endangered species or result in the destruction or adverse modification of such species' critical habitat.

D. The one-hour average concentration of total ammonia nitrogen (in mg N/L) in saltwater shall not exceed, more than once every three years on the average, the acute criteria below:

Acute Ammonia Saltwater Criteria

Total Ammonia Nitrogen (mg N/L)

Salinity = 10 g/kg

pH	Temperature . C							
	0	5	10	15	20	25	30	35
7.00	231.9	159.8	110.1	75.88	52.31	36.08	24.91	17.21
7.20	146.4	100.9	69.54	47.95	33.08	22.84	15.79	10.93
7.40	92.45	63.73	43.94	30.32	20.94	14.48	10.03	6.97
7.60	58.40	40.28	27.80	19.20	13.28	9.21	6.40	4.47
7.80	36.92	25.48	17.61	12.19	8.45	5.88	4.11	2.89
8.00	23.37	16.15	11.18	7.76	5.40	3.78	2.66	1.89
8.20	14.81	10.26	7.13	4.97	3.48	2.46	1.75	1.27
8.40	9.42	6.54	4.57	3.20	2.27	1.62	1.18	0.87
8.60	6.01	4.20	2.95	2.09	1.50	1.09	0.81	0.62
8.80	3.86	2.72	1.93	1.39	1.02	0.76	0.58	0.46
9.00	2.51	1.79	1.29	0.95	0.71	0.55	0.44	0.36

Salinity = 20 g/kg

pH	Temperature . C							
	0	5	10	15	20	25	30	35
7.00	247.6	170.5	117.5	80.98	55.83	38.51	26.58	18.36
7.20	156.3	107.7	74.21	51.17	35.30	24.37	16.84	11.66
7.40	98.67	68.01	46.90	32.35	22.34	15.44	10.70	7.43
7.60	62.33	42.98	29.66	20.48	14.17	9.82	6.82	4.76
7.80	39.40	27.19	18.78	13.00	9.01	6.26	4.37	3.07
8.00	24.93	17.23	11.92	8.27	5.76	4.02	2.83	2.01
8.20	15.80	10.94	7.59	5.29	3.70	2.61	1.86	1.34
8.40	10.04	6.97	4.86	3.41	2.41	1.72	1.24	0.91
8.60	6.41	4.47	3.14	2.22	1.59	1.15	0.85	0.65
8.80	4.11	2.89	2.05	1.47	1.07	0.80	0.61	0.48
9.00	2.67	1.90	1.36	1.00	0.75	0.57	0.46	0.37

Salinity = 30 g/kg

pH	Temperature . C							
	0	5	10	15	20	25	30	35
7.00	264.6	182.3	125.6	86.55	59.66	41.15	28.39	19.61
7.20	167.0	115.1	79.31	54.68	37.71	26.03	17.99	12.45
7.40	105.5	72.68	50.11	34.57	23.87	16.50	11.42	7.92
7.60	66.61	45.93	31.69	21.88	15.13	10.48	7.28	5.07
7.80	42.10	29.05	20.07	13.88	9.62	6.68	4.66	3.27
8.00	26.63	18.40	12.73	8.83	6.14	4.29	3.01	2.13

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8.20	16.88	11.68	8.10	5.64	3.94	2.78	1.97	1.42
8.40	10.72	7.44	5.18	3.63	2.56	1.82	1.31	0.96
8.60	6.83	4.77	3.34	2.36	1.69	1.22	0.90	0.68
8.80	4.38	3.08	2.18	1.56	1.13	0.84	0.64	0.50
9.00	2.84	2.01	1.45	1.06	0.79	0.60	0.47	0.39

To calculate total ammonia nitrogen acute criteria values in saltwater at different pH and temperature values than those listed in this subsection, use the following formulas:

$$pK_a^S_T = pK_a^S_{298} + .0324(298 - T \text{ Kelvin})$$

$$[T \text{ Kelvin} = \text{C} + 273.15]$$

The unionized ammonia fraction (UIA) is given by:

$$I = [19.0273S / (1000 - 1.005109S)]$$

$$UIA = \frac{1}{1 + 10^{(pK_a^S_T - pH)}}$$

$$\frac{19.0273S}{(1000 - 1.005109S)}$$

Where I = molal ionic strength of water

The acute ammonia criterion in saltwater is given by:

$$S = \text{Salinity ppt (g/kg)}$$

$$\text{Acute} = \frac{.233}{UIA}$$

The regression model used to relate I to pKa (negative log of the ionization constant) is

Multiply the [above acute] value by .822 to get the ammonia-N acute criterion.

$$pK_a = 9.245 + .138I$$

pKa as defined by these equations is at 298 degrees Kelvin (25 C). [T Kelvin = C + 273]

E. The 30-day average concentration of total ammonia nitrogen (in mg N/L) in saltwater shall not exceed, more than once every three years on the average, the chronic criteria below:

To correct for other temperatures:

Chronic Ammonia Saltwater Criteria Total Ammonia Nitrogen (mg N/L)

Salinity = 10 g/kg

pH	Temperature . C							
	0	5	10	15	20	25	30	35
7.00	34.84	24.00	16.54	11.40	7.86	5.42	3.74	2.59
7.20	21.99	15.15	10.45	7.20	4.97	3.43	2.37	1.64
7.40	13.89	9.57	6.60	4.55	3.15	2.18	1.51	1.05
7.60	8.77	6.05	4.18	2.88	2.00	1.38	0.96	0.67
7.80	5.55	3.83	2.65	1.83	1.27	0.88	0.62	0.43
8.00	3.51	2.43	1.68	1.17	0.81	0.57	0.40	0.28
8.20	2.23	1.54	1.07	0.75	0.52	0.37	0.26	0.19
8.40	1.41	0.98	0.69	0.48	0.34	0.24	0.18	0.13
8.60	0.90	0.63	0.44	0.31	0.23	0.16	0.12	0.09
8.80	0.58	0.41	0.29	0.21	0.15	0.11	0.09	0.07
9.00	0.38	0.27	0.19	0.14	0.11	0.08	0.07	0.05

Salinity = 20 g/kg

pH	Temperature . C							
	0	5	10	15	20	25	30	35
7.00	37.19	25.62	17.65	12.16	8.39	5.78	3.99	2.76
7.20	23.47	16.17	11.15	7.69	5.30	3.66	2.53	1.75
7.40	14.82	10.22	7.04	4.86	3.36	2.32	1.61	1.12
7.60	9.36	6.46	4.46	3.08	2.13	1.47	1.02	0.71
7.80	5.92	4.08	2.82	1.95	1.35	0.94	0.66	0.46
8.00	3.74	2.59	1.79	1.24	0.86	0.60	0.43	0.30
8.20	2.37	1.64	1.14	0.79	0.56	0.39	0.28	0.20
8.40	1.51	1.05	0.73	0.51	0.36	0.26	0.19	0.14
8.60	0.96	0.67	0.47	0.33	0.24	0.17	0.13	0.10
8.80	0.62	0.43	0.31	0.22	0.16	0.12	0.09	0.07
9.00	0.40	0.28	0.20	0.15	0.11	0.09	0.07	0.06

Salinity = 30 g/kg

pH	Temperature, C							
	0	5	10	15	20	25	30	35
7.00	39.75	27.38	18.87	13.00	8.96	6.18	4.27	2.95
7.20	25.09	17.29	11.91	8.21	5.67	3.91	2.70	1.87
7.40	15.84	10.92	7.53	5.19	3.59	2.48	1.72	1.19
7.60	10.01	6.90	4.76	3.29	2.27	1.57	1.09	0.76
7.80	6.32	4.36	3.01	2.08	1.44	1.00	0.70	0.49
8.00	4.00	2.76	1.91	1.33	0.92	0.64	0.45	0.32
8.20	2.53	1.75	1.22	0.85	0.59	0.42	0.30	0.21
8.40	1.61	1.12	0.78	0.55	0.38	0.27	0.20	0.14
8.60	1.03	0.72	0.50	0.35	0.25	0.18	0.14	0.10
8.80	0.66	0.46	0.33	0.23	0.17	0.13	0.10	0.08
9.00	0.43	0.30	0.22	0.16	0.12	0.09	0.07	0.06

To calculate total ammonia nitrogen [~~acute~~ chronic] criteria values in saltwater at different pH and temperature values than those listed in this subsection, use the following formulas:

$$I = [19.0273S / (1000 - 1.005109S)]$$

Where I = molal ionic strength of water

S = Salinity ppt (g/kg)

The regression model used to relate I to pKa (negative log of the ionization constant) is

$$pKa = 9.245 + .138I$$

pKa as defined by these equations is at 298 degrees Kelvin (25 C). [T, Kelvin = C + 273]

To correct for other temperatures:

$$pKa^S_T = pKa^S_{298} + .0324(298 - T, Kelvin)$$

$$[T, Kelvin = C + 273.15]$$

The unionized ammonia fraction (UIA) is given by:

$$UIA = \frac{1}{1 + 10^{(pKa^S_T - pH)}}$$

The chronic ammonia criterion in saltwater is given by:

$$Chronic = \frac{.035}{UIA}$$

Multiply the [~~above~~ chronic] value by .822 to get the ammonia-N chronic criterion.

VA.R. Doc. No. R01-13; Filed July 24, 2002, 11:01 a.m.

TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 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: 10 VAC 5-200. Payday Lending (adding 10 VAC 5-200-10 through [~~40 VAC 5-200-60~~ 10 VAC 5-200-80]).

Statutory Authority: §§ 6.1-458 and 12.1-13 of the Code of Virginia.

Effective Date: July 22, 2002.

Summary:

The State Corporation Commission is adopting regulations that implement the provisions of the Payday Loan Act (§ 6.1-444 et seq.) of the Code of Virginia. Changes to the proposed regulations include a restriction on the number of times a lender can deposit a borrower's check or otherwise present it for payment, as well a prohibition on a lender accepting an allotment of military pay or other authorization of electronic funds transfer as security for repayment. The modified regulations also clarify the timing for providing the printed notice to prospective borrowers, set forth the contents of a lender's posting of fees and charges, contain provisions addressing partial payments, add a definition of "business day," and contain other changes proposed by commentors.

Agency Contact: Susan Hancock, Deputy Commissioner, Bureau of Financial Institutions, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9701, FAX (804) 371-9416, toll free 1-800-552-7945 or e-mail shancock@scc.state.va.us.

Final Regulations

AT RICHMOND, JULY 18, 2002

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2002-00012

Ex Parte: In re: proposed
payday lending regulations

ORDER ADOPTING A REGULATION

By Order entered herein on May 28, 2002, the State Corporation Commission ("Commission") directed that notice be given of its proposal, acting pursuant to § 6.1-458 of the Code of Virginia, to promulgate regulations to effect the purposes of the Payday Loan Act, § 6.1-444 et seq. of the Code of Virginia. Notice of the proposed regulations was published in the Virginia Register on June 17, 2002, and the proposed regulations were posted on the Commission's website. Interested parties were afforded the opportunity to request a hearing or to file written comments in favor of or against the proposal on or before June 20, 2002. The Commission received written comments, and a hearing was held on June 26, 2002.

The Commission, having considered the record, the proposed regulations, the written comments filed, and the testimony of interested parties concludes (1) that the proposed regulations should be modified in certain respects and that the modified regulations should be adopted, and (2) that a further amendment to the payday lending regulations relating to annual reports should be published for comment.

THEREFORE, IT IS ORDERED THAT:

- (1) Modified proposed 10 VAC 5-200-10 et seq. attached hereto is adopted effective July 22, 2002.
- (2) The modified regulations shall be posted on the Commission's website at <http://www.state.va.us/scc/caseinfo/orders.htm>.
- (3) An attested copy hereof, together with a copy of the modified regulations, shall be sent to the Registrar of Regulations for publication in the Virginia Register.
- (4) This case is continued generally on the Commission's docket.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Reginald N. Jones, Williams, Mullen, Clark & Dobbins, 1021 East Cary Street, P.O. Box 1320, Richmond, Virginia 23218-1320; James W. Speer, Virginia Poverty Law Center, 201 West Broad Street, Suite 302, Richmond, Virginia 23220; David B. Irvin, Office of Attorney General, 900 East Main Street, Richmond, Virginia 23219; Commander Janet R. Donovan, Assistant Staff Judge Advocate, Staff Judge Advocate's Office, 6506 Hampton Boulevard, Norfolk, Virginia 23508-1273; Robert M. Buell, Bowman and Brooke LLP, 901 East Byrd Street, Suite 1500, Richmond, Virginia 23219; and to the Commissioner of Financial Institutions.

CHAPTER 200. PAYDAY LENDING.

10 VAC 5-200-10. Definitions.

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

"Act" means the Payday Loan Act (§ 6.1-444 et seq. of the Code of Virginia).

"Bureau" means the Bureau of Financial Institutions.

["Business day" for purposes of clause 1 (vi) of § 6.1-459 of the Code of Virginia means a day on which the licensee's office is open for business as posted as required by subsection A of 10 VAC 5-200-70.]

"Commission" means the State Corporation Commission.

"Duplicate original" for purposes of subdivision 2 of § 6.1-459 of the Code of Virginia and this chapter means an exact copy with signatures created by the same impression as the original, or an exact copy bearing an original signature.

"Good funds instrument" for purposes of clause 1(vi) of § 6.1-459 of the Code of Virginia and this chapter means a certified check, cashier's check, money order [,] or [, if the licensee is equipped to handle such payments,] payment effected by use of a debit or credit card.

"Liquid assets" for purposes of the Act and this chapter means cash on hand and in depository institutions, money market funds, commercial paper, and treasury bills.

"Small," as used in the definition of "payday loan" in § 6.1-444 of the Code of Virginia, means \$2,500 or less.

B. Other terms used in this chapter shall have the meaning set forth in § 6.1-444 of the Act.

10 VAC 5-200-20. Requirements for licensees; operating rules.

A. A licensee shall maintain unencumbered liquid assets per place of business in Virginia of at least \$25,000 at all times. The bureau may require submission of proof of maintenance of such liquid assets at any time.

B. Any person submitting an application to acquire, directly or indirectly, 25% or more of the voting shares of a corporation or 25% or more of the ownership of any other person licensed to conduct business under the Act shall pay a nonrefundable application fee of \$500.

C. Each original license shall be prominently posted in each place of business of the licensee. In order for a licensee to receive a replacement or reissued license, a licensee shall pay a fee of \$50 per place of business to the commission. Licenses will only be replaced or reissued if the licensee is in compliance with all laws and regulations applicable to the conduct of the licensee's business.

D. If a person has filed a bond with the bureau, as required by § 6.1-448 of the Code of Virginia, such bond shall be retained by the bureau notwithstanding the occurrence of any of the following events:

1. The person's license is surrendered, suspended [,] or revoked; or

2. The person ceases engaging in business as a payday lender.

E. Upon becoming licensed, a licensee shall give written notice to the bureau of its commencement of business within 10 days thereafter.

10 VAC 5-200-30. Notice and payday lending pamphlet.

A. Before entering into a payday loan transaction, a licensee shall provide each prospective borrower with a pamphlet which explains the borrower's rights and responsibilities. This pamphlet shall use the exact language appearing in the "Payday Lending Pamphlet" set forth in [~~40 VAC 5-200-60~~ 10 VAC 5-200-80]. The form shall be printed or typed without alteration separate from all other papers or documents obtained by the licensee in type of size not less than that known as [~~10~~ 12] point. The title of the pamphlet ("Payday Lending in the Commonwealth of Virginia [, -] Borrower Rights and Responsibilities") and the headings for the individual sections of the pamphlet (e.g., "In General," "Notice from Lender," "Limitations on Security Interest," etc.) shall be in bold-face print or type.

B. Prior to [~~disbursing loan funds to a borrower~~ furnishing a prospective borrower with a loan application or receiving any information relating to loan qualification], a licensee shall provide each [prospective] borrower with a printed notice which states the following: "WARNING: A payday loan is not intended to meet long-term financial needs. It is recommended that you use a payday loan only to meet occasional or unusual short-term cash needs."

1. The notice and acknowledgement shall be printed or typed on 8-1/2 x 11 paper without alteration, be separate from all other papers or documents obtained by the licensee, and be in type not less than that known as 24 point. The notice must also contain an acknowledgement stating the following: "I acknowledge that I have received a copy of this notice and the pamphlet entitled "Payday Lending in the Commonwealth of Virginia - Borrower Rights and Responsibilities."

2. The notice must be signed and dated by each [prospective] borrower. A duplicate original of the acknowledged notice shall be kept in the separate loan file maintained with respect to the loan for the period specified in § 6.1-453 of the Code of Virginia.

10 VAC 5-200-40. Borrower prepayment.

A. In order to prepay a payday loan [in full], a borrower shall only be required to pay the principal amount advanced as well as any accrued and unpaid fees. [A borrower shall be permitted to make partial payments, in increments of not less than \$5.00, on the loan at any time without charge. The licensee shall give the borrower signed, dated receipts for each payment made, which shall state the balance due on the loan.]

B. For purposes of the Act and this chapter, interest and fees will be deemed "accrued" on a straight line basis over the term of a payday loan.

[~~Accordingly,~~ a 1. A] borrower choosing to prepay his payday loan [in full] shall only be responsible for the pro-rata portion of the total interest and fees based upon the number of days which have elapsed between the loan disbursement date and the date of repayment. (For example, if a \$400 loan with fees of \$60 and a term of 10 days is prepaid [in full] after five days, the borrower shall only be required to pay in cash or good funds instrument \$430 (\$400 + \$30) to the licensee.)

[2. A borrower choosing to make partial payments shall only be responsible for the pro-rata portion of the total interest and fees based upon the timing and amount of such partial payments. (For example, given a \$500 loan with fees of \$75 and a term of 10 days, a borrower making a partial payment of \$200 after five days shall only be required to pay a total of \$562.81 to the licensee (\$500 principal + \$62.81 interest (\$500 for five days = \$37.50, plus \$337.50 for five days = \$25.31)). In this example, \$37.50 of the borrower's \$200 partial payment would be applied toward interest and the remaining \$162.50 would be applied toward principal, thereby resulting in an outstanding balance of \$337.50 until maturity.)]

10 VAC 5-200-50. Responding to requests from the Bureau of Financial Institutions.

A. When the bureau requests a written response, books, records, documentation, or other information from a licensee in connection with the bureau's investigation, enforcement, or examination of compliance with applicable laws, the licensee shall deliver a written response as well as any requested books, records, documentation, or information within the time period specified in the bureau's request. If no time period is specified, a written response as well as any requested books, records, documentation, or information shall be delivered by the licensee to the bureau not later than 30 days from the date of such request. In determining the specified time period for responding to the bureau and when considering a request for an extension of time to respond, the bureau shall take into consideration the volume and complexity of the requested written response, books, records, documentation, or information, and such other factors as the bureau determines to be relevant under the circumstances.

B. Requests made by the bureau pursuant to subsection A are deemed to be in furtherance of the bureau's investigation and examination authority provided for in § 6.1-456 of the Code of Virginia. Failure to comply with subsection A may result in fines, license suspension, or license revocation.

[**10 VAC 5-200-60. Posting of charges.**

A. A licensee shall conspicuously post in its licensed location a schedule of fees and interest charges, with examples using a \$300 loan payable in seven days, 14 days, and 30 days.

B. A licensee shall display its fees and interest charges not only as a dollar amount, but also as an Annual Percentage Rate, which shall be stated using this term, calculated in accordance with Federal Reserve Board Regulation Z (12 CFR 226.1 et seq.).

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10 VAC 5-200-70. Additional business requirements and restrictions.

A. A licensee shall conspicuously post in its licensed locations the days and hours during which it is open for business.

B. A licensee shall not deposit or otherwise present for payment more than two times any check given by a borrower as security for a loan, and in no event shall a licensee recover from a borrower more than a total of \$25 attributable to returned check fees incurred by the licensee with respect to a single check.

C. A licensee shall not accept or require an allotment of military pay or any authorization of electronic funds transfer as security for repayment of a loan.

D. A licensee shall maintain in its licensed offices such books, accounts, and records as the Commissioner of Financial Institutions may reasonably require in order to determine whether such licensee is complying with the provisions of the Act and all rules and regulations adopted in furtherance thereof. Such books, accounts, and records shall be maintained apart and separate from those relating to any other business in which the licensee is involved. Such records relating to loans shall be retained for at least three years after final payment is made on any loan.

E. A licensee shall report, in accordance with § 6.1-455 of the Code of Virginia, the institution of an action against the licensee under the Virginia Consumer Protection Act (§ 59.1-196 et seq. of the Code of Virginia) by the Attorney General or any other governmental authority.

F. A licensee shall endeavor to provide the loan documents, printed notice, and pamphlet required by 10 VAC 5-200-30, in a language other than English when a prospective borrower is unable to read the materials printed in English.]

[~~10 VAC 5-200-60~~ 10 VAC 5-200-80]. Payday lending pamphlet text.

The required text of the payday lending pamphlet referred to in 10 VAC 5-200-30 is as follows:

PAYDAY LENDING IN THE COMMONWEALTH OF VIRGINIA

BORROWER RIGHTS AND RESPONSIBILITIES

Please take the time to carefully review the information contained in this pamphlet. It is designed to advise you of your [~~right~~ rights] and responsibilities in connection with obtaining a payday loan in Virginia under the Payday Loan Act, [§§ §] 6.1-444 et seq. of the Code of Virginia. If you have any questions about payday lending or want additional information, you may contact the Virginia State Corporation Commission's Bureau of Financial Institutions toll-free at (800) 552-7945 or on the internet at <http://www.state.va.us/scc/division/banking>. The Bureau of Financial Institutions has available a "Consumer Guide to Payday Lending" that may be viewed at this website or obtained by calling the toll-free telephone number listed above.

In General: You are responsible for evaluating whether a payday loan is right for you. Alternatives may [~~includes~~

include among other things] less expensive short-term financing from another financial institution, family, or friends, a cash advance on a credit card, an account with overdraft protection, or a loan repayable over several months.

Notice from Lender: The lender is required to provide you with a clear and conspicuous printed notice advising you that a payday loan is not intended to meet long-term financial needs and that you should use a payday loan only to meet occasional or unusual short-term cash needs.

Limitations on Security Interest: The lender cannot require you to provide more than one check as security for any payday loan. The check cannot be post-dated. The lender cannot require you to provide any security for your payday loan other than a check payable to the lender.

\$500 [~~Maximum~~7 Maximum/Seven-] Day Minimum Term: The lender cannot [~~lend~~ have loans (either single or in the aggregate) outstanding to] you [at any one time in the principal amount of] more than \$500. By law, the specified due date of your loan must be at least seven days after the date that money is advanced to you.

Fees, Charges, and Interest: The lender is permitted to charge you interest in the form of a fee not exceeding 15% of the amount of money advanced to you (i.e., \$15 per \$100 advanced). For example, if the lender advances you [~~\$500 (the maximum amount allowed)~~ \$300 for seven days], the lender may charge you up to [~~\$75~~ \$45] as a fee for obtaining the loan [(an Annual Percentage Rate of 782%). If the lender advances you \$300 for 14 days, the lender may charge you up to the same \$45 fee for obtaining the loan (an Annual Percentage Rate of 391%). If the lender advances you \$300 for 30 days, the lender may charge you up to the same \$45 fee for obtaining the loan (an Annual Percentage Rate of 183%). [~~No~~ Other than the specific fees and costs discussed in the section of this pamphlet entitled "Failure to Repay" (see below), no] additional amounts may be directly or indirectly charged, contracted for, collected, received, or recovered [by the lender].

You will receive your loan proceeds in the form of either cash or a check from the lender. The lender cannot charge you a fee for cashing their check. Similarly, a check casher affiliated with the lender cannot charge you a fee for cashing the lender's check.

Written Agreement: The lender must provide you with a written loan agreement, which must be signed by both you and an authorized representative of the lender. The loan agreement is a binding, legal document which requires you to repay the loan. Make sure you read the entire loan agreement carefully before signing and dating it. The lender must provide you with a duplicate original of the loan agreement at the time of your loan transaction.

[**Other Businesses:** A lender is prohibited by statute from engaging in other businesses, besides check cashing, unless permitted by order of the State Corporation Commission. A lender is also prohibited by statute from selling you any type of insurance coverage.]

[**Cannot Purchase Loans for**] **Other Products & Services:** You are prohibited from using any of the money from your

payday loan to purchase any other product or service sold at the lender's business location.

Right to Cancel: You have the right to cancel your loan at any time prior to the close of business on the next [~~business~~] day [the lender is open] following the date your loan is made by paying the lender the amount advanced to you in cash, certified check, cashier's check, [~~or~~] money order [;] or [, if the lender is equipped to handle such payments,] by using a credit or debit card. [~~For example, if you obtain a loan on a Friday, you have until the close of business on the following Monday to cancel your loan (assuming that neither Friday nor Monday are federal holidays).~~]

Partial Payments and Prepayments: You have the right to make partial payments (in increments of not less than \$5.00) on your payday loan at any time without charge. [If you make a partial payment, the total interest you pay will be reduced.] You have the right to receive signed, dated receipts for each payment made along with a statement of the balance remaining on your payday loan. You also have the right to prepay your loan in full before its specified due date without penalty by paying the lender in cash, certified check, cashier's check, [~~or~~] money order [;] or [, if the lender is equipped to handle such payments,] by use of a credit or debit card, the amount of money advanced to you as well as any accrued and unpaid fees.

No Rollovers, Extensions, Etc.: The lender cannot refinance, renew, extend, or rollover your payday loan.

Failure to Repay: Pay back your loan! Know when your payment is due and be sure to repay your loan on time and in full. You are responsible for having sufficient funds in your checking account on the due date of your loan so that your check does not bounce if the lender deposits it in his account. If you do not repay your loan by the specified due date, the lender may begin accruing interest [on the unpaid balance] at a maximum rate of 6% per year.

The lender is prohibited from threatening or beginning criminal proceedings against you if a check you provide to the lender bounces.

If you cannot or do not repay the loan: (i) the lender is permitted to recover from you any fee charged to the lender (maximum of \$25) as a result of your check being returned due to your account being closed by you or containing insufficient funds, or if you stopped payment on your check; and (ii) if the lender seeks and obtains judgment against you as a result of your returned check, the lender may obtain court costs and reasonable attorney's fees (total may not exceed \$250) if such costs and fees are awarded by the court.

Legal Action Against Lender: You have the right to [~~sue~~ bring a civil action against] the lender if you suffer a loss as a result of the lender violating any provision of the Payday Loan Act. If you are successful in your [~~lawsuit~~ civil action], you have the right to be reimbursed for reasonable attorney's fees, expert witness fees, and court costs you have [~~paid~~ incurred] in connection with [~~the lawsuit~~ your civil action]. Losses suffered as the result of the lender's violation of the Payday Loan Act may also be pursued under the Virginia Consumer Protection Act ([~~§ 59-196~~ 59.1-196] et seq. of the Code of

Virginia) [, which in some cases permits consumers to recover actual and punitive damages].

Complaints and Contacting the Bureau of Financial Institutions: For assistance with any complaints you may have against a payday lender, please contact the Bureau of Financial Institutions [~~toll-free~~ toll free] at (800) 552-7945 or on the Internet at <http://www.state.va.us/scc/division/banking>.

VA.R. Doc. No. R02-190; Filed July 19, 2002, 2:23 p.m.



EMERGENCY REGULATIONS

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Title of Regulation: 4 VAC 20-752. Pertaining to Blue Crab Sanctuaries (amending 4 VAC 20-752-20).

Statutory Authority: §§ 28.2-201 and 28.2-210 of the Code of Virginia.

Effective Dates: July 15, 2002, through August 14, 2002.

Summary:

The emergency amendment modifies specific coordinates pertaining to the borders of the Virginia Blue Crab Sanctuary for clarification purposes.

Agency Contact: Deborah R. Cawthon, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, Third Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002 or e-mail dcawthon@mrc.state.va.us.

4 VAC 20-752-20. Definitions.

"Hampton Roads Blue Crab Sanctuary" means that area consisting of all tidal waters inshore and upstream of a line formed by the extreme south and north ends of the westbound span of the Hampton Roads Bridge Tunnel.

"Virginia Blue Crab Sanctuary" means two distinct sanctuary areas, with one area consisting of all tidal waters that are bounded by a line beginning at a point, near the western shore of Fisherman's Island, being on a line from the Cape Charles Lighthouse to the Thimble Shoal Light, having NAD83 geographic coordinates of 37. 05' 58.00" N, 75. 58' 45.95" W; thence southwesterly to Thimble Shoal Light, 37. 00' 52.19" N, 76. 14' 24.63" W; thence southwesterly to the offshore end of Harrison's Fishing Pier, 36. 57' 44.98" N, 76. 15' 31.76" W; thence north to Flashing Green Buoy "9" on the York River Entrance Channel, 37. 11' 30.99" N, 76. 15' 16.85" W; thence northeasterly to Wolf Trap Light, 37. 23' 27.15" N, 76. 11' 46.01" W; thence northwesterly to a point, northeast of Windmill Point, 37. 38' 23.13" N, 76. 15' 59.54" W; thence north to Flashing Red Light "2", east of Smith Point, 37° 53' 20.25" N, 76° 13' 48.61" W northerly to a point due east of Great Wicomico Light at 37. 48' 15.72" N, 76. 14' 33.15" W; thence northeasterly to a point, 37. 49' 18.10" N, 76. 13' 06.00" W; thence northerly to a point on the Virginia-Maryland state line, 37. 54' 04.00" N, 76. 11' 49.15" W; thence northeasterly to a point on the Virginia-Maryland state line, 37. 55' 44.82" N, 76. 07' 13.41" W; thence southeasterly to a point, southwest of Tangier Island, 37. 44' 59.85" N, 76. 01' 34.31" W; thence southeasterly to a point, southeast of Tangier Island, 37. 43' 41.05" N, 76. 57' 51.84" W; thence northeasterly to a point, south of Watts Island, 37. 45' 36.95" N, 75. 52' 53.87" W; thence southeasterly to a point, 37. 44' 56.15" N, 75. 51' 33.18" W; thence southwesterly to a point, west of Parkers Marsh, 37. 42' 41.49" N, 75. 55' 06.31" W; thence southwesterly to a point, west of Cape Charles Harbor,

37. 15' 37.23" N, 76. 04' 13.79" W; thence southeasterly to a point near the western shore of Fisherman's Island, on the line from Cape Charles Lighthouse to Thimble Shoal Light, said point being the point of beginning, and a second area consisting of all tidal waters that are bounded by a line beginning at Cape Charles Lighthouse, having NAD83 geographic coordinates of 37. 07' 31.63" N, 75. 53' 58.36" W; thence southwesterly to Cape Henry Lighthouse, 36. 55' 42.02" N, 76. 00' 18.44" W; thence southeasterly to a point, 36. 54' 42.39" N, 75. 56' 44.23" W; thence northeasterly to a point, east of Cape Charles Lighthouse 37. 06' 45" N, 75. 52' 05" W; thence westerly to the Cape Charles Lighthouse, said point being the point of beginning.

VA.R. Doc. No. R02-263; Filed July 15, 2002, 4:21 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF DENTISTRY

Title of Regulation: 18 VAC 60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene (amending 18 VAC 60-20-10, 18 VAC 60-20-200, 18 VAC 60-20-210, and 18 VAC 60-20-220).

Statutory Authority: §§ 54.1-2400 and 54.1-2722 of the Code of Virginia.

Effective Dates: July 19, 2002, through July 18, 2003.

Preamble:

Chapter 170 of the 2002 Acts of Assembly mandates that the board promulgate regulations to implement provisions of the act permitting certain practices of a dental hygienist to be performed under general supervision. The enactment clause on the bill required the board to adopt regulations within 280 days, which authorizes the adoption of emergency regulations, and it is the board's intent to replace those regulations with permanent regulations.

Substance: Chapter 170 of the 2002 Acts of Assembly provides for practice by dental hygienists under general supervision by a dentist. Amendments to implement the provisions of Chapter 170 are outlined as follows:

18 VAC 60-20-10. Definitions. To clarify the use of the term "general supervision," the board has added a definition that is consistent with the meaning attributed in § 54.1-2722 of the Code of Virginia. "General supervision" is defined as meaning that the dentist has evaluated the patient and prescribed authorized services to be provided by a dental hygienist without the requirement for the dentist to be present in the facility while the authorized services are being provided.

18 VAC 60-20-200. Employment of dental hygienists. The current regulation restricts to two the number of hygienists that a dentist can personally direct at one and the same time. To allow for expansion of dental services by hygienists working under general supervision, the amended regulation allows the

dentist to have an additional two dental hygienists working under general supervision at any one time.

18 VAC 60-20-210. Requirements for direction and general supervision.

1. Current regulations provide that dental hygienists and assistants may only engage in their respective duties under the direction and control of the dentist, and the dentist has to be present and evaluate the patient during the time the patient is in the facility. Since the amended law now permits practice under general supervision, the requirement for the dentist to always be present in the facility has been eliminated.

2. Since the board has determined that there are certain procedures that should not be delegated to a dental hygienist under general supervision, it has provided that the duties performed under direction must only be performed when the dentist is present in the facility and available to evaluate the patient during the time services are being provided.

3. Those duties that may be delegated to a dental hygienist under general supervision can only be performed if (i) the treatment has been prescribed by a licensed dentist licensed in writing with the services to be rendered within a specific time period, not to exceed seven months; (ii) the dental hygienist has consented to providing services under general supervision; (iii) the patient or a responsible adult has been informed prior to the appointment that no dentist will be present, that no anesthesia can be administered, and that only those services prescribed by the dentist will be provided; and (iv) written basic emergency procedures have been established and the hygienist is capable of implementing those procedures. General supervision cannot replace the use of direction when, in the professional judgment of the dentist, direction is necessary to meet the individual needs of the patient.

18 VAC 60-20-220. Dental hygienists.

1. Amended regulations provide that the following duties can only be delegated to dental hygienists under direction with the dentist present. Those include any scaling and root planing requiring the administration of anesthesia; the performance of an initial examination of teeth and surrounding tissues for assisting the dentist in the diagnosis; and subgingival irrigation or subgingival application of Schedule VI medicinal agents.

2. In addition, there is a new listing of duties that can only be delegated to dental hygienists and may be delegated by written prescription to be performed under general supervision without the dentist present. Those include scaling and root planing of natural and restored teeth without anesthesia; polishing of natural and restored teeth; and performing a clinical examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets or other abnormal conditions for further evaluation and diagnosis by the dentist. The dentist may delegate under general supervision any other duties appropriate to the education and experience of the dental hygienist and the practice of the supervising dentist,

with the exception of those specifically restricted to be performed under direction and those listed as nondelegable.

3. Nothing in this section should be interpreted so as to prevent a licensed dental hygienist from providing services currently within his scope of practice including educational services, assessment, screening or data collection for the preparation of preliminary written records for evaluation by a licensed dentist.

Provisions in the amended regulation for an evaluation and prescription for services prior to having the patient treated under general supervision are intended to ensure that the quality of care and the health and safety of patients are being protected. To ensure that the patient is aware of the implications of general supervision, regulations require that the patient or a responsible adult is informed that a dentist will not be present and that no anesthesia can be used. Likewise, the board determined that some procedures, especially those that involve the administration of drugs, are not appropriate to delegate under general supervision.

Agency Contact: Elaine J. Yeatts, Senior Policy Analyst, Department of Health Professions, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

18 VAC 60-20-10. Definitions.

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

"Advertising" means a representation or other notice given to the public or members thereof, directly or indirectly, by a dentist on behalf of himself, his facility, his partner or associate, or any dentist affiliated with the dentist or his facility by any means or method for the purpose of inducing purchase, sale or use of dental methods, services, treatments, operations, procedures or products, or to promote continued or increased use of such dental methods, treatments, operations, procedures or products.

"Analgesia" means the diminution or elimination of pain in the conscious patient.

"Approved schools" means those dental schools, colleges, departments of universities or colleges, or schools of dental hygiene currently accredited by the Commission on Dental Accreditation of the American Dental Association.

"Competent instructor" means any person appointed to the faculty of a dental school, college or department or a university or a college who holds a license or teacher's license to practice dentistry or dental hygiene in the Commonwealth.

"Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal commands, produced by a pharmacologic or nonpharmacologic method, or a combination thereof.

"Dental assistant" means any unlicensed person under the supervision of a dentist who renders assistance for services provided to the patient as authorized under this chapter but

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shall not include an individual serving in purely a secretarial or clerical capacity.

"Direction" means the presence of the dentist for the evaluation, observation, advice, and control over the performance of dental services.

"General anesthesia" means a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method, or combination thereof.

"General supervision" means that the dentist has evaluated the patient and prescribed authorized services to be provided by a dental hygienist without the requirement for the dentist to be present in the facility while the authorized services are being provided.

"Local anesthesia" means the loss of sensation or pain in the oral cavity or its contiguous structures generally produced by a topically applied agent or injected agent without causing the loss of consciousness.

"Monitoring general anesthesia and conscious sedation" includes the following: recording and reporting of blood pressure, pulse, respiration, and other vital signs to the attending dentist during the conduct of these procedures and after the dentist has induced a patient and established a maintenance level.

"Monitoring nitrous oxide oxygen inhalation analgesia" means making the proper adjustments of nitrous oxide machines at the request of the dentist during the administration of the sedation, and observing the patient's vital signs.

"Nitrous oxide oxygen inhalation analgesia" means the utilization of nitrous oxide and oxygen to produce a state of reduced sensibility to pain designating particularly the relief of pain without the loss of consciousness.

"Radiographs" means intraoral and extraoral x-rays of the hard and soft oral structures to be used for purposes of diagnosis.

18 VAC 60-20-200. Employment of dental hygienists.

A. No dentist shall ~~direct~~ have more than two dental hygienists under direction at one and the same time.

B. In addition, no dentist shall have more than two dental hygienists working under general supervision at any one time.

18 VAC 60-20-210. Required Requirements for direction and general supervision.

A. In all instances, a licensed dentist assumes ultimate responsibility for determining, on the basis of his diagnosis, the specific treatment the patient will receive and which aspects of treatment will be delegated to qualified personnel in accordance with this chapter and the Code of Virginia.

B. Dental hygienists and assistants shall engage in their respective duties only while in the employment of a licensed dentist or governmental agency and under the direction and control of the employing dentist or the dentist in charge, or the dentist in charge or control of the governmental agency. The

~~dentist shall be present and evaluate the patient during the time the patient is in the facility.~~ Persons acting within the scope of a license issued to them by the board under § 54.1-2725 of the Code of Virginia to teach dental hygiene and those persons licensed pursuant to § 54.1-2722 of the Code of Virginia providing oral health education and preliminary dental screenings in any setting are exempt from this section.

C. Duties delegated to a dental hygienist under direction shall only be performed when the dentist is present in the facility and available to evaluate the patient during the time services are being provided.

D. Duties that are delegated to a dental hygienist under general supervision shall only be performed if the following requirements are met:

1. The treatment to be provided shall be prescribed by a dentist licensed in Virginia and shall be entered in writing in the record. The services noted on the original prescription shall be rendered within a specific time period, not to exceed seven months. Upon expiration of the prescription, the dentist shall have evaluated the patient before writing a new prescription for treatment.

2. The dental hygienist shall consent to providing services under general supervision.

3. The patient or a responsible adult shall be informed prior to the appointment that no dentist will be present, that no anesthesia can be administered, and that only those services prescribed by the dentist will be provided.

4. Written basic emergency procedures shall be established and in place, and the hygienist shall be capable of implementing those procedures.

E. General supervision shall not preclude the use of direction when, in the professional judgment of the dentist, such direction is necessary to meet the individual needs of the patient.

18 VAC 60-20-220. Dental hygienists.

A. The following duties shall only be delegated to dental hygienists under direction *with the dentist being present*.

1. Scaling and root planing of natural and restored teeth using hand instruments, rotary instruments and ultrasonic devices under anesthesia administered by the dentist.

~~2. Polishing of natural and restored teeth using air polishers.~~

~~3. 2. Performing an original or clinical initial examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets or other abnormal conditions for assisting the dentist in the diagnosis.~~

4. 3. Subgingival irrigation or subgingival application of Schedule VI medicinal agents in accordance with § 54.1-3408 of the Code of Virginia.

~~5. Duties appropriate to the education and experience of the dental hygienist and the practice of the supervising dentist, with the exception of those listed as nondelegable in 18 VAC 60-20-190.~~

B. The following duties shall only be delegated to dental hygienists and may be delegated by written prescription to be performed under general supervision without the dentist being present:

1. *Scaling and root planing of natural and restored teeth using hand instruments, rotary instruments and ultrasonic devices without anesthesia.*
2. *Polishing of natural and restored teeth using air polishers.*
3. *Performing a clinical examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets or other abnormal conditions for further evaluation and diagnosis by the dentist.*
4. *Duties appropriate to the education and experience of the dental hygienist and the practice of the supervising dentist, with the exception of those listed in subsection A of this section and those listed as nondelegable in 18 VAC 60-20-190.*

C. Nothing in this section shall be interpreted so as to prevent a licensed dental hygienist from providing educational services, assessment, screening or data collection for the preparation of preliminary written records for evaluation by a licensed dentist.

/s/ Mark R. Warner
Governor
Date: July 18, 2002

VA.R. Doc. No. R02-270; Filed July 19, 2002, 10:43 a.m.

* * * * *

Title of Regulation: 18 VAC 60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene (amending 18 VAC 60-20-90; adding 18 VAC 60-20-106).

Statutory Authority: §§ 54.1-2400, 54.1-2701 and 54.1-2715 of the Code of Virginia.

Effective Dates: July 19, 2002, through July 18, 2003.

Preamble:

Chapter 740 of the 2002 Acts of Assembly mandates that the board promulgate regulations within 280 days for an out-of-state practitioner to be licensed to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world. Regulations set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

Chapter 549 of the 2002 Acts of Assembly expands the use of temporary permits to allow eligible graduates to serve as clinicians in public and charitable dental clinics.

Agency Contact: Elaine J. Yeatts, Senior Policy Analyst, Department of Health Professions, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

18 VAC 60-20-90. Temporary permit, teacher's license, and full-time faculty license.

A. A temporary permit shall be issued only for the purpose of allowing dental and dental hygiene practice as limited by §§ 54.1-2715 and 54.1-2726 of the Code of Virginia ~~until the release of grades of the next licensure examination given in this Commonwealth, after the issuance of the temporary permit.~~

B. A temporary permit will not be renewed unless the permittee shows that extraordinary circumstances prevented the permittee from taking the ~~first licensure examination given immediately after the issuance during the term of the temporary permit.~~ Such permit reissuance shall expire seven days after the release of grades of the next examination given.

C. A full-time faculty license shall be issued to any dentist who meets the entry requirements of § 54.1-2713 of the Code of Virginia, who is certified by the dean of a dental school in the Commonwealth and who is serving full time on the faculty of a dental school or its affiliated clinics intramurally in the Commonwealth. A full-time faculty license shall remain valid only while the license holder is serving full time on the faculty of a dental school in the Commonwealth. When any such license holder ceases to continue serving full time on the faculty of the dental school for which the license was issued, the licensee shall surrender the license, which shall be null and void upon termination of full-time employment. The dean of the dental school shall notify the board within five working days of such termination of full-time employment.

D. A temporary permit, a teacher's license and a full-time faculty license may be revoked for any grounds for which the license of a regularly licensed dentist or dental hygienist may be revoked and for any act indicating the inability of the permittee or licensee to practice dentistry that is consistent with the protection of the public health and safety as determined by the generally accepted standards of dental practice in Virginia.

E. Applicants for a full-time faculty license or temporary permit shall be required to pass an examination on the laws and the regulations governing the practice of dentistry in Virginia.

18 VAC 60-20-106. Registration for voluntary practice by out-of-state licensees.

Any dentist or dental hygienist who does not hold a license to practice in Virginia and who seeks registration to practice on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world shall:

1. *File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice;*
2. *Provide a complete record of professional licensure in each state in which he has held a license and a copy of any current license;*
3. *Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;*

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4. Pay a registration fee of \$10; and

5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of § 54.1-2701 (5) of the Code of Virginia.

NOTICE: For the purpose of this emergency regulation, the following two forms are being added to the forms list used in administering 18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene. The new forms are published following the listing and also apply to other emergency regulations in this issue as noted.

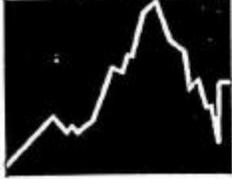
FORMS

Application for Registration for Volunteer Practice (eff. 7/02).

Sponsor Certification for Volunteer Registration (eff. 7/02).

<p>COMMONWEALTH OF VIRGINIA Department of Health Professions 6606 West Broad Street, 4th Floor Richmond, VA 23230-1717 804-662-9900 WEB PAGE: dhp.state.va.us</p>																							
APPLICATION FOR REGISTRATION FOR VOLUNTEER PRACTICE																							
<input type="checkbox"/> Acupuncturist	<input type="checkbox"/> Doctor of Osteopathy	<input type="checkbox"/> Physician Assistant																					
<input type="checkbox"/> Athletic Trainer	<input type="checkbox"/> Nurse (RN or LPN)	<input type="checkbox"/> Podiatrist																					
<input type="checkbox"/> Chiropractor	<input type="checkbox"/> Nurse Practitioner	<input type="checkbox"/> Radiologic Technologist																					
<input type="checkbox"/> Dentist	<input type="checkbox"/> Occupational Therapist	<input type="checkbox"/> Rad Tech-Limited																					
<input type="checkbox"/> Dental Hygienist	<input type="checkbox"/> Optometrist	<input type="checkbox"/> Respiratory Care Practitioner																					
<input type="checkbox"/> Doctor of Medicine	<input type="checkbox"/> Pharmacist	<input type="checkbox"/> Veterinarian																					
<p>INSTRUCTIONS: Use typewriter or print clearly. If the space provided for any answer is insufficient, the applicant must complete his/her answer on a separate page, signed by him/her, specifying the question to which it relates and enclose the page with this application. OMISSIONS OR INACCURACIES ARE GROUNDS FOR REJECTION. ENCLOSE A CHECK MADE PAYABLE TO THE TREASURER OF VIRGINIA IN THE AMOUNT OF \$10.</p>																							
Name (Last, First, M.I., Suffix, Maiden Name)																							
Mailing Address (Street and/or Box Number, City, State, Zip Code)																							
Area Code and Home Telephone Number		Area Code and Office Telephone Number																					
<p>RECORD OF ALL PROFESSIONAL LICENSURE:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">State</th> <th style="width: 20%;">Profession</th> <th style="width: 25%;">License Number</th> <th style="width: 20%;">Issued Date</th> <th style="width: 20%;">Expiration Date</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>				State	Profession	License Number	Issued Date	Expiration Date															
State	Profession	License Number	Issued Date	Expiration Date																			
<p>Has your license to practice in any state/jurisdiction been previously suspended or revoked? If yes, give details, jurisdiction(s) and date(s) on a separate page.</p>																							
Dates of Volunteer Practice		Location of Volunteer Practice																					
<p>Name of Sponsoring Organization: _____ Remote Area Medical (RAM) _____ Other: Full name of organization: _____</p>																							
<p>ATTACH A COMPLETED CERTIFICATION FORM FROM THE SPONSORING ORGANIZATION</p>																							
<p>Have you ever been convicted of a violation or plead Nolo Contedere, to any federal, state or local statute, regulation or ordinance, or entered into any plea bargaining relating to a felony or misdemeanor (excluding traffic violations, except convictions for driving under the influence)? If yes, give details, jurisdiction(s) and date(s) on a separate page, and include a copy of the disposition/record certified by the Clerk of the Court.</p>																							
<p>I acknowledge that the licensure exemption sought through this application shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board.</p>																							
SIGNATURE AND DATE: _____																							
Date Received	Fee	Pending Number	Date Registered																				

Emergency Regulations

	<p>COMMONWEALTH OF VIRGINIA</p> <p>Department of Health Professions 6606 West Broad Street, 4th Floor Richmond, Virginia 23230-1717 (804) 662-9900</p>
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SPONSOR CERTIFICATION FOR VOLUNTEER REGISTRATION

APPLICANT: THIS FORM IS TO BE COMPLETED BY A REPRESENTATIVE OF THE NONPROFIT ORGANIZATION SPONSORING YOUR VOLUNTEER PRACTICE.

PRINT CLEARLY OR TYPE:

I _____ certify that _____ is a publicly supported all volunteer, nonprofit organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world

Signature of Sponsor/Representative

Title of Sponsor Representative

State of _____ County/City of _____ Sworn and subscribed to,
before this _____ date of _____, 2002.

My Commission expires on _____.

Signature of Notary Public

/s/ Mark R. Warner
Governor
Date: July 18, 2002

VA.R. Doc. No. R02-271; Filed July 19, 2002, 11:06 a.m.

BOARD OF MEDICINE

Title of Regulation: **Voluntary Practice by Out-of-State Licensees.**

18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic (adding 18 VAC 85-20-225).

18 VAC 85-40. Regulations Governing the Practice of Respiratory Care Practitioners (adding 18 VAC 85-40-55).

18 VAC 85-80. Regulations Governing the Licensure of Occupational Therapists (adding 18 VAC 85-80-65).

18 VAC 85-101. Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited (adding 18 VAC 85-101-145).

18 VAC 85-110. Regulations Governing the Practice of Licensed Acupuncturists (adding 18 VAC 85-110-145).

18 VAC 85-120. Regulations Governing the Certification of Athletic Trainers (adding 18 VAC 85-120-85).

Statutory Authority: §§ 54.1-2400 and 54.1-2901 of the Code of Virginia.

Effective Dates: July 19, 2002, through July 18, 2003.

Preamble:

Chapter 740 of the 2002 Acts of Assembly mandates that the board promulgate regulations within 280 days for an out-of-state practitioner to be exempt from licensure or certification to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world. Regulations set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-7423, FAX (804) 662-9943 or e-mail william.harp@dhp.state.va.us.

18 VAC 85-20-225. Registration for voluntary practice by out-of-state licensees.

Any doctor of medicine, osteopathic medicine, podiatry or chiropractic who does not hold a license to practice in Virginia and who seeks registration to practice under § 54.1-2901 (27) of the Code of Virginia on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world shall:

- 1. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice. An incomplete application will not be considered;*
- 2. Provide a complete record of professional licensure in each state in which he has held a license and a copy of any current license;*

3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;

4. Pay a registration fee of \$10; and

5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of § 54.1-2901 (27) of the Code of Virginia.

18 VAC 85-40-55. Registration for voluntary practice by out-of-state licensees.

Any respiratory care practitioner who does not hold a license to practice in Virginia and who seeks registration to practice under § 54.1-2901 (27) of the Code of Virginia on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world shall:

1. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice. An incomplete application will not be considered;

2. Provide a complete record of professional licensure in each state in which he has held a license and a copy of any current license;

3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;

4. Pay a registration fee of \$10; and

5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of § 54.1-2901 (27) of the Code of Virginia.

18 VAC 85-80-65. Registration for voluntary practice by out-of-state licensees.

Any occupational therapist who does not hold a license to practice in Virginia and who seeks registration to practice under § 54.1-2901 (27) of the Code of Virginia on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world shall:

1. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice. An incomplete application will not be considered;

2. Provide a complete record of professional licensure in each state in which he has held a license and a copy of any current license;

3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;

4. Pay a registration fee of \$10; and

5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of § 54.1-2901 (27) of the Code of Virginia.

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18 VAC 85-101-145. Registration for voluntary practice by out-of-state licensees.

Any radiologic technologist or radiologic technologist-limited who does not hold a license to practice in Virginia and who seeks registration to practice under § 54.1-2901 (27) of the Code of Virginia on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world shall:

1. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice. An incomplete application will not be considered;
2. Provide a complete record of professional licensure in each state in which he has held a license and a copy of any current license;
3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;
4. Pay a registration fee of \$10; and
5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of § 54.1-2901 (27) of the Code of Virginia.

18 VAC 85-110-145. Registration for voluntary practice by out-of-state licensees.

Any licensed acupuncturist who does not hold a license to practice in Virginia and who seeks registration to practice under § 54.1-2901 (27) of the Code of Virginia on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world shall:

1. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice. An incomplete application will not be considered;
2. Provide a complete record of professional licensure in each state in which he has held a license and a copy of any current license;
3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;
4. Pay a registration fee of \$10; and
5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of § 54.1-2901 (27) of the Code of Virginia.

18 VAC 85-120-85. Registration for voluntary practice by out-of-state trainers.

Any athletic trainer who does not hold a certificate to practice in Virginia and who seeks registration to practice under § 54.1-2901 (27) of the Code of Virginia on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world shall:

1. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice. An incomplete application will not be considered;
2. Provide a complete record of professional certification or licensure in each state in which he has held a certificate or license and a copy of any current certificate or license;
3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;
4. Pay a registration fee of \$10; and
5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of § 54.1-2901 (27) of the Code of Virginia.

NOTICE: For the purpose of this emergency regulation, the following two forms are being added to the forms lists used in administering the following chapters: 18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic; 18 VAC 85-40, Regulations Governing the Practice of Respiratory Care Practitioners; 18 VAC 85-80, Regulations Governing the Licensure of Occupational Therapists; 18 VAC 85-101, Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited; 18 VAC 85-110, Regulations Governing the Practice of Licensed Acupuncturists; and 18 VAC 85-120, Regulations Governing the Certification of Athletic Trainers. The new forms are identical to those shown following the emergency regulation amending 18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene, in this issue and are not reprinted here.

FORMS

Application for Registration for Volunteer Practice (eff. 7/02).

Sponsor Certification for Volunteer Registration (eff. 7/02).

/s/ Mark R. Warner

Governor

Date: July 18, 2002

VA.R. Doc. No. R02-277; Filed July 19, 2002, 10:47 a.m.

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Title of Regulation: 18 VAC 85-50. Regulations Governing the Practice of Physician Assistants (amending 18 VAC 85-50-10, 18 VAC 85-50-40, 18 VAC 85-50-101, 18 VAC 85-50-110, and 18 VAC 85-50-115; adding 18 VAC 85-50-59).

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

Effective Dates: July 19, 2002, through July 18, 2003.

Preamble:

Chapter 740 of the 2002 Acts of Assembly mandates that the board promulgate regulations within 280 days for an out-of-state practitioner to be exempt from licensure or certification to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world.

Regulations set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

Chapter 387 of the 2002 Acts of Assembly mandates that the board promulgate regulations to implement provisions related to the supervision of a physician assistant and the protocol between the assistant and the physician. In accordance with the statute, regulations provide for continuous supervision but do not require the physical presence of the physician.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-7423, FAX (804) 662-9943 or e-mail william.harp@dhp.state.va.us.

18 VAC 85-50-10. Definitions.

A. The following words and terms shall have the meanings ascribed to them in § 54.1-2900 of the Code of Virginia:

"Board."

"Physician assistant."

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

"Committee" means the Advisory Committee on Physician Assistants as specified in § 54.1-2950.1 of the Code of Virginia.

"Group practice" means the practice of a group of two or more doctors of medicine, osteopathy, or podiatry licensed by the board who practice as a partnership or professional corporation.

"Institution" means a hospital, nursing home or other health care facility, community health center, public health center, industrial medicine or corporation clinic, a medical service facility, student health center, or other setting approved by the board.

"NCCPA" means the National Commission on Certification of Physician Assistants.

"Protocol" means a set of directions developed by the supervising physician that defines the supervisory relationship between the physician assistant and the physician and the circumstances under which the physician will see and evaluate the patient.

"Supervision" means:

1. "Alternate supervising physician" means a member of the same group or professional corporation or partnership of any licensee, any hospital or any commercial enterprise with the supervising physician. Such alternating supervising physician shall be a physician licensed in the Commonwealth who has registered with the board and who has accepted responsibility for the supervision of the service that a physician assistant renders.

2. "Direct supervision" means the physician is in the room in which a procedure is being performed.

3. "General supervision" means the supervising physician is easily available and can be physically present or accessible for consultation with the physician assistant within one hour.

4. "Personal supervision" means the supervising physician is within the facility in which the physician's assistant is functioning.

5. "Supervising physician" means the doctor of medicine, osteopathy, or podiatry licensed in the Commonwealth who has accepted responsibility for the supervision of the service that a physician assistant renders.

6. "Continuous supervision" means the supervising physician has ongoing, regular communication with the physician assistant on the care and treatment of patients.

18 VAC 85-50-40. General requirements.

A. No person shall practice as a physician assistant in the Commonwealth of Virginia except as provided in this chapter.

B. All services rendered by a physician assistant shall be performed only under the continuous supervision of a doctor of medicine, osteopathy, or podiatry licensed by this board to practice in the Commonwealth.

18 VAC 85-50-59. Registration for voluntary practice by out-of-state licensees.

Any physician assistant who does not hold a license to practice in Virginia and who seeks registration to practice under § 54.1-2901 (27) of the Code of Virginia on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world shall:

1. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice. An incomplete application will not be considered;

2. Provide a complete record of professional licensure in each state in which he has held a license and a copy of any current license;

3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;

4. Pay a registration fee of \$10; and

5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of § 54.1-2901 (27) of the Code of Virginia.

18 VAC 85-50-101. Requirements for a protocol.

A. Prior to initiation of practice, a physician assistant and his supervising physician shall submit a written protocol which spells out the roles and functions of the assistant. Any such protocol shall take into account such factors as the physician assistant's level of competence, the number of patients, the types of illness treated by the physician, the nature of the treatment, special procedures, and the nature of the physician availability in ensuring direct physician involvement at an early stage and regularly thereafter. The protocol shall also provide an evaluation process for the physician assistant's performance,

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including a requirement specifying the time period, proportionate to the acuity of care and practice setting, within which the supervising physician shall review the record of services rendered by the physician assistant.

B. The board may require information regarding the level of supervision, i.e. "direct," "personal" or "general," with which the supervising physician plans to supervise the physician assistant for selected tasks. The board may also require the supervising physician to document the assistant's competence in performing such tasks.

C. If the role of the assistant includes prescribing for drugs and devices, the written protocol shall include those schedules and categories of drugs and devices that are within the scope of practice and proficiency of the supervising physician.

18 VAC 85-50-110. Responsibilities of the supervisor.

The supervising physician shall:

1. See and evaluate any patient who presents the same complaint twice in a single episode of care and has failed to improve significantly. Such physician involvement shall occur not less frequently than every fourth visit for a continuing illness.

~~2. Review the record of services rendered the patient by the physician assistant and sign such records within 72 hours after any such care was rendered by the assistant.~~

~~3.~~ 2. Be responsible for all invasive procedures.

a. Under general supervision, a physician assistant may insert a nasogastric tube, bladder catheter, needle, or peripheral intravenous catheter, but not a flow-directed catheter, and may perform minor suturing, venipuncture, and subcutaneous intramuscular or intravenous injection.

b. All other invasive procedures not listed above must be performed under direct supervision unless, after directly supervising the performance of a specific invasive procedure three times or more, the supervising physician attests to the competence of the physician assistant to perform the specific procedure without direct supervision by certifying to the board in writing the number of times the specific procedure has been performed and that the physician assistant is competent to perform the specific procedure. After such certification has been accepted and approved by the board, the physician assistant may perform the procedure under general supervision.

~~4.~~ 3. Be responsible for all prescriptions issued by the assistant and attest to the competence of the assistant to prescribe drugs and devices .

18 VAC 85-50-115. Responsibilities of the physician assistant.

A. The physician assistant shall not render independent health care and shall:

1. Perform only those medical care services that are within the scope of the practice and proficiency of the supervising physician as prescribed in the physician assistant's protocol. When a physician assistant is to be supervised by an alternate supervising physician outside the scope of

specialty of the supervising physician, then the physician assistant's functions shall be limited to those areas not requiring specialized clinical judgment, unless a separate protocol for that alternate supervising physician is approved and on file with the board.

2. Prescribe only those drugs and devices as allowed in Part V (18 VAC 85-50-130 et seq.) of this chapter.

3. Wear during the course of performing his duties identification showing clearly that he is a physician assistant.

~~B. If the assistant is to perform duties away from the supervising physician, such supervising physician shall obtain board approval in advance for any such arrangement and shall establish written policies to protect the patient.~~

~~C.~~ B. If, due to illness, vacation, or unexpected absence, the supervising physician is unable to supervise personally the activities of his assistant, such supervising physician may temporarily delegate the responsibility to another doctor of medicine, osteopathy, or podiatry. The employing supervising physician so delegating his responsibility shall report such arrangement for coverage, with the reason therefor, to the board office in writing, subject to the following provisions:

1. For planned absence, such notification shall be received at the board office at least one month prior to the supervising physician's absence;

2. For sudden illness or other unexpected absence, the board office shall be notified as promptly as possible, but in no event later than one week; and

3. Temporary coverage may not exceed four weeks unless special permission is granted by the board.

~~D.~~ C. With respect to assistants employed by institutions, the following additional regulations shall apply:

1. No assistant may render care to a patient unless the physician responsible for that patient has signed the protocol to act as supervising physician for that assistant. The board shall make available appropriate forms for physicians to join the protocol for an assistant employed by an institution.

2. Any such protocol as described in subdivision 1 of this subsection shall delineate the duties which said physician authorizes the assistant to perform.

3. The assistant shall, as soon as circumstances may dictate, report an acute or significant finding or change in clinical status to the supervising physician concerning the examination of the patient. The assistant shall also record his findings in appropriate institutional records.

~~E.~~ D. Practice by a physician assistant in a hospital, including an emergency department, shall be in accordance with § 54.1-2952 of the Code of Virginia.

NOTICE: For the purpose of this emergency regulation, the following two forms are being added to the forms list used in administering 18 VAC 85-50, Regulations Governing the Practice of Physician Assistants. The new forms are identical to those shown following the emergency regulation amending 18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene, in this issue and are not reprinted here.

FORMS

Application for Registration for Volunteer Practice (eff. 7/02).

Sponsor Certification for Volunteer Registration (eff. 7/02).

/s/ Mark R. Warner
Governor
Date: July 18, 2002

VA.R. Doc. No. R02-276; Filed July 19, 2002, 10:54 a.m.

BOARD OF NURSING

Title of Regulation: 18 VAC 90-20. Regulations Governing the Practice of Nursing (adding 18 VAC 90-20-271).

Statutory Authority: §§ 54.1-2400 and 54.1-3001 of the Code of Virginia.

Effective Dates: July 19, 2002, through July 18, 2003.

Preamble:

Chapter 740 of the 2002 Acts of Assembly mandates that the board promulgate regulations within 280 days for an out-of-state practitioner to be licensed to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world. Regulations set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

Agency Contact: Elaine J. Yeatts, Senior Policy Analyst, Department of Health Professions, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

18 VAC 90-20-271. Registration for voluntary practice by out-of-state licensees.

Any licensed nurse who does not hold a license to practice in Virginia and who seeks registration to practice on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world shall:

- 1. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice. An incomplete application will not be considered;*
- 2. Provide a complete record of professional licensure in each state in which he has held a license and a copy of every current license;*

3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;

4. Pay a registration fee of \$10; and

5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of § 54.1-3001 (11) of the Code of Virginia.

NOTICE: For the purpose of this emergency regulation, the following two forms are being added to the forms list used in administering 18 VAC 90-20, Regulations Governing the Practice of Nursing. The new forms are identical to those shown following the emergency regulation amending 18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene, in this issue and are not reprinted here.

FORMS

Application for Registration for Volunteer Practice (eff. 7/02).

Sponsor Certification for Volunteer Registration (eff. 7/02).

/s/ Mark R. Warner
Governor
Date: July 18, 2002

VA.R. Doc. No. R02-275; Filed July 19, 2002, 11 a.m.

BOARD OF OPTOMETRY

Title of Regulation: 18 VAC 105-20. Regulations of the Virginia Board of Optometry (adding 18 VAC 105-20-75).

Statutory Authority: §§ 54.1-2400 and 54.1-3202 of the Code of Virginia.

Effective Dates: July 19, 2002, through July 18, 2003.

Preamble:

Chapter 740 of the 2002 Acts of Assembly mandates that the board promulgate regulations within 280 days for an out-of-state practitioner to be licensed to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world. Regulations set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

Agency Contact: Elaine J. Yeatts, Senior Policy Analyst, Department of Health Professions, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

18 VAC 105-20-75. Registration for voluntary practice by out-of-state licensees.

Any optometrist who does not hold a license to practice in Virginia and who seeks registration to practice on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world shall:

- 1. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in*

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such practice. An incomplete application will not be considered;

2. Provide a complete list of professional licensure in each state in which he has held a license and a copy of any current license;

3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;

4. Pay a registration fee of \$10; and

5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of § 54.1-3202 (2) of the Code of Virginia.

NOTICE: For the purpose of this emergency regulation, the following two forms are being added to the forms list used in administering 18 VAC 105-20, Regulations of the Virginia Board of Optometry. The new forms are identical to those shown following the emergency regulation amending 18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene, in this issue and are not reprinted here.

FORMS

Application for Registration for Volunteer Practice (eff. 7/02).

Sponsor Certification for Volunteer Registration (eff. 7/02).

/s/ Mark R. Warner
Governor

Date: July 18, 2002

VA.R. Doc. No. R02-272; Filed July 19, 2002, 11:04 a.m.

BOARD OF PHARMACY

Title of Regulation: 18 VAC 110-20. Regulations Governing the Practice of Pharmacy (adding 18 VAC 110-20-75).

Statutory Authority: §§ 54.1-2400 and 54.1-3301 of the Code of Virginia.

Effective Dates: July 19, 2002, through July 18, 2003.

Preamble:

Chapter 740 of the 2002 Acts of Assembly mandates that the board promulgate regulations within 280 days for an out-of-state practitioner to be licensed to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world. Regulations set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

Agency Contact: Elaine J. Yeatts, Senior Policy Analyst, Department of Health Professions, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

18 VAC 110-20-75. Registration for voluntary practice by out-of-state licensees.

Any pharmacist who seeks registration to practice on a voluntary basis pursuant to § 54.1-3301 (12) under the auspices of a publicly supported all volunteer, nonprofit

organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world shall:

1. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice;

2. Provide a complete list of each state in which he has held a pharmacist license and a copy of any current license;

3. Provide the name of the nonprofit organization and the dates and location of the voluntary provision of services;

4. Pay a registration fee of \$10; and

5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of § 54.1-3301 (12) of the Code of Virginia.

NOTICE: For the purpose of this emergency regulation, the following two forms are being added to the forms list used in administering 18 VAC 110-20, Regulations Governing the Practice of Pharmacy. The new forms are identical to those shown following the emergency regulation amending 18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene, in this issue and are not reprinted here.

FORMS

Application for Registration for Volunteer Practice (eff. 7/02).

Sponsor Certification for Volunteer Registration (eff. 7/02).

/s/ Mark R. Warner
Governor

Date: July 18, 2002

VA.R. Doc. No. R02-273; Filed July 19, 2002, 11:03 a.m.

Title of Regulation: 18 VAC 110-20. Regulations Governing the Practice of Pharmacy (amending 18 VAC 110-20-240, 18 VAC 110-20-320, 18 VAC 110-20-400, and 18 VAC 110-20-530; adding 18 VAC 110-20-255, 18 VAC 110-20-275, and 18 VAC 110-20-730; repealing 18 VAC 110-20-430).

Statutory Authority: §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.

Effective Dates: July 19, 2002, through July 18, 2003.

Preamble:

Amendments to the regulation are required in order to comply with enactment clauses in Chapters 411, 632, 666 and 707 of the 2002 Acts of Assembly requiring the board to promulgate regulations within 280 days of enactment.

The objective of the statutory revisions in Chapter 632 was to facilitate current pharmacy practice by providing more appropriate methods of practice and eliminating unnecessary barriers to best care and efficiencies in practice. Regulations implement the changes in requirements for pharmacy practice to allow chart orders for hospice or home infusion patients, to permit different methods of keeping dispensing records and to allow for

delivery of prescription drugs to alternative sites other than directly to the patient's residence. The objective of the statutory revisions in Chapters 411, 666 and 707 was to expand the availability of drugs to indigent patients by allowing a nursing home to donate unused drugs or a physician to dispense donated drugs provided basic requirements for security, storage, labeling and recordkeeping have been observed to protect the safety, integrity and accountability of the drugs.

Substance: Chapter 411 updates several statutes affecting the practice of pharmacy to conform to current practice to: (i) expand the use of "chart orders," which may contain more than one prescription order to hospice patients and patients receiving home infusion; (ii) allow pharmacies to use a combination of computer and manual records when necessary to maintain accurate records of dispensing; and (iii) allow for delivery of prescriptions to locations other than directly to the patient pursuant to regulations of the board. The specific sections being amended are as follows:

18 VAC 110-20-240. Manner of maintaining records, prescriptions, inventory records.

18 VAC 110-20-430. Chart orders. (repealed)

The current language limits the use of chart orders containing multiple prescription orders to hospital and nursing home patients. Pharmacies that serve hospice patients and home infusion patients have a need for the use of chart orders as prescriptions because of the nature of the illnesses involved and the complexity of the drug therapy. Hospice patients usually receive a "kit" in addition to regularly administered drugs for use in end stages of the disease or in emergencies. The "kit" is put together by the provider pharmacy and contains one to two doses of a number of drugs. A pharmacy now must receive a separate prescription for each individual drug to be placed in the "kit." The drugs for the kit are standardized and on a list with standard instructions for use. Additionally, many of these orders are either originally written upon discharge from a hospital on a chart order or are written as standing orders on a multiple prescription format. In order for these pharmacies to receive a separate prescription on a separate form for each drug order, someone will have to transcribe them onto prescription blanks for the prescriber's signature, introducing an opportunity for error from possible incorrect transcription, accidental deletion of one of the drugs from the multiple order or the list, and from the additional workload on the health care practitioners involved.

18 VAC 110-20-255. Other dispensing records.

18 VAC 110-20-320. Refilling of Schedule III through VI prescriptions.

Current language allows a pharmacist to record dispensing data either manually on the prescription itself or in a data processing system. Because in current practice often more than one pharmacist is involved in the dispensing process, some data systems do not accommodate more than one pharmacist's initials. Partially filling a prescription also creates a problem with recordkeeping. The board has a need for accurate recording of which pharmacist is responsible for a prescription transaction and has had problems in handling disciplinary actions where the initials in the data system were

not always indicative of the pharmacist who ultimately checked the prescription. The change in statute with the proposed regulation to implement the provisions would correct this problem by allowing for an alternative system for recording dispensing information.

18 VAC 110-20-275. Delivery of dispensed prescriptions.

Current law defines the term "dispense" to mean the delivery of the drug to the ultimate user. Based on this definition, the board has prevented the use of intermediate delivery locations or "drop stations" where a pharmacy delivers a group of prescriptions to a central location for subsequent pickup by patients. The board has received numerous requests from various entities over the past five or more years to allow intermediate delivery locations for different situations. The board has proposed regulations that provide consistent, reasonable controls as are necessary to ensure security and proper storage of the stock of delivered drugs until patient pickup, protect patient confidentiality, minimize the risk of mix-ups with handing out the drugs, and require records to ensure accountability. A pharmacy that delivers to an alternative site or entity is required to have a written agreement for the delivery procedures and maintain a policy and procedure manual that sets out the method employed by the pharmacy for compliance with recordkeeping, counseling, storage, and confidentiality requirements. Only a person or entity that holds a license, permit, or registration with the board either as a pharmacy, a physician who is licensed to dispense, or a controlled substances registration for this purpose may act as an alternative delivery location.

Chapter 632 permits nursing homes to enter into voluntary agreements with pharmacists to return any drugs that are no longer necessary for their residents in order that the pharmacy may dispense such drugs to the indigent, free of charge, subject to certain restrictions. The drugs must be in the manufacturers' original sealed containers or sealed individual dose or unit dose packaging and the return must comply with federal law. Only an authorized person can accomplish the physical transfer; consent must be obtained from the relevant patient or his authorized representative for return of the medication; the expiration date must remain; all identifying data relating to the patient for whom the drug was dispensed must be removed; inventories must accompany the transferred drugs; and outdated drugs cannot be transferred and must be destroyed according to the board's regulations. The pharmacist-in-charge at the participating pharmacy will be responsible for determining the suitability of the drug for redispensing. This law does not authorize donation of prescriptions dispensed to persons eligible for coverage under Title XIX or Title XXI of the Social Security Act. To implement the program, the board is required to promulgate emergency regulations as follows:

18 VAC 110-20-400. Returning of drugs and devices.

Section 400 is amended to conform this section of regulations related to return of drugs and devices for resale to the new provisions of § 54.1-3411.1 of the Code of Virginia and to remove any duplicative language. A written agreement between a pharmacy and a nursing home must be maintained as well as a current policy and procedure manual that outlines the method of tracking and delivery from the nursing home to

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the pharmacy, the procedure for determining the suitability and integrity of drugs for redispensing and a procedure for assigning a beyond-use date on redispensed drugs.

18 VAC 110-20-530. Pharmacy's responsibilities to long-term care facilities.

Section 530 is amended to include provisions of Chapter 632 in the pharmacy's responsibility to long-term care facilities in the redispensing of donated drugs to the indigent.

Chapters 666 and 707 are identical (HB 687 and SB 145). They provide two exceptions from the requirements for the practice of pharmacy for practitioners of medicine or osteopathy relating to obtaining prescription drugs without charge for indigent patients, i.e., through pharmaceutical manufacturers' indigent programs and through donations from other entities. Practitioners who participate in pharmaceutical manufacturers' indigent programs in which the manufacturer donates a stock bottle of the prescription drug that is to be dispensed to an indigent patient are provided authority to dispense such drugs. The current labeling and packaging standards in the Drug Control Act will apply (nonchild-resistant packaging may be requested by the patient or ordered by the prescriber) and the drug cannot be used for any other purpose, unless the manufacturer authorizes dispensing to another indigent patient. Practitioners may, in lieu of dispensing directly to the patient, transfer the stock bottle to a pharmacy participating in the indigent program. The participating practitioner and the pharmacy are prohibited from charging the patient a fee for the medication. A reasonable dispensing or administrative fee to offset the cost of dispensing may be charged, not to exceed the comparable allowable fee reimbursed by the Virginia Medicaid program. However, if the patient is unable to pay the dispensing or administrative fee, this fee must be waived. In addition, practitioners of medicine or osteopathy are authorized to provide controlled substances to their own patients in free clinics without charge when the drugs have been donated by an entity other than a pharmaceutical manufacturer. The practitioner must first obtain a controlled substances registration and will be required to comply with the existing labeling and packaging requirements. Enactment clauses require emergency regulations and mandate that the Board of Pharmacy assist free clinics in resolving issues relating to the practice of pharmacy and the Drug Control Act. To implement the provisions of the Acts, the board has adopted a new section of regulation, Section 730.

18 VAC 110-20-730. Requirements for practitioner of medicine or osteopathy in free clinics.

Section 730 sets forth the requirements for the practitioner who provides donated drugs in a free clinic to include acquisition of a controlled substance registration, informing the board of the source of the drugs, compliance with packaging, labeling, recordkeeping and storage and security requirements. The practitioner may enter into an agreement with a pharmacy for dispensing, delivery and maintenance all or part of the donated stock of drugs segregated from the regular inventory.

While the emergency regulations will expand the practice of pharmacies to address certain problems with patient access to prescription drugs and to accommodate newer technologies,

they also contain requirements that address issues of drug security and integrity to ensure that the health and safety of the public is not compromised.

Agency Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9943 or e-mail scotti.russell@dhp.state.va.us.

18 VAC 110-20-240. Manner of maintaining records, prescriptions, inventory records.

A. Each pharmacy shall maintain the inventories and records of drugs as follows:

1. Inventories and records of all drugs listed in Schedules I and II shall be maintained separately from all other records of the pharmacy.
2. Inventories and records of drugs listed in Schedules III, IV, and V may be maintained separately or with records of Schedule VI drugs but shall not be maintained with other records of the pharmacy.
3. All records of Schedule II through V drugs shall be maintained at the same location as the stock of drugs to which the records pertain except that records maintained in an off-site database shall be retrieved and made available for inspection or audit within 48 hours of a request by the board or an authorized agent.
4. In the event that an inventory is taken as the result of a theft of drugs pursuant to § 54.1-3404 of the Drug Control Act, the inventory shall be used as the opening inventory within the current biennial period. Such an inventory does not preclude the taking of the required inventory on the required biennial inventory date.
5. All inventories required by § 54.1-3404 of the Code of Virginia shall be signed and dated by the person taking the inventory and shall indicate whether the inventory was taken prior to the opening of business or after close of business. A 24-hour pharmacy with no opening or closing of business shall clearly document whether the receipt or distribution of drugs on the inventory date occurred before or after the inventory was taken.
6. All records required by this section shall be filed chronologically.

B. Prescriptions.

1. A hard copy prescription shall be placed on file for every initial prescription dispensed and be maintained for two years from the date of last refill. All prescriptions shall be filed chronologically by date of initial dispensing.
2. Schedule II drugs. Prescriptions for Schedule II drugs shall be maintained in a separate prescription file.
3. Schedule III through V drugs. Prescriptions for Schedule III through V drugs shall be maintained either in a separate prescription file for drugs listed in Schedules III, IV, and V only or in such form that they are readily retrievable from the other prescriptions of the pharmacy. Prescriptions will be deemed readily retrievable if, at the time they are initially filed, the face of the prescription is stamped in red ink in the

lower right corner with the letter "C" no less than one inch high and filed in the prescription file for drugs listed in the usual consecutively numbered prescription file for Schedule VI drugs. However, if a pharmacy employs an automated data processing system or other electronic recordkeeping system for prescriptions which permits identification by prescription number and retrieval of original documents by prescriber's name, patient's name, drug dispensed, and date filled, then the requirement to mark the hard copy prescription with a red "C" is waived.

C. Chart orders.

1. A chart order written for a patient in a hospital or long-term care facility, a patient receiving home infusion services, or a hospice patient pursuant to § 54.1-3408.01 A of the Code of Virginia shall be exempt from having to contain all required information of a written prescription provided:

- a. This information is contained in other readily retrievable records of the pharmacy; and
- b. The pharmacy maintains a current policy and procedure manual that sets out where this information is maintained and how to retrieve it and the minimum requirements for chart orders consistent with state and federal law and accepted standard of care.

2. A chart order may serve as the hard-copy prescription for those patients listed in subdivision 1 of this subsection.

3. Requirements for filing of chart orders.

- a. Chart orders shall be filed chronologically by date of initial dispensing with the following exception: If dispensing data can be produced showing a complete audit trail for any requested drug for a specified time period and each chart order is readily retrievable upon request, chart orders may be filed using another method. Such alternate method shall be clearly documented in a current policy and procedure manual.
- b. If a chart order contains an order for a Schedule II drug and an order for a drug in another schedule, the order must be filed with records of Schedule II drugs and a copy of the order placed in the file for other schedules.

18 VAC 110-20-255. Other dispensing records.

Pursuant to § 54.1-3412 of the Code of Virginia, any other record used to record the date of dispensing or the identity of the pharmacist dispensing shall be maintained for a period of two years on premises. A pharmacy using such an alternative record shall maintain a current policy and procedure manual documenting the procedures for using the record, how the record is integrated into the total dispensing record system, and how the data included in the record shall be interpreted.

18 VAC 110-20-275. Delivery of dispensed prescriptions.

A. Pursuant to § 54.1-3420.2 B of the Code of Virginia, in addition to direct hand delivery to a patient or patient's agent or delivery to a patient's residence, a pharmacy may deliver prescriptions to another pharmacy, to a practitioner of the healing arts licensed to practice pharmacy or to sell controlled substances, or to an authorized person or entity holding a

controlled substances registration issued for this purpose in compliance with this section and any other applicable state or federal law.

B. Delivery to another pharmacy.

1. One pharmacy may fill prescriptions and deliver the prescriptions to a second pharmacy for patient pickup or direct delivery to the patient provided the two pharmacies have the same owner or have a written contract or agreement specifying the services to be provided by each pharmacy, the responsibilities of each pharmacy, and the manner in which each pharmacy will comply with all applicable federal and state law.

2. Each pharmacy using such a drug delivery system shall maintain and comply with all procedures in a current policy and procedure manual that includes the following information:

- a. A description of how each pharmacy will comply with all applicable federal and state law;
- b. The procedure for maintaining required, retrievable dispensing records to include which pharmacy maintains the hard-copy prescription, which pharmacy maintains the active prescription record for refilling purposes, how each pharmacy will access prescription information necessary to carry out its assigned responsibilities, method of recordkeeping for identifying the pharmacist or pharmacists responsible for dispensing the prescription and counseling the patient, and how and where this information can be accessed upon request by the board;
- c. The procedure for tracking the prescription during each stage of the filling, dispensing, and delivery process;
- d. The procedure for identifying on the prescription label all pharmacies involved in filling and dispensing the prescription;
- e. The policy and procedure for providing adequate security to protect the confidentiality and integrity of patient information;
- f. The policy and procedure for ensuring accuracy and accountability in the delivery process;
- g. The procedure and recordkeeping for returning to the initiating pharmacy any prescriptions that are not delivered to the patient; and
- h. The procedure for informing the patient and obtaining consent if required by law for using such a dispensing and delivery process.

3. Drugs waiting to be picked up at or delivered from the second pharmacy shall be stored in accordance with subsection A of 18 VAC 110-20-200.

C. Delivery to a practitioner of the healing arts licensed by the board to practice pharmacy or to sell controlled substances or other authorized person or entity holding a controlled substances registration authorized for this purpose.

1. A prescription may be delivered by a pharmacy to the office of such a practitioner or other authorized person provided there is written contract or agreement between the

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two parties describing the procedures for such a delivery system and the responsibilities of each party.

2. Each pharmacy using this delivery system shall maintain a policy and procedure manual that includes the following information:

a. Procedure for tracking and assuring security, accountability, integrity, and accuracy of delivery for the dispensed prescription from the time it leaves the pharmacy until it is handed to the patient or agent of the patient;

b. Procedure for providing counseling;

c. Procedure and recordkeeping for return of any prescription medications not delivered to the patient;

d. The procedure for assuring confidentiality of patient information; and

e. The procedure for informing the patient and obtaining consent if required by law for using such a delivery process.

3. Prescriptions waiting to be picked up by a patient at the alternate site shall be stored in accordance with 18 VAC 110-20-710.

18 VAC 110-20-320. Refilling of Schedule III through VI prescriptions.

A. A prescription for a drug listed in Schedule III, IV, or V shall not be dispensed or refilled more than six months after the date on which such prescription was issued, and no such prescription authorized to be filled may be refilled more than five times.

1. Each refilling of a prescription shall be entered on the back of the prescription or on another record in accordance with § 54.1-3412 of the Code of Virginia and 18 VAC 110-20-255, initialed and dated by the pharmacist as of the date of dispensing. If the pharmacist merely initials and dates the prescription, it shall be presumed that the entire quantity ordered was dispensed.

2. The partial dispensing of a prescription for a drug listed in Schedule III, IV, or V is permissible, provided that:

a. Each partial dispensing is recorded in the same manner as a refilling;

b. The total quantity of drug dispensed in all partial dispensing does not exceed the total quantity prescribed; and

c. No dispensing occurs after six months after the date on which the prescription order was issued.

B. A prescription for a drug listed in Schedule VI shall be refilled only as expressly authorized by the practitioner. If no such authorization is given, the prescription shall not be refilled, except as provided in § 54.1-3410 C or subdivision 4 of § 54.1-3411 of the Code of Virginia.

A prescription for a Schedule VI drug or device shall not be dispensed or refilled more than two years after the date on which it was issued.

C. As an alternative to all manual record-keeping requirements provided for in subsections A and B of this section, an automated data processing system as provided in 18 VAC 110-20-250 may be used for the storage and retrieval of all or part of dispensing information for prescription ~~for~~ drugs dispensed.

D. Authorized refills of all prescription drugs may only be dispensed in reasonable conformity with the directions for use as indicated by the practitioner; if directions have not been provided, then any authorized refills may only be dispensed in reasonable conformity with the recommended dosage and with the exercise of sound professional judgment.

18 VAC 110-20-400. Returning of drugs and devices.

~~A. Drugs or devices may be accepted for return or exchange by any pharmacist or pharmacy for resale after such drugs and devices have been taken from the premises where sold, distributed, or dispensed provided such drug or devices are in the manufacturer's original sealed containers or in a unit-dose container which meets the U.S.P.-N.F. Class A or Class B container requirement and provided such return or exchange is consistent with federal law and regulation in accordance with the provisions of § 54.1-3411.1 of the Code of Virginia. Devices may be accepted for return or exchange provided the device is in manufacturer's original sealed packaging.~~

B. Any pharmacy accepting drugs returned from nursing homes for the purpose of re-dispensing to the indigent, free of charge, shall maintain a copy of a written agreement with the nursing home in accordance with § 54.1-3411.1 B of the Code of Virginia and a current policy and procedure manual describing the following:

1. Method of delivery from the nursing home to the pharmacy and of tracking of all prescription medications;

2. Procedure for determining the suitability and integrity of drugs for redispensing to include assurance that the drugs have been stored according to official compendial standards; and

3. Procedure for assigning a beyond-use date on redispensed drugs.

18 VAC 110-20-430. ~~Chart order. (Repealed.)~~

~~A chart order for a drug to be dispensed for administration to an inpatient in a hospital shall be exempt from the requirement of including all elements of a prescription as set forth in §§ 54.1-3408 and 54.1-3410 of the Code of Virginia. A hospital pharmacy policy and procedures manual shall set forth the minimum requirements for chart orders consistent with federal and state law.~~

18 VAC 110-20-530. Pharmacy's responsibilities to long-term care facilities.

The pharmacy serving a long-term care facility shall:

1. Receive a valid order prior to the dispensing of any drug.

2. Ensure that personnel administering the drugs are trained in using the dispensing system provided by the pharmacy.

3. Ensure that the drugs for each patient are kept and stored in the originally received containers and that the

medication of one patient shall not be transferred to another patient.

4. Ensure that each cabinet, cart or other area utilized for the storage of drugs is locked and accessible only to authorized personnel.

5. Ensure that the storage area for patients drugs is well lighted, of sufficient size to permit storage without crowding, and is maintained at appropriate temperature.

6. Ensure that poison and drugs for "external use only" are kept in a cabinet and separate from other medications.

7. Provide for the disposition of discontinued drugs under the following conditions:

a. Discontinued drugs may be returned to the pharmacy for resale or transferred to another pharmacy for redispensing to the indigent if authorized by § 54.1-3411.1 of the Code of Virginia and 18 VAC 110-20-400, or destroyed by appropriate means in compliance with any applicable local, state, and federal laws and regulations.

b. Drug destruction at the pharmacy shall be witnessed by the pharmacist-in-charge and by another pharmacy employee. Drug destruction at the facility shall be witnessed by the director of nursing or, if there is no director, then by the facility administrator and by a pharmacist providing pharmacy services to the facility or by another employee authorized to administer medication.

c. A complete and accurate record of the drugs returned or destroyed or both shall be made. The original of the record of destruction shall be signed and dated by the persons witnessing the destruction and maintained at the long-term care facility for a period of two years. A copy of the destruction record shall be maintained at the provider pharmacy for a period of two years.

d. All destruction of the drugs shall be done without 30 days of the time the drug was discontinued.

8. Ensure that appropriate drug reference materials are available in the facility units.

9. Ensure that a monthly review of drug therapy by a pharmacist is conducted for each patient in long-term care facilities except those licensed under Title 63.1 of the Code of Virginia. Such review shall be used to determine any irregularities, which may include but not be limited to drug therapy, drug interactions, drug administration or transcription errors. The pharmacist shall sign and date the notation of the review. All significant irregularities shall be brought to the attention of the attending practitioner or other party having authority to correct the potential problem.

18 VAC 110-20-730. Requirements for practitioner of medicine or osteopathy in free clinics.

A. Any practitioner of medicine or osteopathy who provides controlled substances that have been donated pursuant to § 54.1-3301 (11) of the Code of Virginia shall apply for a controlled substances registration and inform the board of all sources of the donated drugs for this purpose on a form provided by the board.

B. A practitioner shall comply with the storage and security requirements set forth in 18 VAC 110-20-710. A practitioner shall maintain and comply with a written procedure for at least monthly inventory reviews for the removal of expired drugs.

C. A practitioner shall package any dispensed drugs in accordance with the provisions of §§ 54.1-3426 and 54.1-3427 of the Code of Virginia and 18 VAC 110-20-340 and 18 VAC 110-20-350.

D. A practitioner shall label any dispensed drugs in accordance with the provisions of §§ 54.1-3410 and 54.1-3463 of the Code of Virginia and 18 VAC 110-20-330 to include the free clinic name and address, name of the prescriber, patient name and address, date of dispensing, drug name to include the generic name if the drug has a single active ingredient, drug strength if applicable, quantity, and directions for use.

E. A practitioner shall comply with all recordkeeping requirements of § 54.1-3404 of the Code of Virginia and shall also maintain a chronological record of all Schedule II-VI drugs dispensed showing patient name and address, date of dispensing, drug name, strength and quantity dispensed, and name or initials of the dispensing practitioner.

F. A practitioner under this section may enter into a contract or written agreement with a pharmacy whereby the pharmacy maintains all or part of the donated stock, dispenses the prescription pursuant to a written prescription by a prescriber at the free clinic, and delivers the dispensed prescription to the free clinic for pick up by the patient in accordance with subsection C of 18 VAC 110-20-275.

NOTICE: The forms used in administering 18 VAC 110-20, Regulations Governing the Practice of Pharmacy, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Application for Registration as a Pharmacy Intern (rev. 12/98).

Affidavit of Practical Experience, Pharmacy Intern (rev. 12/98).

Application for Licensure as a Pharmacist by Examination (rev. 12/98).

Application to Reactivate Pharmacist License (rev. 12/98).

Application for Approval of a Continuing Education Program (rev. 3/99).

Application for Approval of ACPE Pharmacy School Course(s) for Continuing Education Credit (rev. 10/00).

Application for License to Dispense Drugs (permitted physician) (rev. 11/98).

Application for a Pharmacy Permit (rev. 4/00).

Application for a Non-Resident Pharmacy Registration (rev. 12/98).

Application for a Permit as a Medical Equipment Supplier (rev. 3/99).

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Application for a Permit as a Restricted Manufacturer (rev. 3/99).

Application for a Permit as a Non-Restricted Manufacturer (rev. 3/99).

Application for a Permit as a Warehouse (rev. 3/99).

Application for a License as a Wholesale Distributor (rev. 4/00).

Application for a Non-Resident Wholesale Distributor Registration (rev. 3/99).

Application for a Controlled Substances Registration Certificate by a Practitioner of Medicine or Osteopathy (rev. 4/99 7/02).

~~Application for Controlled Substances Registration Certificate for Optometrists (eff. 12/98).~~

License Renewal Notice and Application for Pharmacists (rev. 11/00).

License Renewal Notice and Application for Facilities (rev. 11/00).

Application to Reinstate a Pharmacist License (rev. 3/99).

Application for a Permit as a Humane Society (rev. 3/99).

Application for Registration as a Pharmacy Intern for Graduates of a Foreign College of Pharmacy (rev. 12/98).

Closing of a Pharmacy (rev. 3/99).

Application for Approval of a Robotic Pharmacy System (8/00).

Notice of Inspection Fee Due for Approval of Robotic Pharmacy System (8/00).



APPLICATION FOR A CONTROLLED SUBSTANCES REGISTRATION BY A PRACTITIONER OF MEDICINE OR OSTEOPATHY FOR THE PURPOSE OF PROVIDING DONATED DRUGS IN A FREE CLINIC

Check Appropriate Box(es):
 New* \$20.00 Change of location of storage area* No fee
 Reinstatement
 If reinstatement, due to: Lapse of License or Suspension or Revocation of a License
 The required fees must accompany the application. Make check payable to "Treasurer of Virginia".
 Applicant—Please provide the information requested below. (Print or Type) Use full name not initials

Name of Medical Practitioner/Applicant		Medical License Number
Name of Free Clinic	Controlled Substance Schedules Requested: <input type="checkbox"/> I <input type="checkbox"/> II <input type="checkbox"/> III <input type="checkbox"/> IV <input type="checkbox"/> V <input type="checkbox"/> VI	Area Code and Telephone Number
Street Address of Free Clinic	State	Social Security Number (or Virginia DMV number)
City	Zip Code	Date
Signature of the Applicant	Requested Inspection Date	
Expected Hours of Operation	Requested Inspection Date	

Please read and complete page 2 of this application.

FOR BOARD USE ONLY: Acknowledgment of Inspection Request
 An inspector will call prior to the requested date to confirm readiness for inspection. If the inspector does not call to confirm the date, the responsible party should call the Enforcement Division at (804) 692-8034 to verify the inspection date with the inspector.

Date Processed: _____ Assigned Inspection Date: _____

Application Number Assigned	Date Inspected	Approved	CSR Number	Date Issued
022B-			022B-	

Practitioner Selling Drugs Application, Page 2
 Please respond to the following questions:

- Has your federal registration with the Drug Enforcement Administration been revoked or suspended?
 Yes No If yes, attach a detailed explanation and have a certified copy of the order sent to the Board office.
 Has your medical license ever been voluntarily surrendered to a licensing authority in any jurisdiction, placed on probation, suspended, revoked, or have your prescribing privileges been restricted?
 Yes No If yes, attach a detailed explanation and provide a copy of the order or other document of the licensing authority.
- Is your medical license in all jurisdictions where licensed current and unrevoked?
 Yes No If no, attach explanation.
- Have you ever been convicted, pled guilty to or pled nolo contendere to a violation of any federal, state, or other drug related law?
 Yes No If yes, attach a detailed explanation and have a certified copy of the court order sent to the Board office.

List all sources of donated drugs other than those donated by a pharmaceutical manufacturer through an indigent patient program or samples (if more than six sources, attach a separate list):

	Name	Address
1.		
2.		
3.		
4.		
5.		
6.		

*A 14-day notice is required for scheduling a new or change of location inspection. Drugs may not be stocked prior to inspection and approval of the drug storage area.
 In accordance with 5 54.1-116 of the Code of Virginia, you are required to submit your Social Security Number or your control number issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. NO LICENSE WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS. In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure to DMV of your Social Security Number will be required to obtain this number.

July 2002

July 2002

/s/ Mark R. Warner
 Governor
 Date: July 18, 2002

VAR. Doc. No. R02-269; Filed July 19, 2002, 10:42 a.m.

Emergency Regulations

BOARD OF VETERINARY MEDICINE

Title of Regulation: 18 VAC 150-20. Regulations Governing the Practice of Veterinary Medicine (adding 18 VAC 150-20-135).

Statutory Authority: §§ 54.1-2400 and 54.1-3801 of the Code of Virginia.

Effective Dates: July 19, 2002, through July 18, 2003.

Preamble:

Chapter 740 of the 2002 Acts of Assembly mandates that the board promulgate regulations within 280 days for an out-of-state practitioner to be licensed to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world. Regulations set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

Agency Contact: Elaine J. Yeatts, Senior Policy Analyst, Department of Health Professions, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

18 VAC 150-20-135. Voluntary practice by out-of-state practitioners.

Any veterinarian who seeks registration to practice on a voluntary basis under the auspices of a publicly supported all volunteer, nonprofit organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world shall:

- 1. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice. An incomplete application will not be considered;*
- 2. Provide a complete record of professional licensure in each state in which he has held a license and a copy of every current license;*
- 3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;*
- 4. Pay a registration fee of \$10; and*
- 5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of § 54.1-3801 (4) of the Code of Virginia.*

NOTICE: For the purpose of this emergency regulation, the following two forms are being added to the forms list used in administering 18 VAC 150-20, Regulations Governing the Practice of Veterinary Medicine. The new forms are identical to those shown following the emergency regulation amending 18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene, in this issue and are not reprinted here.

FORMS

Application for Registration for Volunteer Practice (eff. 7/02).

Sponsor Certification for Volunteer Registration (eff. 7/02).

/s/ Mark R. Warner
Governor
Date: July 18, 2002

VA.R. Doc. No. R02-274; Filed July 19, 2002, 11:01 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Title of Regulation: 22 VAC 40-685. Virginia Energy Assistance Program - Home Energy Assistance Program (adding 22 VAC 40-685-10, 22 VAC 40-685-20, and 22 VAC 40-685-30).

Statutory Authority: § 63.1-25 of the Code of Virginia and Chapter 676 of the 2001 Acts of Assembly.

Effective Dates: September 1, 2002, through August 31, 2003.

Preamble:

House Bill 2473, which was enacted during the 2001 Session of the Virginia General Assembly, directs promulgation of an emergency regulation to establish the Home Energy Assistance Program. These emergency regulations are to take effect within 280 days. House Bill 2473 establishes a Home Energy Assistance Program and creates a Home Energy Assistance Fund to assist low-income Virginians in meeting their residential energy needs. Low-income households spend a large percentage of their income on residential energy. Data captured by the Virginia Energy Assistance Program reveals that 75% of the households receiving assistance through the Low Income Home Energy Assistance Program (LIHEAP) in Virginia spend in excess of 50% of their income on home energy. The Home Energy Assistance Program could provide additional assistance to low-income households in a time of escalating energy prices and the uncertain effects of a deregulated market.

Agency Contact: Margaret Friedenber, Energy Assistance Program Manager, Department of Social Services, 730 E. Broad Street, Richmond, VA 23219-1849, telephone (804) 692-1728, FAX (804) 692-1469, or e-mail mjf900@dcse.dss.state.va.us.

CHAPTER 685.

VIRGINIA ENERGY ASSISTANCE PROGRAM - HOME ENERGY ASSISTANCE PROGRAM.

22 VAC 40-685-10. Definitions.

As used in this chapter, unless the context requires otherwise:

"Department" means the Department of Social Services.

"Energy assistance program" includes fuel, crisis, cooling, and weatherization assistance.

"Fund" means the Home Energy Assistance Fund, which is based on contributions and donations, and monies appropriated by the General Assembly for the purpose of funding the Home Energy Assistance Program.

"Home Energy Assistance Program" means the voluntary assistance program to supplement the Virginia Energy Assistance Program.

"Household" means an individual or group of individuals who occupy a housing unit and share residential energy in common.

"LIHEAP" means the Low-Income Home Energy Assistance Program, a federal block grant that is the basis for the Virginia Energy Assistance Program.

"Other entities" means community, non-profit, private, or charitable organizations that administer energy assistance programs, and local departments of social services that administer energy assistance programs other than those offered through the Virginia Energy Assistance Program funded by the Low-Income Home Energy Assistance Program.

"Program" means the Home Energy Assistance Program.

"Virginia Energy Assistance Program" means the assistance program developed in Virginia to address the residential energy needs of low-income households. The program is funded by and in accordance with the federal LIHEAP requirements.

22 VAC 40-685-20. Home Energy Assistance Fund.

The Home Energy Assistance Fund is established on the books of the Comptroller in the Virginia State treasury as a non-reverting fund. Interest earned on monies in the Fund shall remain in the Fund and be credited to it.

A. The purpose of the fund shall be to:

1. Supplement assistance provided through the Virginia Energy Assistance Program by assisting eligible low-income applicants with their residential energy needs;
2. Provide matching funds, when required by federal regulations, for the LIHEAP (Virginia Energy Assistance Program) or Weatherization Assistance Program; and
3. Increase the amount of dollars the state may claim for a leveraging award through LIHEAP.

B. The Fund shall consist of donations and contributions, monies appropriated by the General Assembly, and interest earnings.

1. There shall not be restrictions placed on the amount of donations or contributions made to the fund.
2. Corporations, public agencies, individuals, and other entities may contribute to the Fund.

C. Monies received from public agencies, private utility service providers, charitable and community groups, and individuals seeking to assist low-income Virginians in meeting their residential energy needs shall be deposited into the Fund and used in accordance with the regulations of this chapter.

1. Special programs or fund raising projects may contribute monies to the Fund.
2. General funds may be appropriated by the General Assembly into the Fund.

D. The Department shall disburse funds in one of two ways:

1. Through the existing Virginia Energy Assistance Program.
2. Other means necessary to provide energy assistance to low-income individuals, at the discretion of the Commissioner of the Department.

E. Funds not expended by June 30 of the following year shall revert to the Fund.

22 VAC 40-685-30. Home Energy Assistance Program.

A. The Department shall establish the Home Energy Assistance Program for the following purposes:

1. Administer available funds from the Home Energy Assistance Fund;
2. Coordinate energy assistance efforts among agencies of the Commonwealth and nonstate organizations electing to participate in the Home Energy Assistance Program;
3. Conduct research regarding available private and governmental resources for low-income Virginians in need of energy assistance; and
4. Collect data and report on the amounts of energy assistance provided through the Department.

B. The Home Energy Assistance Program shall:

1. Disperse funds from the Home Energy Assistance Fund through the existing Virginia Energy Assistance Program.
2. Disperse funds from the Home Energy Assistance Fund by means other than the Virginia Energy Assistance Program, at the discretion of the Commissioner of the Department.
3. Upon mutually agreed terms, the Department shall administer the low-income energy assistance programs of public agencies, private utility service providers, and charitable and community groups.
4. Lead and facilitate meetings with other agencies of the Commonwealth and nonstate organizations participating in the Home Energy Assistance Program.
5. Conduct the necessary research to report annually to the Governor and General Assembly on the effectiveness of low-income energy assistance programs in meeting the needs of low-income Virginians.

/s/ Mark R. Warner
Governor
Date: July 18, 2002

VA.R. Doc. No. R02-304; Filed July 24, 2002, 9:17 a.m.

* * * * *

Emergency Regulations

Title of Regulation: 22 VAC 40-910. General Provisions for Maintaining and Disclosing Confidential Information of Public Assistance and Social Services Records (adding 22 VAC 40-910-10 through 22 VAC 40-910-100).

Statutory Authority: §§ 63.1-25, 63.1-53, 63.1-209 and 63.1-209.1 of the Code of Virginia.

Effective Dates: September 1, 2002, through August 31, 2003.

Preamble:

Senate Bill 1096, enacted during the 2001 Session of the Virginia General Assembly, directs promulgation of an emergency regulation to be effective within 280 days. This regulation establishes separate sections for the confidentiality of public assistance and social services programs administered by the Department of Social Services and local departments of social services. Except as provided by federal and state law and regulation, no records or information concerning applicants for and recipients of public assistance are accessible except for purposes directly connected with the administration of the public assistance program. Social services records and information are confidential except they are accessible to persons having a legitimate interest in accordance with federal and state law and regulation.

Agency Contact: Lynette Isbell, Policy and Planning Manager, Department of Social Services, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-1821, FAX (804) 692-1694, or e-mail: lwi2@dss.state.va.us.

CHAPTER 910.

GENERAL PROVISIONS FOR MAINTAINING AND DISCLOSING CONFIDENTIAL INFORMATION OF PUBLIC ASSISTANCE AND SOCIAL SERVICES RECORDS.

22 VAC 40-910-10. Definitions.

The following words and terms, when used in this regulation, will have the following meaning, unless the context clearly indicates otherwise:

"Agency" means a local department of social services.

"Agent" means any individual authorized to act on behalf of or under the direction of the Commissioner of the Virginia Department of Social Services or State Board of Social Services for the sole purpose of accessing confidential client records in the administration of public assistance or social services programs.

"Client" means any applicant for or recipient of public assistance or social services or any individual about whom the child support enforcement division maintains information.

"Client record" means any identifying or non-identifying information, including information stored in computer data banks or computer files relating to a client.

"Department" means the Virginia Department of Social Services.

"Human research" means any formal and structured evaluation involving individuals in a special project, program, or study.

"Legally responsible person" means (i) the biological or adoptive parent or other relative with whom the child primarily resides and who has legal custody of the child; (ii) the biological or adoptive parent with whom the child does not primarily reside and who has legal custody of the child; or (iii) a committee or guardian appointed by a court to represent the interest of a client.

"Provider" means any person, agency or organization providing public assistance or social services through a contract or an agreement with the Department or agency.

"Public assistance" means Temporary Assistance for Needy Families; auxiliary grants to the aged, blind and disabled; medical assistance; energy assistance; child support enforcement; food stamps; employment services; child care; refugee assistance; and general relief.

"Research" means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to general knowledge, including research for the development of new knowledge or techniques which would be useful in the administration of public assistance or social services programs.

"Social services program" means foster care; adoption; adoption assistance; adult services; adult protective services; child protective services; domestic violence services; family preservation, or any other service program implemented in accordance with regulations promulgated by the State Board of Social Services.

22 VAC 40-910-20. General Provisions.

Except as otherwise provided in these regulations or consistent with other federal and state law or regulations, no person shall disclose or use, or authorize, permit or acquiesce to the use of any information that is directly or indirectly derived from the client records of the Department, agency, provider, or the State Board of Social Services. Exceptions to this provision are provided in subsections 22 VAC 40-910-80 and 22 VAC 40-910-90.

A. Protecting Confidential Information. All client records, which could disclose the client's identity, are confidential and must be protected in accordance with federal and state laws and regulations. Such information includes, but is not limited to:

- 1. Name, address and any types of identification numbers assigned to the client, including but not limited to the client's Social Security number;*
- 2. Public assistance or social service programs provided to the client;*
- 3. Information received for verifying income and eligibility;*
- 4. Evaluation of the client's confidential information;*
- 5. Social and medical data about the client, including diagnoses and past histories of disease or disabilities;*
- 6. Information received from third parties such as an employer; and*
- 7. Information associated with processing and rendering appeals.*

B. Ownership of Client Records.

1. Client records are the property of the Department or agency. Employees and agents of the Department or agency must protect and preserve such records from dissemination except as provided herein.
2. Only authorized employees and agents may remove client records from the Department or agency's premises.
3. The Department and agency may destroy client records pursuant to records retention schedules consistent with federal and state regulations.

C. Disclosure of Client Records.

1. Consent. As part of the application process for public assistance or social services, the client or legally responsible person must be informed of the need to consent to a third-party release of information necessary for verifying his eligibility. Whenever a person or organization that is not performing one or more of the functions delineated in subsection 22 VAC 40-910-80 B or 22 VAC 40-910-90 requests client records, the person or organization must obtain written permission from the client or the legally responsible person for the release of the client records unless one of the conditions delineated in subsection 22 VAC 40-910-20 C 1 a exists. A client's authorization for release of his record obtained by the Department, agency or provider also satisfies this requirement.

a. Client records may be released without the client's written permission under the following conditions:

- (1) A court of competent jurisdiction has ordered the production of client records and the Department, agency or provider does not have sufficient time to notify the client or legally responsible person before responding to the order.
- (2) Release is not otherwise prohibited by law or regulation.
- (3) For research purposes as provided in subsection 22 VAC 40-910-50.

2. Exception. The Commissioner of the Virginia Department of Social Services, the State Board of Social Services and their agents do not have to obtain consent from the client to obtain or review client records.

22 VAC 40-910-30. Notification of Release of Confidential Information.

If one of the conditions in 22 VAC 40-910-20 C 1 a above is met and consent is not obtained before the release of the client records, the Department, agency or provider must provide written notification to the client or legally responsible person within five business days after disclosure.

22 VAC 40-910-40. Consent Process.

The consent for release of information must contain the following:

1. The name of the entity supplying the information and the name of the requesting party; and

2. The consent must be signed and dated by the client or legally responsible person. The client or legally responsible person may add other information which may include, but is not limited to, a statement specifying the date, event or condition upon which the consent expires.

22 VAC 40-910-50. Release of Client Records for Research Purposes.

Prior to the initiation of research involving client records by any individual or institution that entered into an agreement with and/or is funded or licensed by the Department or agency, a written plan outlining the proposed research must be submitted to the Department or agency for review and approval. The plan must be submitted to the Commissioner or his designee(s) or agency director or his designee(s) at the location where the request is made for client records. In the event client records are requested from multiple agencies or the Department and an agency or agencies, the plan must be submitted to the Department.

A. The plan must include:

1. The purpose of the proposed research;
2. A description of how client records will be used; and
3. A confidentiality agreement signed by the individual or institution's authorized representative which includes the following:
 - a. Client records will be used only for the purposes for which they are being provided;
 - b. Client records will not be released to any persons not connected with the research;
 - c. Security safeguards will be in place to protect against loss, and unauthorized access, use, modification or disclosure of client records;
 - d. Authorized persons involved in the research are required to maintain confidentiality of all client records connected with the research;
 - e. Identifying information from client records must not be discussed with or released to anyone except authorized persons involved in the research;
 - f. Final product(s) of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the Department, agency or provider without written consent of such person and the Department, agency or provider;
 - g. Authorized person(s) involved in the research who fail to comply with the terms of this confidentiality agreement will be immediately terminated from the research; and
 - h. This confidentiality agreement must survive and continue after completion of the research. The individual or institution continues to be responsible for any breach.

B. Client records will be released for research purposes if the following conditions are met:

1. The Commissioner of the Virginia Department of Social Services or his designee(s), or agency director or his

Emergency Regulations

designee(s) authorizes the plan and the release of the client records; and

2. The individual or institution complied with the appropriate security forms for the release of the client records and/or has entered into a contract with the Department or agency that stipulates the Department's or agency's requirements for the confidentiality of client records.

C. The confidentiality of human research activities involving public assistance and social services programs and clients is governed by 22 VAC 40-890-10 et seq. established pursuant to § 63.1-25.01 of the Code of Virginia.

22 VAC 40-910-60. Client's Right of Access to Information.

Any client has the right to obtain his client record upon written or verbal request. The client must be permitted to review or obtain a copy of his client record with the following exceptions:

1. Information that the Department, agency or provider is required to keep confidential from the client pursuant to § 2.2-3704 of the Code of Virginia, or any other applicable law.

2. Information that would breach another individual's right to confidentiality. When the material requested includes confidential information about individuals, other than the client, the parts of the client record relating to other individuals will be redacted.

22 VAC 40-910-70. Publicizing Safeguarding Requirements.

The Department, agency or provider shall inform clients in writing that client records shall be confidential pursuant to federal and state law.

22 VAC 40-910-80. Confidential Information Pertaining to Public Assistance.

Confidentiality of client records of public assistance programs is assured by §§ 63.1-53, 63.1-55.4, 63.1-126, 63.1-274.6 and 63.1-343 of the Code of Virginia.

A. Information may be released only:

1. For a purpose directly connected with the administration of a public assistance program, except as herein provided or pursuant to §§ 63.1-53, 63.1-274.3, 63.1-274.6 and 63.1-343 of the Code of Virginia.

B. Purposes directly related to the administration of a public assistance program include but are not limited to:

1. Establishing eligibility;
2. Determining the amount of public assistance;
3. Providing services for public assistance clients; and
4. Conducting or assisting in an investigation or prosecution of a civil or criminal proceeding related to the administration of the public assistance program.

C. Release of client records to law enforcement officials is governed by 22 VAC 40-320-10 et seq.

D. The following regulatory provisions provide guidance on the release of client records from the Division of Child Support Enforcement:

1. Entities to whom the Division of Child Support Enforcement can release client records to is governed by 22 VAC 40-880-520;

2. The release of client records to and from the Internal Revenue Service is governed by 22 VAC 40-880-530;

3. Requests for client records from the general public are governed by 22 VAC 40-880-540;

4. Requests for client records from parents are governed by 22 VAC 40-880-550; and

5. Release of health insurance information is governed by 22 VAC 40-880-560.

22 VAC 40-910-90. Confidential Information Relating to Social Services Programs.

Confidentiality of social services records, including client records, is assured by §§ 63.1-209 and 63.1-209.1 of the Code of Virginia.

A. Releasing Confidential Social Services Information.

1. The Commissioner of the Virginia Department of Social Services, the State Board of Social Services and their agents shall have access to all social services client records pursuant to § 63.1-209 of the Code of Virginia.

2. Social services client records must be confidential and can only be released to persons having a legitimate interest in accordance with federal and state law and regulation pursuant to § 63.1-209 of the Code of Virginia. Section 63.1-209 of the Code of Virginia does not apply to the disclosure of adoption records, reports and information. The disclosure of adoption records, reports and information is governed by § 63.1-219.53 of the Code of Virginia.

3. The following statutory and regulatory provisions provide guidance on the definition of legitimate interest as applied to specific social services programs:

a. Adult Protective Services client records can be released to persons having a legitimate interest pursuant to 22 VAC 40-740-50 B.

b. Foster Care client records about children in foster care or their parents can be released, upon order of the court. For instance, client records may be released to the Guardian Ad Litem and the Court Appointed Special Advocate who are appointed for a child as a result of a court order or to attorneys representing the child or the child's parents.

c. Child Protective Services Client Records and Information Disclosure:

(1) Child protective services client records can be released to persons having a legitimate interest pursuant to § 63.1-209.1 A of the Code of Virginia.

(2) Information regarding child protective services reports, complaints, investigation and related services

and follow-up may be shared with the appropriate Family Advocacy Program representative of the United States Armed Forces as provided in 22 VAC 40-720-10 et seq.

(3) The agency must release child protective services client records in the instances of mandatory disclosure as provided in 22 VAC 40-705-160. The local department may release the information without written consent.

22 VAC 40-910-100. Other Confidentiality Regulatory Provisions.

This regulation does not supersede existing regulations pertaining to the confidentiality of client records and should be read in conjunction with all public assistance and social services confidentiality regulations under Title 22.

/s/ Mark R. Warner
Governor
Date: July 18, 2002

VA.R. Doc. No. R02-303; Filed July 24, 2002, 9:16 a.m.

GENERAL NOTICES/ERRATA

STATE CORPORATION COMMISSION

Bureau of Insurance

July 26, 2002

Administrative Letter 2002-8

TO: ALL INSURANCE COMPANIES; HEALTH, DENTAL, OPTOMETRIC AND LEGAL SERVICES PLANS; AND HEALTH MAINTENANCE ORGANIZATIONS LICENSED IN VIRGINIA

RE: CHANGES IN LAWS GOVERNING LICENSING OF VARIOUS TYPES OF INSURANCE AGENTS AND PRODUCERS

The purpose of this administrative letter is to discuss the many changes in Virginia's laws governing the licensing and other activities of insurance agents, consultants, and other licensees. Because of the importance that the content of this letter be widely disseminated, **I am sending this administrative letter to all insurers with the request that they instruct their currently appointed agents to review it by accessing it via the Bureau of Insurance web site at:**

<http://www.state.va.us/scc/division/boi/webpages/administrativetrselection.htm>

I am also requesting that such insurers include, commencing immediately, an instruction to each newly appointed Virginia agent to review this administrative letter at the above website address. Bureau of Insurance staff will review whether companies have carried out this request during regular and special market conduct examinations, and as part of consumer complaint and agent investigations conducted by the Bureau.

Finally, I am sending copies of this administrative letter to the various agent associations in Virginia, with the request that they, too, attempt to disseminate this information to their members, and to their national offices.

Statutory provisions referred to in this memorandum may be viewed via the Bureau's Web site at:

<http://www.state.va.us/scc/division/boi/webpages/administrativetrselection.htm>

As most recipients of this administrative letter are aware, there has been a concerted effort over the past few years for states to adopt reciprocal producer licensing requirements so as to make the licensing process simpler for those seeking to be licensed in a number of states. Spurred on by the action of Congress in enacting the Financial Services Modernization Act of 1999 (known popularly as the Gramm-Leach-Bliley Act or "GLBA"), the states undertook serious efforts to incorporate into their statutes the provisions of the NAIC Producer Licensing Model Act (PLMA), which has been determined to satisfy the federal requirements for reciprocity. The goal, which has been reached and exceeded, was that at least 29 states adopt reciprocal agent licensing requirements by November 12, 2002 (3 years from the effective date of GLBA).

Legislation was introduced in the 2001 Virginia General Assembly to initiate substantial changes to Chapter 18 of Title

38.2, as well as certain related provisions. The bill was passed by the General Assembly and signed into law by the governor. The effective dates of the majority of provisions in the 2001 bill were delayed until September 1, 2002, in order to afford sufficient time for the Bureau to implement major revisions to its processes and automated systems, but yet to be in effect prior to the federal deadline. This goal, too, has been reached.

The Bureau will be sending out a number of communications dealing with the changes to our law. A new administrative letter, replacing Administrative Letter 1997-1 will be disseminated separately, and will address the questions regarding when a license is or is not required.

Because many of these communications directly impact agents and agencies, it is crucial that companies, agencies and associations receiving this letter remind licensed individuals and business entities of the importance of making sure their current RESIDENCE address is on file with the Bureau. A form for making such notification, the VIRGINIA SERVICE REQUEST FORM (PIN 5001) is available through the Bureau's Interactive Voice Response (IVR) phone system at:

804.371.9631

or via the Bureau's Web site at:

<http://www.state.va.us/scc/division/boi/webpages/formsapplications.htm>

This administrative letter will address some changes in very general terms, because separate notifications will be sent directly to those affected. Other changes will be addressed in more detail. In the remainder of this administrative letter, we will address the following topics:

LICENSE CONVERSIONS
NON-STANDARD LICENSES (NSL)
NEW LICENSING REQUIREMENTS
NONRESIDENT LICENSING
APPOINTMENTS
MISCELLANEOUS DISCLOSURE AND DISCIPLINARY ACTIONS
CONTINUING EDUCATION
TABLES OF CONVERSION AND NEW LICENSE TYPES

LICENSE CONVERSIONS

The new law creates certain new license types, eliminates certain license types, and consolidates certain restricted license types by creating three new general limited lines licenses. We will address each separately, below.

Life & Health license split into 2 separate licenses

In order to create consistency among the states, the NAIC's PLMA recognizes two separate license types, rather than a single Life & Health license. Effective on September 1, 2002, then, all agents holding the Life & Health (Type 001) license will be issued two new licenses – a "Life and Annuities" (Type 007) and a "Health" (Type 008) license. This process will be automatic, and will require no action on the part of the licensee or the appointing insurers. The agent's authority under the 2 new licenses will be exactly the same as it was under the former Life & Health license,

as can be determined from reviewing the attached Conversion Table and Table of License Types.

Each individual and agency holding a Life & Health license will be receiving in the mail a notification of this action, along with new licenses to replace the combination license. Along with this notification, the licensee will receive a memorandum explaining the implications of this action.

There will be NO change in the appointment process, nor will the Bureau require a separate appointment under each of the 2 new licenses. Insurers authorized to issue "LH" appointments will continue to do so, and one LH appointment will support both the 007 and 008 licenses as long as the appointment remains active.

Consolidation and conversion of limited lines licenses

In recent years, Virginia has issued as many as 19 different types of limited lines or restricted licenses. Under the new law, this number has been reduced to 7. While the 3 temporary license types will remain, as will the "motor vehicle rental contract agent" license, all of the other limited lines licenses will be consolidated into three new license types: **Limited Lines Life & Health (Type 080); Limited Lines Property & Casualty (Type 081), and Limited Lines Credit (Type 015)**. The attached tables show the manner in which the licenses will be consolidated. Therefore, all agents holding one or more of the 15 discontinued limited lines licenses will receive one or more of the 3 new limited lines licenses.

As is the case for the Life & Health license conversions discussed above, this process will be automatic, and will require no affirmative action on the part of the agent or the appointing insurer. Converted licenses, along with an explanatory memorandum, will be furnished directly to each affected licensee, with license effective dates of September 1, 2002.

Conversion of "partial qualification" licenses

These licenses were issued prior to July 1, 1979, and are held only by Virginia residents. They provided authority to sell selected types of insurance, but not the full authority permitted by the Life & Health or Property & Casualty licenses that the Bureau issued subsequently. We have referred to the above licenses as "partial qualification" licenses in order to differentiate them from the "full" Life & Health or Property & Casualty licenses. The "partial qualification" licenses can be seen on the attached Conversion Table.

Changes in Virginia law effective September 1, 2002 (§ 38.2-1824 B) require that each "partial qualification" license be converted to a "full" authority license. Again, this process is automatic, and does not require any specific action on the part of licensees or appointing insurers. Converted licenses, along with an explanatory memorandum, including an explanation as to how the new licenses will be subject to continuing education requirements, will be furnished directly to each affected licensee, with license effective dates of September 1, 2002.

In adopting the new law, the Virginia General Assembly made it clear that no "partial qualification" agent's authority should

be reduced by conversion. Therefore, authority under the newly issued license is at least equal to, and in many cases is greater than the authority under the partial qualification licenses.

NON-STANDARD LICENSES (NSL)

We refer to the following as "non-standard" or NSL licenses: **Life & Health Insurance Consultant (Type 059); Property & Casualty Insurance Consultant (Type 058); Surplus Lines Broker (Type 065); Viatical Settlement Broker (Type 064); Managing General Agent (Type 061); Reinsurance Intermediary Broker (Type 062); and Reinsurance Intermediary Manager (Type 063)**. In revising the licensing statutes, every effort was made to make these license types reciprocal with other states, although not all were actually subject to the federal requirements. Although these licenses are basically unchanged, there are some things that licensees and others should keep in mind:

The laws governing licensing and activities of both types of Insurance Consultants can be found in Article 4 of Chapter 18 of Title 38.2. The annual license renewal application deadline and renewal dates have been changed to be consistent with all other NSL licenses.

While Chapter 48 of Title 38.2 still contains the general requirements for the Surplus Lines Insurance law, the LICENSING requirements for Surplus Lines Brokers have been moved from that chapter to Article 5.1 of Chapter 18.

While Chapter 57 of Title 38.2 still contains the general requirements for Viatical Settlements, the LICENSING requirements for Viatical Settlement Brokers have been moved from that chapter to Article 6.1 of Chapter 18.

The laws and licensing requirements applicable to Reinsurance Intermediary Brokers and Reinsurance Intermediary Managers, which were formerly found in Article 5 of Chapter 18 of Title 38.2 can now be found in Article 8 of Chapter 13.

The laws and licensing requirements applicable to Managing General Agents, which were formerly found in Article 6 of Chapter 18 of Title 38.2 can now be found in Article 9 of Chapter 13.

Efforts were made to conform the licensing requirements for the NSL licenses discussed above as closely as possible to those applicable to other licenses issued pursuant to Chapter 18 of Title 38.2.

<p>Insurers, please note that the previous requirement for Managing General Agents to be appointed has been REPEALED.</p>
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All of the NSL licenses are subject to renewal requirements. Regardless of what the renewal dates might have been in the past, ALL of the NSL licenses will now be renewable with effective dates of July 1. Licenses administered under Chapter 13 of Title 38.2 are renewable every other year, while the Insurance Consultant, Surplus Lines Broker and Viatical Settlement Broker licenses are renewable annually. Application for renewal, along with payment of the required renewal fee, must be made on or before June 1 of the renewal year or the license will terminate on June 30 of that

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year. In those instances where the renewal date under the former law was prior to July 1, licensees will be granted an automatic extension at the end of the current renewal period so that the new renewal date can become July 1.

The movement of the Reinsurance Intermediary and Managing General Agent licensing requirements to Chapter 13 was accomplished primarily for the purpose of re-assigning responsibility for licensing and renewal of these entities to the Bureau's Financial Regulation Division instead of the Agents Licensing Section. Commencing September 1, 2002, then, **ALL** communications relating to these license types should be directed to the Financial Regulation Division. Contact information is as follows:

Bureau of Insurance
Financial Regulation Division
P.O. Box 1157
Richmond, Virginia 23218

Telephone calls should be made to 804.371.9637
Telefaxes should be sent to 804.371.9511

Those with an interest in NSL licenses are urged to review the new laws carefully. There are some substantive changes that cannot be addressed in depth in this administrative letter.

NEW LICENSING REQUIREMENTS

Elimination of pre-licensing study course requirement

Bureau staff recommended to the General Assembly that it repeal the required 45-hour prelicensing study course requirement, and this change takes effect for licenses applied for after passing the appropriate examination on or after September 1, 2002. There were a number of reasons for making this recommendation. First, after 12 successful years of administration of the automated licensing examinations, it has been more than amply demonstrated that the examinations administered by our outside contractor are fair, unbiased, appropriate for Virginia, and adequately test the candidate's entry-level knowledge. Second, we concluded that no viable purpose was served by the imposition of an arbitrary number of prelicensing examination preparation hours. If a candidate can pass the examination, it should not matter how or for how many hours the candidate prepared. Third, in light of the increased availability of "distance learning" options for candidates, and particularly those in areas not easily accessible to classroom courses, it can no longer be successfully argued that one form of preparation is necessarily superior to another. "Distance learning" has been permitted in lieu of classroom study for a few years, and we have seen no diminution in the number of candidates successfully passing the examinations. And, while enforcement of the 45-hour classroom requirement was problematic, any attempt to enforce a specific hourly requirement for "distance learning" courses was untenable. We therefore concluded that candidates should be permitted to choose the methodology they wish to utilize in preparing for the examination, and professional educators should be permitted to determine the appropriate form and length of examination preparatory courses. We believe that most candidates should and will continue to take study courses, even if not required to do so by law, and that elimination of the

statutory requirement may even have the beneficial result of removing from the marketplace the types of "study course mill" operations that have existed for many years for no viable purpose other than to issue to the candidate an official certificate of course completion.

New and modified licensing examinations

Beginning on the first testing day after September 1, 2002, Expor Assessments will be administering the following examinations for the licenses described:

Life & Annuities Exam - for those wishing to apply ONLY for the Life & Annuities (Type 007) license.

Health Exam - for those wishing to apply ONLY for the Health (Type 008) license.

Life & Health Exam - for those wishing to apply for BOTH the Life & Annuities (Type 007) and the Health (Type 008) licenses.

Personal Lines Exam - for those wishing to apply for a Personal Lines (Type 032) property and casualty license.

Property & Casualty Exam - for those new applicants OR those already holding a Personal Lines license who wish to obtain full property & casualty authority, including both personal and commercial lines, and to apply for the full Property & Casualty (Type 030) license.

Title Exam - for those wishing to apply for a Title (Type 033) license.

Additional information regarding registration, updated content outlines, and other relevant information is provided in the 2002-2003 edition of the Virginia Licensing Information Bulletin, now available from Expor for examinations administered on or after September 1, 2002.

Penalty for failing examination three times changed

Under prior law, a candidate who failed the examination three times was required to take the prelicensing study course again before being permitted to sit for the examination. With the elimination of the prelicensing study course requirement, the statutory penalty has been changed, and the candidate will henceforth be required to wait a minimum of 30 calendar days before being permitted to take the examination again after failing the examination three times.

Consolidation of limited lines licenses

Although we have discussed this in some depth already in the section dealing with license conversions, we want to stress again that under the new law we have reduced some 19 former restricted license types to 4 clear and simple limited lines licenses: Limited Lines Life & Health (Type 080); Limited Lines Property & Casualty (Type 081); Limited Lines Credit (Type 015); and Motor Vehicle Rental Contract (Type 024).

Adoption of consistent definitions - [See § 38.2-1800]

Definitions of terms such as "business entity," "home state," "solicit," "sell," and "negotiate," have been modified so as to be more consistent with definitions used in other states.

Throughout the definitions and elsewhere, we attempted to recognize the term "producer" so as to allow it to be used **interchangeably** with "agent" and "insurance agent". This means that rather than change the word "agent" to "producer" throughout the chapter, and rather than ignoring the word "producer" that is used in the PLMA and in many other states, we chose to clarify in the definitions that "agent" and "producer" are synonymous.

In order to reduce the number of disputes arising from misunderstandings, references to time frames, such as "30 days" have been clarified so that they refer either to "business" days or "calendar" days, depending upon the context. Companies and agents are on notice from this point forward that when we talk about "30 calendar days" or "183 calendar days" (i.e. 6 months plus a few extra days' leeway), these are STATUTORY requirements, not administrative requirements. This means that we have NO authority to make exceptions or grant extensions.

License applications

As has been the case for some time, Virginia will continue to accept (both for resident and nonresident license applications) either our own license application form or, where applicable the NAIC Uniform Application for Individuals or the NAIC Uniform Application for Business Entities.

Our own basic application for individual license types 007, 008, 030, 032, and 033 (PIN 3001) can be found in the latest edition of the *Virginia Licensing Information Bulletin*, or any of our applications may be requested by telephone to 804.371.9631, or may be downloaded and printed from the Bureau's web site at:

<http://www.state.va.us/scc/division/boi/webpages/formsapplications.htm>

Those choosing to use the NAIC Uniform Applications may obtain them directly from the National Insurance Producer Registry web site at:

http://www.licenseregistry.com/uniform_nonres_licensing.htm

Specific requirements applicable to business entity licensing

Specific requirements for licensing business entities have been added to codify long-standing administrative requirements implemented to address long-standing gaps in the statutory requirements. We are confident that these changes will put the requirements for business entities squarely within the statutory framework, and will reduce confusion among applicants. **[See § 38.2-1820]**

Who needs to be licensed? Who is exempt?

As stated above, the Bureau is issuing an updated version of Administrative Letter 1997-1 to deal with this topic in more depth, but it should be noted that the law now contains a specific provision consistent with the PLMA, and intended to clarify in detail who needs to be licensed and who does not. This, too, will clear up a number of areas of confusion and misconception that have surfaced over the years. **[See § 38.2-1821.1]**

Grounds for license refusal, suspension or revocation clarified and expanded

The grounds upon which the Commission may deny a license or seek the suspension or revocation of a license have been expanded and made more consistent with the grounds utilized in other states. **[See § 38.2-1831]**

Temporary licenses -

Temporary licenses issued on or after September 1, 2002 will expire in 180 calendar days, rather than 90 days as under current law. The law was also modified to clarify that temporary licenses are permitted to be issued only to individuals, and not to business entities. **[See § 38.2-1830]**

Revised and expanded definition of "resident" - [See § 38.2-1800.1]

We have made an effort to clarify who qualifies as a "resident" for purposes of licensing. We have also expanded the definition so as to permit certain individuals who would not otherwise meet the definition of a "resident" for any state to qualify for resident licensing in Virginia.

An Individual may be deemed to be a resident of Virginia if the individual can provide documentation that the individual:

- maintains his principal place of residence within Virginia;
- declares himself to be a Virginia resident on his federal tax return; and
- declares himself to be a Virginia resident for purposes of paying Virginia income tax and personal property taxes.

The Commission may also consider other documentation furnished by the individual, including, but not limited to, a valid current Virginia driver's license or voter registration card, as additional proof of residency.

One potential problem in the PLMA was that some states define a "resident" agent based upon the licensee's place of residence (such as Virginia), while other states may decide to define a "resident" agent based upon the licensee's principal place of business. It is conceivable, then, that an individual residing in a state that bases residency on principal place of business, and having his principal place of business in Virginia would satisfy the "resident" definition of neither state. For purposes of reciprocity, an agent **MUST** be a "resident" agent **somewhere**.

For this reason, Virginia's law has been expanded so that an individual residing outside of Virginia may be considered a resident for purposes of issuance of a license pursuant to this chapter if:

- the individual's principal place of business is in Virginia;
- the individual is able to demonstrate to the satisfaction of the Commission that the laws of his state of residence prevent him from obtaining a resident agent license in that state; and
- the individual affirmatively chooses to qualify as and be treated as a resident of Virginia for purposes of licensing and continuing education, both in Virginia and in the state in which the individual resides, if applicable.

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A Business Entity may be deemed to be a resident of Virginia if the business entity can provide documentation that the business entity:

- if a domestic corporation, has filed its articles of incorporation with the clerk of the Commission, and has been issued a charter by the Commission;
- if a domestic limited liability company, has filed its articles of organization with the clerk of the Commission, and has been issued a certificate of organization by the Commission;
- if a domestic limited partnership, has applied for and received a certificate of limited partnership from the clerk of the Commission;
- if a domestic partnership, has filed its partnership agreement with the clerk of the appropriate court; or
- if a foreign business entity, that it is not licensed as a resident agency in any other jurisdiction, and demonstrates to the satisfaction of the Commission that its principal place of business is within the Commonwealth of Virginia.

Note: Legislation enacted by the 2002 General Assembly removed the requirement that the articles of incorporation of a corporation, or the articles of organization of a limited liability company, or the partnership agreement of a limited or general partnership must specify the authority of the business entity to act as an insurance agency.

Revised requirements for agents moving to Virginia

Licensees moving to Virginia from another jurisdiction are obligated by law to notify the Bureau of Insurance of their new residence address within 30 calendar days. Issuance of new licenses, or conversion of existing licenses will be based upon the following, which can be found in § 38.2-1818 of the Code of Virginia, as amended:

Licensees who already hold one or more active NONRESIDENT VIRGINIA LICENSES when they relocate to Virginia will be permitted to continue to operate under the nonresident license(s) for a maximum period of 90 calendar days from the date they move to Virginia. During that 90-day period, licensees must submit an application and a clearance letter from the insurance department in the state in which they held their **RESIDENT** license(s), and pay the license processing fee(s) to receive resident license(s) equivalent to the nonresident license(s) they already hold.

1. Assuming they do so within the 90 days, their nonresident license(s) will terminate simultaneously with the effective date of their new resident license(s), and all appointments in effect under the previous nonresident license(s) will automatically be converted to resident appointments under the new license(s).
2. However, licensees who fail to convert a nonresident license to a resident license within the 90-day period, will have their nonresident license and all appointments under that license administratively terminated at the end of the 90 days. If this occurs, the individual will be treated as if (s)he never held a Virginia license, and, will be required to satisfy any and all preclicensing requirements applicable to the

license type for which (s)he is applying, including passing any preclicensing examination, and including submission of a new application, criminal history record from the former home state, and fee. Once the new license is issued, the licensee will be required to obtain new appointments from each company (s)he wishes to represent in Virginia.

Licensees who do NOT hold a current NONRESIDENT VIRGINIA LICENSE when they move into Virginia, but who held equivalent authority in their former state of residence also have a period of 90 calendar days in which to file an application, clearance letter, and pay the required fee for each license applied for. **HOWEVER SUCH INDIVIDUALS ARE PROHIBITED FROM SELLING, SOLICITING, OR NEGOTIATING INSURANCE IN VIRGINIA UNTIL SUCH TIME AS THE LICENSE APPLIED FOR HAS BEEN ISSUED.**

1. If the application for a resident license is filed within the 90-day period, the applicant will not be required to satisfy any preclicensing examination requirements.
2. Applicants failing to file their applications within the 90-day period described above will not be entitled to reciprocity, and will be required to satisfy any and all Virginia preclicensing requirements before a resident license will be issued.

NONRESIDENT LICENSING

One of the primary goals of reciprocity under GLBA was to remove barriers for nonresidents seeking licensure in states in which they do not reside. While Virginia had already eliminated most such barriers, the revised statutes dealing with nonresident licensing have been updated to conform more closely with the PLMA. We attempted to make nonresident licensing requirements comparable not only for agents and consultants, but also for applicants for NSL licenses. Our intent was to impose no requirements upon nonresident applicants that are not equally imposed upon resident applicants, and to grant full reciprocity to recognition of licenses issued by other states when holders of such licenses apply for license authority in Virginia.

Under the new laws, effective September 1, 2002, the following will apply to nonresident licensing:

An individual or business entity that is licensed in his or its state of residence may obtain equivalent license authority in Virginia if:

The applicant presents proof in a form acceptable to the Commission that the applicant is currently licensed as a resident and in good standing in the applicant's home state (i.e. a Letter Of Certification);

The applicant has presented a proper request for licensure and has paid all required fees;

The applicant has submitted or transmitted to the Commission the application for licensure that the applicant submitted to the home state, or in lieu thereof, a completed NAIC Uniform Application.

NOTE: We would remind applicants that if the information contained on the application originally filed in the home

state is outdated, particularly demographic information, the applicant would be well advised to provide updated information concurrent with the application filing, so that our records will be accurate.

The applicant's home state issues nonresident agent licenses to residents of Virginia on the same basis; and

The applicant, if a corporation, limited liability company, or limited partnership has obtained from the clerk of the Commission a certificate of authority, certificate of registration, or certificate of limited partnership, respectively.

NOTE: This is the equivalent of obtaining a certificate of authority from the Secretary of State in most other states. This requirement applies to ANY foreign or alien business entity seeking to do business in Virginia, and is not specific to the business of insurance. We included this provision in Chapter 18, even though not technically a part of the PLMA, as a courtesy, so that nonresident business entities seeking insurance licenses in Virginia would not overlook this requirement.

What licenses will be issued to nonresidents?

Any license that Virginia issues to residents can also be issued to nonresidents, PROVIDED that the nonresident holds equivalent home state authority.

As more and more states adopt the PLMA, the instances of "equivalent authority" will become more common. At this point, for the major license types (Life & Annuities, Health, Personal Lines, Property & Casualty, and Title) the Letter of Certification from the applicant's home state must show that the applicant has authority for ALL of the lines of authority shown for that license type in the attached Tables. If the nonresident applicant has authority that is more limited than what the Virginia license includes, then pursuant to § 38.2-1836 F the Bureau may choose to issue a **Restricted Nonresident Life & Annuities (Type 082), or a Restricted Nonresident Health (Type 083), or a Restricted Nonresident Personal Lines (Type 084), or a Restricted Nonresident Property & Casualty (Type 085) license.** These restricted nonresident licenses will grant to the licensee authority equal to but no broader than the home state authority the licensee holds.

For example, if an agent from another state holds a LIFE license, but the license does not include the authority to sell annuities, as the Life & Annuities license does in Virginia, the applicant will NOT be issued a Life & Annuities (Type 007) license, but will instead be issued a Restricted Nonresident Life & Annuities License, under which the licensee's authority in Virginia will be restricted to selling life insurance only, since that is the limitation on the licensee's home state authority.

With respect to limited lines agents from other states seeking to become licensed in Virginia, we will grant a Virginia limited lines license to any nonresident applicant whose home state authority includes at least 1 of the lines of authority included in that Virginia limited lines license. Pursuant to § 38.2-1836 F, however, if the applicant's home state authority is narrower than that provided by the Virginia limited lines license, or is for a line of business not included

under any Virginia licenses, the applicant will be issued one of the **Restricted Nonresident** licenses in Virginia and the licensee's authority will be restricted to that which (s)he holds in the home state.

Nonresidents may also apply for NSL licenses, such as Life & Health Consultant, Property & Casualty Consultant, Surplus Lines Broker, and Viatical Settlement Broker. Under the revised laws providing for pure reciprocity, however, nonresident applicants for such licenses in Virginia **MUST** hold the same authority in their home state.

*For example, in the past Virginia has issued Surplus Lines Broker (SLB) licenses to nonresidents from states in which no SLB license existed, provided the applicant had Property & Casualty authority in the home state. Henceforth, the SLB license cannot be issued to a nonresident applicant unless the nonresident applicant holds **specific license authority** to act as a Surplus Lines Broker (or equivalent title) in the home state.*

APPOINTMENTS

The Appointment Process

For the immediate future, Virginia WILL continue to require that agents be appointed by each company within the time frames that have existed for many years. Further, Virginia WILL continue to require that the appointment be specific and authorized under the insurer's license authority in Virginia.

An insurer appointing an agent retains a great deal of responsibility (and liability) with regard to the appointment. It is the **APPOINTING INSURER'S RESPONSIBILITY**, both generally and by statute:

to make certain that the agent being appointed is appropriately licensed to sell the products that the company is authorizing the agent to sell; and

to make certain that it does not authorize or permit the appointee to sell products beyond the scope of that agent's license authority in Virginia.

Failure to adhere to these requirements can and will result in initiation of disciplinary proceedings against both the agent acting beyond the scope of the license AND the insurer who allows the agent to do so. We have provided, below, recommendations for the best and quickest means by which appointing insurers may verify the license authority of those they wish to appoint.

This administrative letter is not intended to provide examples of each and every possible scenario that might arise, but we will provide a few examples intended to demonstrate the thought process that appointing insurers are expected to utilize in making appointments:

Life & Annuities license Health license Limited Lines Life & Health license Limited Lines Credit license –

An insurer that itself has life, annuities, accident and sickness, credit life, or credit accident and sickness insurance authority and verifies that the agent has one or more of the above licenses would utilize an LH

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appointment. This includes a "Property & Casualty" insurer that also has the "accident and sickness" or the "credit accident and sickness" line of authority.

Personal Lines license

Property & Casualty license

Limited Lines Property & Casualty license

Limited Lines Credit license –

An insurer that itself has property & casualty authority and verifies that the agent has one of the above licenses would utilize a PC appointment. As noted above, a "Property & Casualty" insurer that also has the "accident and sickness" or the "credit accident and sickness" line of authority would need to appoint the holder of a Limited Lines Credit license with both a PC and a LH appointment in order for that agent to sell all of insurer's authorized lines of credit insurance.

Title license –

An insurer that itself has title insurance authority, and verifies that the agent has a Title license would utilize a TI appointment.

Motor Vehicle Rental Contract Agent license

If the agent is to sell both the accident and sickness products and the property & casualty products authorized by the Motor Vehicle Rental Contract Agent license, the agent would need at least 1 LH appointment, either from a life & health insurer or from a property & casualty insurer with "accident and sickness" authority, AND 1 PC appointment from an insurer with property & casualty authority.

Insurers should be able to extrapolate from the above examples in determining what types of appointment to file.

Single Appointment may support multiple licenses

A single appointment may support more than one license at the same time. For example: An agent holding both a Life & Annuities license and a Health license needs only 1 LH appointment to be in effect to support both licenses. Conversely, however, this means that if the last LH appointment is terminated, and a new LH appointment is not obtained within 6 months, BOTH licenses will terminate.

Electronic Appointments

Insurers are encouraged to make use of the ability to submit appointments and appointment terminations electronically. Electronic appointments and terminations save time, effort, and paper on both ends of the transaction. For further information, insurers should contact the National Insurance Producer Registry through its web site at:

http://www.licenseregistry.com/nipr_information/address.html

Dual Appointments

In most cases, a single appointment by an insurer will be sufficient. There are, however, certain instances, described in more detail above, where the authority that the appointing insurer wishes to impart to the licensee combines both Life/Health AND Property/Casualty.

For an individual insurer, the most common occurrence of this is where a **Property/Casualty insurer** whose authority includes "accident and sickness" insurance wants to appoint

an agent to sell all of its lines of business. In this case, the agent would have to hold licenses authorizing him to sell both accident and sickness (i.e. "health") insurance and property/casualty insurance. The company would have to appoint the agent with a LH appointment under the license authorizing the agent to sell health insurance AND with a PC appointment under the license authorizing the agent to sell property/casualty insurance.

Other examples, described above, relate to those holding the Limited Lines Credit license and the Motor Vehicle Rental Contract license.

Appointment termination

Additional notice requirements and filing deadlines, almost verbatim from PLMA, are placed upon insurers and agents when an appointment is terminated for "cause". This includes notice to the Commission, immunity provisions, and protection of confidentiality of documentation. [See § 38.2-1834.1] Insurers, agencies and agents are urged to review these new provisions.

Note: 2002 legislation corrected an error in § 38.2-1834.1 E 1 to make it clear that information is protected when collected or provided in an investigation by the Commission pursuant to the whole of Chapter 18, rather than pursuant only to § 38.2-1834.1.

<p>WE REMIND INSURERS THAT THE BURDEN OF DETERMINING THE APPROPRIATE APPOINTMENT TYPE, FILING IT CORRECTLY, AND PAYING THE APPOINTMENT PROCESSING FEE (EVEN IF THE APPOINTMENT IS REJECTED) RESTS ENTIRELY WITH THEM.</p>
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The Interactive Voice Response (IVR) System

THE NEED TO VERIFY THE AGENT'S LICENSE AUTHORITY BEFORE THE APPOINTMENT IS SUBMITTED IS VITAL.

THE BEST ALTERNATIVE is to utilize the Bureau's IVR system, which allows insurers to verify the license status of an individual or business entity quickly and efficiently, 24 hours per day, 7 days per week, using the Bureau's Interactive Voice Response (IVR) telephone number: (804) 371-9631.

THE NEXT BEST ALTERNATIVE is to ask the individual or business entity to obtain a certification from the Bureau.

THE WORST ALTERNATIVE is to ask the individual or business entity to send a copy of the license. Remember that Virginia licenses are perpetual, so a copy of a license issued a number of years ago may not necessarily be current.

The IVR system is an advanced telephone system which combines the best attributes of technology and human resources to provide complete customer service. Our IVR System allows you to obtain information at your convenience, 24 hours a day, seven days a week. However, there are certain times when the licensing and appointment information will not be available due to system maintenance. The schedule for the system to be down is as follows:

Monday - Friday from 7 p.m. - 9 p.m.
Thursday - 3 a.m. - 5 a.m.
Sunday - 4 a.m. - 8 a.m.

Some of the specific features you may find useful are:

Audiotext which, with the use of a touch-tone phone, directs your call to the area of interest to you

Ability to obtain license and appointment information

Explanation of licensing procedures

Ability to have forms and procedures faxed to you

NAVIGATING THROUGH THE IVR SYSTEM

Upon entering the IVR system, you will be able to access information from one of five areas:

1. Licensing Information on a particular agent or agency
2. Appointment Information on an agent or agency with a particular Insurance Carrier
3. Procedures – various Bureau licensing and other procedures may be selected from a menu, and you may either listen to the procedure or have it faxed to you.
4. Fax Back System – select from a menu of various forms, procedures and other documents to be faxed to you
5. Confirm that you have the Bureau's current Mailing and Overnight Addresses

Press * at any time to return to the Main Menu.

If you need to speak directly with one of our licensing staff (Monday through Friday 8:15 a.m. - 5:00 p.m.) you may Press **0** at any time while you are in the IVR system and we will respond to your call in the order received.

QUICK REFERENCE FOR IVR INQUIRIES

Agent Licensing Information

Press 1 from Main Menu
Press 1 for Agent Licensing Information
Enter 9-digit Social Security Number
Press 1 if number entered is correct
Press 2 if number entered is incorrect
Select License Type by following instructions OR
Press 9 for All License Types

Agency Licensing Information

Press 1 from Main Menu
Press 2 for Agency Licensing Information
Enter 9-digit Tax Id Number
Press 1 if number entered is correct
Press 2 if number entered is incorrect
Select License Type by following instructions OR
Press 9 for All License Types

Appointment Information for Agent

Press 2 from Main Menu
Enter NAIC Number
Press 1 if NAIC Number entered is correct
Press 2 if NAIC Number entered is incorrect
Press 1 to check appointment status for agent

Enter 9-digit Social Security Number
Press 1 if number entered is correct
Press 2 if number entered is incorrect

Appointment Information for Agency

Press 2 from Main Menu
Enter NAIC Number
Press 1 if NAIC Number entered is correct
Press 2 if NAIC Number entered is incorrect
Press 2 to check appointment status for agency
Enter 9-digit Tax Id Number
Press 1 if number entered is correct
Press 2 if number entered is incorrect

Appointment fees

Until July 1, 2001, the appointment fee (\$14) was charged to the insurer only where the appointment was successfully processed. Insurers had no incentive to check their own records or to verify the agent's license authority before submitting appointments because there was no penalty imposed when they failed to do so. This resulted in a large number of invalid and rejected appointments, usually where either the agent did not hold a Virginia license or where the insurer already had an appointment on file for the agent. This problem was compounded as companies began filing appointments electronically. The Bureau concluded that the only reasonable means of addressing this growing problem was to impose the appointment fee as a nonrefundable appointment processing fee applicable to each transaction, regardless of whether the appointment is successfully processed. This change, we believe should serve as an incentive for insurers to check their appointment records more carefully, and, more importantly, verify that an agent is properly licensed before accepting business from that agent. We have provided, above, instructions as to how insurers may access license AND appointment information about individuals or business entities at any time, through the Bureau's IVR system. We urge insurers to take advantage of this service. **[See §§ 38.2-1833 C and 38.2-1834 B]**

The statutory maximum for the appointment fee has been set at \$15 for many years. The current fee established by the Commission is \$14. For the simple purpose of anticipating possible future increases to cover increased processing and resource costs as the Bureau moves forward in automating the licensing and appointment processes, the maximum statutory fee has been raised to \$25. However, there are no plans at this time to increase the fee from its current level of \$14. **[See § 38.2-1833 C]**

Until July 1, 2001, appointment and appointment renewal fees were billed on a quarterly basis. Quarterly appointment fees were due "immediately" upon receipt of the bill by the insurer; annual renewal fees were due on or before August 1. However, there was no statutory sanction for those insurers who paid late or not at all until the next quarterly billing. The law was changed, effective July 1, 2001, as follows:

1. First, instead of being due "immediately," quarterly billings are now payable 40 calendar days after posting, which gives insurers a more reasonable period of time in

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which to remit payment. However, failure by the insurer to remit payment so as to be received by the due date now results in an automatic penalty of \$50 per calendar day until payment is received in full. **[See § 38.2-1833 H]** We expected and found there to be a learning curve regarding this new requirement, and a number of insurers have found themselves required to pay the statutory late penalty for missing the appointment (or appointment renewal) deadline. Our long-term goal is that everyone will remit appointment fees in a timely manner, and we will not have to assess ANY penalties.

2. Second, the Commission now has the statutory right (but not the obligation) to terminate any appointments or appointment renewals for which the appointment fee or renewal fee has not been paid by the statutory deadline. Some insurers have attempted to avoid payment of the penalty by simply submitting the overdue fee. It is our position that failure to pay the penalty is continuing noncompliance. A company that pays the overdue appointment or appointment renewal fee but fails to pay the \$50 per day penalty will remain subject to the administrative appointment termination sanction described above.

3. It is anticipated that the option to terminate appointments will be utilized only where an insurer has been dilatory on an habitual basis, or where payment is inordinately late, or where the insurer ignores repeated warnings. **[See §§ 38.2-1833 and 38.2-1834]**

MISCELLANEOUS DISCLOSURE AND DISCIPLINARY ACTIONS

New Ocean Marine insurance disclosure requirement for agents

A new subsection has been added to § 38.2-1802, requiring licensed agents who sell, solicit, or negotiate ocean marine insurance on behalf of an unlicensed insurer to give a notice to the insured (prior to placement of the insurance) advising the insured that, in the event of an insolvency, there will be no protection under the Virginia Property and Casualty Insurance Guaranty Association. The notice must also state that the insured may not be protected under the insurance laws of the Commonwealth. This requirement has been added to the code to make consumers aware that the Bureau may not be able to help them if a problem arises when coverage has been placed with an unlicensed insurer. The notice must be signed and dated by the agent and the insured, and the agent must keep a copy of the notice for three years. The Commission has prescribed the content of this notice, which is available on the Bureau's web site at:

<http://www.state.va.us/scc/division/boi/webpages/unlicensedoceanmarinedisclosure.htm>.

[See § 38.2-1802 D]

Expanded grounds for refusal to issue a license or for license revocation, suspension or probation

The Commission's grounds for refusal to issue a license, or revoke or suspend a license or place a licensee on probation have been conformed to the PLMA. With minor necessary variations, similar grounds now exist with regard to all NSL licenses as well. These sanctions are in addition to the

Commission's right to impose a fine or other penalty pursuant to § 38.2-218. The grounds are **[See § 38.2-1831]**:

1. Providing materially incorrect, misleading, incomplete or untrue information in the license application or any other document filed with the Commission;
2. Violating any insurance laws, or violating any regulation, subpoena or order of the Commission or of another state's insurance regulatory authority;
3. Obtaining or attempting to obtain a license through misrepresentation or fraud;
4. Engaging in the practice of rebating;
5. Engaging in twisting or any form thereof, where "twisting" means inducing an insured to terminate an existing policy and purchase a new policy through misrepresentation;
6. Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
7. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
8. Having admitted or been found to have committed any insurance unfair trade practice or fraud;
9. Having been convicted of a felony;
10. Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, or untrustworthiness in the conduct of business in this Commonwealth or elsewhere, or demonstrating financial irresponsibility in the handling of applicant, policyholder, agency, or insurance company funds;
11. Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;
12. Forging another's name to an application for insurance or to any document related to an insurance transaction;
13. Improperly using notes or any other reference material to complete an examination for an insurance license;
14. Knowingly accepting insurance business from an individual who is not licensed;
15. Failing to comply with an administrative or court order imposing a child support obligation; or
16. Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

The Commission is also given greater leeway in determining when a licensee whose license has been revoked may re-apply for licensure. It should be noted that the right to re-apply does NOT necessarily mean that the license application will be approved; the Commission retains the right to refuse to issue a new license. Under prior law, the Commission could not prohibit a licensee whose license was revoked from re-applying after the expiration of a two year period. Under the new law, however, the period is automatically five years

unless the Commission establishes a lesser or greater amount of time in its Order. [See § 38.2-1832 A]

New accountability for business entities

Specific provisions have been added to provide accountability for licensed business entities in the area of disciplinary proceedings against their agents and employees. Under these new accountability provisions, the license of a business entity may be suspended, revoked or refused if the Commission finds, after notice and an opportunity to be heard, that a violation by an individual licensee acting at the direction of, on behalf of, or with the permission of the business entity was known to be a violation by one or more of the partners, officers or managers acting on behalf of the business entity, and the violation was neither reported to the Commission nor corrective action taken. [See § 38.2-1832 B]

CONTINUING EDUCATION

Virginia's insurance agent continuing education program was created in 1993, with the assistance of industry and agent association representatives. The program is administered by the Virginia Insurance Continuing Education Board, which consists of 12 representatives of various constituency groups appointed by the Commissioner of Insurance. The Board, in turn, contracts with an outside administrator (currently Experior Assessments, LLC) for day-to-day operation of the program.

The Bureau made a concerted effort over the years to establish reciprocity agreements with as many states as possible. Virginia was often the first state to contact another state that had just created its own continuing education program, asking that state to execute a reciprocity agreement. At present, all states have some form of continuing education, and Virginia is reciprocal with all of them. Until January 1, 2003, however, reciprocity is through individual agreements rather than by statute.

Because Virginia's continuing education program operates on a biennial basis, with a new biennium beginning on January 1, 2003, the law implementing reciprocity will not take effect until that date. Effective for the biennium beginning on January 1, 2003, however, continuing education requirements have been made fully reciprocal for agents and consultants who satisfy whatever level of continuing education is required in their home state, and who provide satisfactory certification thereof. [See § 38.2-1869 B]

*NOTE: We would remind agents and other interested parties that **NONRESIDENTS**, while not required to complete Virginia hourly course requirements, **ARE AND WILL CONTINUE TO BE REQUIRED TO COMPLY WITH VIRGINIA'S CE LAW** by submitting to the Board's administrator (Experior) proof of home state continuing education compliance (usually in the form of a Letter of Certification) and paying the requisite filing fee so that all required documents and fees are **RECEIVED** by Experior on or before the the statutory deadlines. Failure to do so will result in license termination in Virginia.*

There are no substantive changes to the program for the current (2001-2002) biennium. All requirements will remain the same, as will course completion and filing deadlines. See the attached **CONVERSION TABLE** for the new licenses subject to continuing education. As discussed earlier, even the separation of the existing Life & Health license into separate "Life & Annuity" and "Health" licenses will have no impact upon the number of hours or types of courses the resident licensee will be required to complete.

The latest edition of the Board's *Virginia Insurance Continuing Education Handbook* provides additional detail on the continuing education program. One substantive change that will take effect beginning in the 2003-2004 biennium is that the exemption for resident licensees who passed the precicensing examination and obtained their license during the first year of the biennium is eliminated. This exemption was based upon the presumption that the licensee had completed a pre-licensing study course prior to taking the examination. With the elimination of the pre-licensing study course requirement, this presumption is no longer valid. Therefore, all resident licensees who become licensed in the first year of the biennium (commencing with the 2003-2004 biennium) and are issued one or more of the licenses for which continuing education is required **will** be subject to continuing education requirements.

CONVERSION TABLE AND TABLE OF LICENSE TYPES

Throughout this document, reference has been made to the Conversion Table and Table of License Types.

Both documents are attached to and made a part of this administrative letter.

The **CONVERSION TABLE** shows all of the license types that **WERE** being issued prior to September 1, 2002, what license types will **NOW** be issued in their stead (including to those current licensees who will automatically receive converted licenses), whether a precicensing examination is required, and whether the license is subject to continuing education requirements.

The **TABLE OF LICENSE TYPES** shows for each of the license types that will be issued on and after September 1, 2002, the lines of insurance that the licensee will be authorized to sell, solicit and negotiate in Virginia under that license.

It is our hope that the contents of this administrative letter will provide useful information to the insurers, agents, and agencies, and we encourage its wide dissemination. As stated at the outset, this letter is currently available (or will be available shortly) through the Bureau's Web site, from which it may readily be downloaded, copied, printed, and otherwise disseminated.

Questions regarding the content of this letter should be directed to the Bureau's Agents Licensing Section at (804) 371-9631.

/s/ Alfred W. Gross
Commissioner of Insurance

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VIRGINIA LICENSE TYPES
AS EFFECTIVE 9/1/02
TITLE 38.2, CHAPTER 18, CODE OF VIRGINIA
CONVERSION TABLE

CURRENT LICENSE	CODE	NEW LICENSE EFFECTIVE 9/1/02		CODE	EXAM REQUIRED FOR RESIDENTS?	C.E. REQUIRED?
Life & Health	001	Life & Annuities	Those holding the current L&H license will automatically receive both new licenses.	007	YES, Separate Life & Annuities Exam and Separate Health Exam OR Combination Exam	YES, 16 hours every 2 years, whether holding either or both licenses
		Health		008		
Property & Casualty	030	Property and Casualty (includes Personal Lines and Commercial Lines)		030	YES	YES, 16 hours every 2 years
NONE	—	Personal Lines		032	YES	YES, 16 hours every 2 years
Title	033	Title		033	YES	YES, 16 hours every 2 years
L&H Consultant	059	L&H Consultant		059	YES, unless applicant already holds Life & Annuities AND Health licenses	YES, but if consultant complies with C.E. for Life & Annuities and Health license, no additional requirement.
P&C Consultant	058	P&C Consultant		058	YES, unless applicant already holds a P&C license	YES, but if consultant complies with C.E. for P&C license, no additional requirement.
Variable Contracts	009	Variable Contracts (agent must as a prerequisite hold a Life & Annuities license)		009	YES, NASD series 6 or 7	NO, but loss of Life & Annuities license for failure to comply with C.E. will terminate this license as well.
Partial Qualification Life & Annuity	007	Life and Annuities		007	Automatic Conversion	YES, 16 hours every 2 years
Partial Qualification Accident & Sickness	008	Health		008	Automatic Conversion	YES, 16 hours every 2 years
Partial Qualification Auto	052	Property & Casualty		030	Automatic Conversion	YES, 16 hours every 2 years
Partial Qualification Fire	054	Property & Casualty		030	Automatic Conversion	YES, 16 hours every 2 years
Partial Qualification Casualty	053	Property & Casualty		030	Automatic Conversion	YES, 16 hours every 2 years
Partial Qualification Fidelity & Surety	055	Property & Casualty		030	Automatic Conversion	YES, 16 hours every 2 years
Temporary L&H	003	Temporary L&H		003	NO	NO
Temporary L&H (Debit only)	006	Temporary L&H (Debit Only)		006	NO	NO
Temporary P&C	031	Temporary P&C		031	NO	NO

Limited Burial	010	Limited Lines Life & Health (Anyone holding 1 or more of the licenses listed will be converted to this new license)	080	NO	NO
Prepaid Legal	041				
Prepaid Dental	045				
Prepaid Optometric	046				
Mutual Assessment L&H	012				
Travel Accident	014				
Automobile Club	070	Limited Lines Property & Casualty (Anyone holding 1 or more of the licenses listed will be converted to this new license)	081	NO	NO
Ocean Marine	034				
Travel Baggage	036				
Mutual Assessment P&C	035				
Pet Accident, Sickness, and Hospitalization	025				
Credit Life & Health	15	Limited Lines Credit (Anyone holding 1 or more of the licenses listed will be converted to this new license)	015	NO	NO
Credit Property/Involuntary Unemployment	39				
Mortgage Accident & Sickness/ Mortgage Redemption	16				
Mortgage Guaranty	37				
Motor Vehicle Rental Contract	024	MOTOR VEHICLE RENTAL CONTRACT	024	NO	NO
Managing General Agent	061	Managing General Agent	061	NO	NO
Reinsurance Intermediary Broker	062	Reinsurance Intermediary Broker	062	NO	NO
Reinsurance Intermediary Manager	063	Reinsurance Intermediary Manager	063	NO	NO
Viatical Settlement Broker	064	Viatical Settlement Broker	064	NO	NO
Surplus Lines Broker	065	Surplus Lines Broker (For Virginia RESIDENTS, Property & Casualty License is a prerequisite)	065	NO	NO (Failure of a Virginia RESIDENT to maintain P&C license will terminate SLB license)

TABLE OF VIRGINIA LICENSE TYPES
AS EFFECTIVE 9/1/02
TITLE 38.2, CHAPTER 18, CODE OF VIRGINIA

The following describe the license types that will be issued once the amended law takes effect, and provides the lines of authority and product lines that agents holding each license will be authorized to sell, solicit, or negotiate.

PERSONAL LINES LICENSE – (Resident or Nonresident) – LICENSE TYPE CODE: 032

This license WILL require an examination FOR RESIDENT APPLICANTS, and WILL be subject to continuing education requirements (16 hours per biennium).

License will entitle licensee to sell, solicit and negotiate the following classes of insurance and products, **but only for transactions involving insurance primarily for personal, family, or household, rather than professional or business needs:**

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Fire	Miscellaneous Property	Water Damage
Burglary & Theft	Glass	Animal
Personal Injury Liability	Property Damage Liability	Motor Vehicle
Aircraft	Marine (Inland and Ocean)	Home Protection
Homeowners	Farmowners	Mutual Assessment P&C
Credit Involuntary Unemployment	Credit Property	Mortgage Guaranty
Travel Baggage	Automobile Club	Legal Services
Pet Accident, Sickness, & Hospitalization		

PROPERTY & CASUALTY LICENSE - (Resident or Nonresident) – LICENSE TYPE CODE: 030

This license WILL require an examination FOR RESIDENT APPLICANTS, and WILL be subject to continuing education requirements (16 hours per biennium). However, once an agent holds this license, there is no further need for a Personal Lines License, so C.E. requirements are not duplicative.

License will entitle licensee to sell, solicit and negotiate **both personal lines and commercial lines** in all of the following classes of insurance:

Fire	Miscellaneous Property	Water Damage
Burglary & Theft	Glass	Animal
Personal Injury Liability	Property Damage Liability	Motor Vehicle
Aircraft	Marine (Inland and Ocean)	Home Protection
Homeowners	Farmowners	Mutual Assessment P&C
Credit Involuntary Unemployment	Credit Property	Mortgage Guaranty
Travel Baggage	Automobile Club	Legal Services
Boiler & Machinery	Commercial Multi-peril	Credit
Fidelity	Surety	
Pet Accident, Sickness, & Hospitalization		Workers Comp. & Employers' Liability

LIFE AND ANNUITIES LICENSE – (Resident or Nonresident) – LICENSE TYPE CODE: 007

This license WILL require an examination FOR RESIDENT APPLICANTS, and WILL be subject to continuing education requirements (16 hours per biennium). However, an agent holding both this license and a Health License will be required to complete a TOTAL of 16 hours.

License will entitle licensee to sell, solicit and negotiate the following classes of insurance:

Life Insurance (except Variable)	Industrial Life Insurance
Modified Guaranteed Life Insurance	Annuities (except Variable)
Modified Guaranteed Annuities	Burial Insurance (in any permitted amount)
Mutual Assessment Life (all products)	Credit Life Insurance
Prepaid Legal Plans	Mortgage Redemption Insurance

VARIABLE CONTRACT LICENSE – (Resident or Nonresident) – LICENSE TYPE CODE: 009

This license requires that the licensee at all times have a Resident or Nonresident Life and Annuities license in effect. Series 6 or Series 7 NASD examination required FOR RESIDENT APPLICANTS. No discrete C.E. requirement, except that loss of Life and Annuities license due to C.E. noncompliance will also result in termination of Variable Contract license.

License will entitle licensee to sell, solicit and negotiate the following classes of insurance:

Variable Life	Variable Annuities
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HEALTH LICENSE – (Resident or Nonresident) – LICENSE TYPE CODE: 008

This license WILL require an examination FOR RESIDENT APPLICANTS, and WILL be subject to continuing education requirements (16 hours per biennium). However, an agent holding both a Health License AND a Life & Annuities License will be required to complete a TOTAL of 16 hours.

License will entitle licensee to sell, solicit and negotiate the following classes of insurance:

Accident and Sickness	Credit Accident and Sickness
Health Services Plans	Health Maintenance Organizations

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Dental Services Plans	Optometric Services Plans
Travel Accident	Mortgage Accident & Sickness
Mutual Assessment Health (all products)	

LIMITED LINES CREDIT LICENSE – (Resident or Nonresident) – LICENSE TYPE CODE: 015

This license WILL NOT require an examination, and WILL NOT be subject to continuing education requirements.

License will entitle licensee to sell, solicit and negotiate the following classes of insurance:

Credit Life	Credit Accident & Sickness
Credit Involuntary Unemployment	Credit Property
Mortgage Accident & Sickness	Mortgage Redemption
Mortgage Guaranty	

LIMITED LINES LIFE & HEALTH LICENSE – (Resident or Nonresident) – LICENSE TYPE CODE: 080

This license WILL NOT require an examination, and WILL NOT be subject to continuing education requirements.

License will entitle licensee to sell, solicit and negotiate the following classes of insurance:

Prepaid Dental	Prepaid Optometric
Prepaid Legal	Limited Burial (Group Certificates < \$5,000 only)
Mutual Assessment Life & Health (only those products authorized under § 38.2-3919)	Travel Accident

LIMITED LINES PROPERTY & CASUALTY LICENSE – (Resident or Nonresident) – LICENSE TYPE CODE: 081

This license WILL NOT require an examination, and WILL NOT be subject to continuing education requirements.

License will entitle licensee to sell, solicit and negotiate the following classes of insurance:

Automobile Club	Home Protection
Legal Services	Mutual Assessment Property & Casualty (only those products authorized under § 38.2-2525)
Ocean Marine	Pet Accident, Sickness & Hospitalization
Travel Baggage	

MOTOR VEHICLE RENTAL CONTRACT AGENT LICENSE – (Resident or Nonresident) – LICENSE TYPE CODE: 024

This license WILL NOT require an examination, and WILL NOT be subject to continuing education requirements.

License can be issued only to a person who (i) is a selling agent of a motor vehicle rental company that is in the business of providing primarily private passenger motor vehicles to the public under a rental agreement for a period of less than 6 months and (ii) whose license is restricted to selling, soliciting, and negotiating ONLY the following insurance coverages, and solely in connection with and incidental to the rental contract:

Personal accident insurance that provides benefits in the event of accidental death or injury occurring during the rental period	Liability coverage sold to the renter in excess of the rental company's obligations under §§ 38.2-2204, 38.2-2205, or Title 46.2 of the Code of Virginia
Personal effects insurance which provides coverages for the loss of or damage to the personal effects of the renter and other vehicle occupants while such personal effects are in or upon the rental vehicle during the rental period	Other travel-related or vehicle-related insurance coverage that a motor vehicle rental company offers in connection with and incidental to the rental of vehicles.
Roadside assistance and emergency sickness protection programs	

RESTRICTED NONRESIDENT LIFE & ANNUITIES LICENSE – (Nonresident Only) – LICENSE TYPE CODE: 082

If a nonresident's home state authority does not include all of the lines of authority authorized under a Virginia Life & Annuities License, this license will be issued to the nonresident applicant and will include ONLY those authorities authorized under the agent's home state license.

RESTRICTED NONRESIDENT HEALTH LICENSE – (Nonresident Only) – LICENSE TYPE CODE: 083

If a nonresident's home state authority does not include all of the lines of authority authorized under a Virginia Health License, this license will be issued to the nonresident applicant and will include ONLY those authorities authorized under the agent's home state license.

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RESTRICTED NONRESIDENT PERSONAL LINES LICENSE – (Nonresident Only) – LICENSE TYPE CODE: 084

If a nonresident's home state authority does not include all of the lines of authority authorized under a Virginia Personal Lines License, this license will be issued to the nonresident applicant and will include ONLY those authorities authorized under the agent's home state license.

RESTRICTED NONRESIDENT PROPERTY & CASUALTY LICENSE – (Nonresident Only) – LICENSE TYPE CODE: 085

If a nonresident's home state authority does not include all of the lines of authority authorized under a Virginia Property & Casualty License, this license will be issued to the nonresident applicant and will include ONLY those authorities authorized under the agent's home state license.

SURPLUS LINES BROKER LICENSE – (Resident or Nonresident) – LICENSE TYPE CODE: 065

In Virginia, holding a Property & Casualty License is a prerequisite, and the Surplus Lines Broker license is not subject to examination or continuing education.

For Nonresidents, the license will be issued ONLY if the applicant holds equivalent Surplus Lines Broker authority in his home state.

VIATICAL SETTLEMENT BROKER – (Resident or Nonresident) – LICENSE TYPE CODE: 064

No examination or continuing education requirements.

TITLE INSURANCE - (Resident or Nonresident) – LICENSE TYPE CODE: 033

This license WILL require an examination FOR RESIDENT APPLICANTS, and WILL be subject to continuing education requirements (16 hours per biennium).

July 26, 2002

Administrative Letter 2002-9

TO: ALL INSURANCE COMPANIES; HEALTH, DENTAL, OPTOMETRIC AND LEGAL SERVICES PLANS; AND HEALTH MAINTENANCE ORGANIZATIONS LICENSED IN VIRGINIA

RE: INSURANCE ACTIVITIES REQUIRING PERSONS TO BE LICENSED

Note: This Administrative Letter replaces and supersedes Administrative Letter 1997-1, dated March 10, 1997

The Bureau of Insurance receives a great many inquiries regarding what activities require agents/agencies to be licensed in Virginia and what activities are and are not permitted for those who are **not** licensed as insurance agents in Virginia. Because much of Chapter 18 of Title 38.2 of the Code of Virginia has recently been amended, **I am sending this new administrative letter, replacing Administrative Letter 1997-1, to all insurers with the request that they instruct their currently appointed agents to review it by accessing it via the Bureau of Insurance web site at:**

<http://www.state.va.us/scc/division/boi/webpages/administrativetrselection.htm>

I am also requesting that such insurers include, commencing immediately, an instruction to each newly appointed Virginia agent to review this administrative letter at the above website address. Bureau of Insurance staff will review whether companies have carried out this request during regular and special market conduct

examinations, and as part of consumer complaint and agent investigations conducted by the Bureau.

Finally, I am sending copies of this administrative letter to the various agent associations in Virginia, with the request that they, too, attempt to disseminate this information to their members.

Statutory provisions referred to in this administrative letter may be viewed via the Bureau's Web site at:

<http://www.state.va.us/scc/division/boi/webpages/administrativetrselection.htm>

WHO NEEDS TO BE LICENSED?

The analysis begins with § 38.2-1822 of the Code of Virginia, as amended, which states, in subsection A:

A. No person shall act, and no insurer or licensed agent shall knowingly permit a person to act, in this Commonwealth as an agent of an insurer licensed to transact the business of insurance in this Commonwealth without first obtaining a license in a manner and in a form prescribed by the Commission. As used in this section, "*act as an agent*" means selling, soliciting, or negotiating contracts of insurance or annuity on behalf of an insurer licensed in this Commonwealth or receiving or sharing, directly or indirectly, any commission or other valuable consideration arising from the sale, solicitation, or negotiation of any such contract, or both. No person shall submit business to any joint underwriting association or any plan established under this title for the equitable distribution of risks among insurers unless the person holds a valid license to transact the class of insurance involved. (underlining added)

It is the Bureau's position that the above section clearly requires any person or entity that sells, solicits, or negotiates contracts of insurance or annuity in Virginia on behalf of an insurer licensed in Virginia to hold a valid insurance agent's license in Virginia. We also consistently maintain that any entity, be it an insurer, agency or agent, that receives a commission from an insurer, directly or indirectly (whether characterized as an "override," "fee," or otherwise), arising from the sale of a contract of insurance or annuity, even if there was no active "selling, soliciting, or negotiating" by that entity, must be licensed and appointed in Virginia. It should be noted that the word "or", not the word "and" appears immediately before the word "receiving" in the statute quoted above. This means, to us, that satisfying **either** of the two criteria defining the term "act as an agent" will suffice. We have, over the years, noted that a number of insurers and agencies, especially large agencies located outside of Virginia that recruit agents to sell for them in Virginia, do not appear to be aware of this licensing requirement. The Bureau has initiated disciplinary proceedings against such agencies and insurers where it could be demonstrated that the above law had been violated.

The more common question, however, appears to be the extent to which **individuals who are not licensed insurance agents**, but who are employed by a licensed insurance company or agency, may participate in the transaction of insurance matters. A new statutory provision, designated § 38.2-1821.1, provides more specific guidance than existed under prior law. Nevertheless, there is continued room for confusion.

Perhaps if we establish the authority and responsibility of a person who **is licensed as an insurance agent**, the limitations of what may be done by a person who **is not licensed as an insurance agent** will become clear.

As stated in the statute quoted above, anyone who "sells, solicits, or negotiates" contracts of insurance or annuity must be licensed as an agent. These terms are now specifically defined in § 38.2-1800 as follows:

To "sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

To "solicit" means attempting to sell insurance or asking or urging a person to apply for a particular class of insurance from one or more insurers.

To "negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

When an insurance company is issued a license to transact business in Virginia, the insurer is, in theory, authorized to sell, solicit, or negotiate contracts of insurance. Insurers generally appoint individuals, or business entities to act as their agents in carrying out these functions. This authority (appointment) creates an agent-principal relationship in which an act by an agent becomes, in general terms, binding upon the insurer. This agent-principal relationship is created by an

agreement between the insurer and the agent. The Bureau is made aware of this relationship by the process of the insurer filing a notification of appointment. The Bureau records the appointment, provided that the appointed agent holds a valid license for the type of appointment being recorded. The Bureau will then issue to the agent an "Acknowledgment of Appointment" (currently in the form of a wallet-sized card) and will also notify the appointing insurer when the appointment has been recorded (currently in the form of a computer-produced list of appointments processed for each insurer on a daily basis, and sent to each insurer for each day during which appointments are processed for that insurer). Although there are some minor variations, especially when a licensed agent first begins to represent an insurer, it is with the Acknowledgment of Appointment that the agent is fully authorized to sell, solicit, or negotiate insurance on behalf of the appointing insurer in Virginia.

Public interest is involved in the competent and trustworthy transaction of insurance. The proper analysis of a client's exposure to risks and the recommendation of appropriate insurance to cover that exposure are of paramount importance. Pursuant to statutory requirements, individuals must be licensed as insurance agents prior to selling, soliciting, or negotiating contracts of insurance or annuity. In most cases, depending on the kinds of insurance they propose to transact, individuals must pass an examination demonstrating sufficient knowledge of the classes of insurance that will be involved in the transactions. Further, again with certain exemptions, licensed insurance agents must continue to demonstrate such knowledge by completing continuing education requirements on a biennial basis.

In contrast to licensed agents, unlicensed persons have not established that they have either the **required knowledge of insurance** (by having completed the preclicensing examination and met ongoing continuing education requirements) or the **authority to sell, solicit, or negotiate**, contracts of insurance or annuity (by having obtained the appropriate license).

In light of recent changes in federal law regarding reciprocity between states regarding the licensing of nonresident agents contained in the Gramm-Leach-Bliley Act, as well as evolving conditions in the insurance market, such as the conducting of some insurance business over the Internet, the growing use of "call centers" and the increased use of customer service representatives (CSRs) for servicing existing policyholders' needs, the Bureau recognizes that the balance point between service and sales has shifted. The Bureau recognizes that the services provided by CSRs can be beneficial for the customer, and it is not our purpose to unduly constrain such activities. **At the same time, the Bureau remains firm in its position that there are a number of activities that should and must be carried out only by licensed insurance agents (producers).**

An unlicensed person may discuss, in general, insurance matters regarding both coverage and rates. An unlicensed person may also list available products and services in response to an inquiry made by an existing policyholder with regard to the existing policy. If, however, such discussion develops into an explanation of the ramifications of options,

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how choosing one option or another will affect coverage, or similar discussion (negotiation), then insurance knowledge is necessary and licensure is required. When discussion reaches the point where the unlicensed individual is providing the existing policyholder with information beyond the list of options and the price of each option, the matter should be turned over immediately to a licensed agent. A licensed agent is not prohibited from using an unlicensed person in a clerical capacity under his or her direct supervision, nor does the Code of Virginia prohibit the unlicensed person from receiving or passing on to the agent for his or her attention any insurance inquiries or requests of a particular nature, or from taking the necessary steps to implement changes that an existing policyholder has requested be made to an existing policy. **Later in this administrative letter you will find a chart showing some examples of insurance activities in which an unlicensed person may or may not engage.**

It is, admittedly, difficult to specify all acts that may be done legally by a person who is not a licensed agent. Where there is any doubt regarding the activities of an unlicensed person, the following question should be asked:

Does the action involve the areas of selling, soliciting, or negotiating contracts of insurance or annuity as those terms are described in this letter?

If the answer is "Yes," the matter should be handled by a licensed insurance agent. Additionally, one should analyze whether the action falls within one of the exceptions to the requirement for licensure enumerated in § 38.2-1821.1. If the answer is not clear, additional guidance should be sought from appropriate legal advisors, or the matter should be handled by a licensed insurance agent.

A license authorizes an agent to sell, solicit, or negotiate certain types of insurance. If an agent exceeds his authority, he is in violation of Virginia law. Insurers and agents are advised to review § 38.2-1833 of the Code of Virginia which states, in part, that "every licensed agent may solicit applications for insurance for any one or more of the classes of insurance for which he is licensed...." Therefore, it is not only the agent's responsibility to make sure that he is properly licensed for the classes of insurance he is selling, but it is also the responsibility of the insurer to verify that an agent is properly licensed before appointing that agent. This should include not only verification that the agent holds a valid and current Virginia license, but that the agent holds the **appropriate** Virginia license. If an insurer accepts an application from an agent, issues a policy, and subsequently learns that the agent is not licensed for the class of insurance involved in the transaction, the insurer has violated Virginia law.

The Bureau urges insurers to STOP asking agents to provide copies of their licenses as proof of current licensing in Virginia, as this is not valid proof of current status. Remember that, unlike other states, agents' licenses in Virginia are perpetual, so asking to see a license is not, in most cases, going to provide current information.

Instead, insurers can quickly verify an agent's current license status by calling the Bureau's Interactive Voice Response (IVR) number (804-371-9631) and following the directions using the agent's identification number (usually the Social Security number). Complete instructions for using the IVR System can also be found on the Bureau's Web site at: <http://www.state.va.us/scc/division/boi/webpages/ivr.htm>

As an alternative, although more time-consuming, the insurer could require the agent to provide a recent Letter of Certification issued by the Bureau. This letter shows the agent's current name, residence address, licenses held and the date of issue for each, and the agent's current continuing education compliance status, if applicable. Whether through the IVR system or in the form of a Letter of Certification, this information is far more reliable than a copy of a license that may have been issued or terminated many years ago.

If an insurer fails to submit to the Bureau a notification of appointment of an agent who has sold, solicited, or negotiated a contract of insurance on the insurer's behalf, within 30 calendar days of the date of execution of the first insurance application submitted by that agent, the insurer is in violation of Virginia law. If an agent continues to sell, solicit, or negotiate contracts of insurance on behalf of an insurer beyond a period 45 calendar days after the date of execution of the first insurance application submitted to that insurer by the agent, where the agent has not received an Acknowledgment of Appointment card from the Bureau, the agent is in violation of Virginia law. If the insurer continues to accept such applications, the insurer, too, is in violation of Virginia law. Finally, if an agent or insurer allows (whether purposefully or unwittingly) an unlicensed person to "act as an agent" in this Commonwealth, the agent or insurer (or both) are in violation of Virginia law.

The following chart provides some examples of what the Bureau believes are acceptable activities for those who do not hold licenses, and examples of activities that are not acceptable. This list is by no means intended to be all-inclusive, and, obviously, there are lines that may be crossed in what is categorized as acceptable activities that will render the activities unacceptable. As with anything else, a reasonable and common sense standard needs to be applied to each situation. Perhaps, however, the following chart will provide at least some guidance:

AN UNLICENSED PERSON

<u>May</u>	<u>May Not</u>
<p>Assist with completion of applications</p> <p>Quote rates as general information</p> <p>Receive and implement requests from existing policyholders for changes in existing policies, or receive requests for new insurance for transmittal to a licensed agent</p> <p>Receive payments for coverage (receipt must show agent or company for which payment is received)</p> <p>Arrange appointments for licensed agent</p> <p>Be compensated on a "unit of time or work" basis</p>	<p>Counsel or advise what coverage to buy</p> <p>Urge or advise insuring with any particular insurance company</p> <p>Indicate that requested coverage is or will be bound or issued, except for changes specifically requested by existing policyholders on existing policies</p> <p>Solicit additional business when receiving payment</p> <p>Solicit sales for an agent over the phone or otherwise</p> <p>Be compensated on a commission basis, i.e. contingent upon the sale of an insurance contract, percentage of premium generated, or the amount of commission earned.</p>

OTHER UNLICENSED PERSONS

No insurance company should accept, or act upon, any request for coverage submitted by a person purporting to be the agent making the request or application for coverage (other than a person seeking to buy coverage on himself or on property of his own or his employer) without first ascertaining that such person is properly licensed for the class of insurance involved in the transaction. No agent or agency should accept a request for such coverage without ascertaining that such person is properly licensed for the class of insurance that is involved in the transaction. Section 38.2-1812 of the Code of Virginia, as amended, specifies that no insurance company shall pay commission to an agent, directly or indirectly, unless the person is a duly appointed agent of the insurance company (except agents who produce residual market coverage) and was, at the time of the transaction giving rise to the commission, a validly licensed (and appointed, if appointment is called for) agent in Virginia for the class of insurance involved. No agent or agency should split or share a commission with any person not also licensed for the same class of insurance involved in the transactions.

We would urge insurers to require verification of current licensure of an agent or agency prior to appointing that agent or agency. We suggest that the insurer verify current licensure either by calling the Bureau's Interactive Voice Response (IVR) number (804-371-9631) or by requiring the agent to furnish to the insurer a current (no more than 90 calendar days old) CERTIFICATION from the Bureau. A certification is a more valid means of proof of licensure than is a copy of the agent's original license, because a certification indicates the agent's or agency's CURRENT status, including continuing education compliance.

"ENROLLERS"

The following explains the Bureau's position on whether those who "enroll" individuals under a group master insurance policy (including all types of credit insurance) are required to be licensed as agents. It is clear that the person who sells the group master contract must be a licensed and appointed agent, but the licensing requirement is not as clear for the

person whose responsibility it is to enroll people under the existing group contract.

1. If all the person is doing is enrolling an employee or customer under a group master policy for which the "enroller" receives no commission, the person does not need to be licensed. This position is based upon the statutory language found in § 38.2-1822, which was quoted earlier in this administrative letter. The key phrase here is that the term "act as an agent" includes selling, soliciting, or negotiating contracts of insurance, and the certificate issued to an individual obtaining coverage under a group contract is not considered to be a contract of insurance.

2. However, if the person doing the enrolling receives a commission for enrolling employees or customers under the group contract, the employee must be licensed. This position is also based upon the language in § 38.2-1822, which further provides that the phrase "act as an agent" applies where the person is "receiving or sharing, directly or indirectly, any commission or other valuable consideration..." (underlining added). In addition, § 38.2-1812 provides that:

A. No insurer shall pay directly or indirectly any commission or other valuable consideration to any person for services as an agent...within this Commonwealth unless the person is then a duly appointed agent of such insurer and, at the time of the transaction out of which arose the right to such commission or other valuable consideration, held a valid license as an agent...for the class of insurance involved.

B. No person other than a duly licensed and appointed agent...may accept any such commission or other valuable consideration unless such person, at the time of the transaction out of which arose the right to such commission or other valuable consideration, held a valid license as an agent...for the class of insurance involved. (underlining added)

The Bureau has taken the position that if the commission or valuable consideration is tied to the enrollment, i.e. the

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enroller is paid a certain percentage of the premium for each individual enrolled, or is paid a set fee for each person enrolled, we would require the enroller to be licensed. If the enroller is simply paid a salary, and one of the job duties is enrolling, the enroller need not be licensed. If the enroller is given a bonus, and the bonus can be tied to the number of enrollments or the premium volume resulting from the enrollments, we would consider this to be commission and the enroller would need to be licensed. Obviously, we cannot address each and every potential situation, but the above should provide sufficient guidance.

3. With regard to a store, bank or dealership providing its customers with the opportunity to purchase credit insurance coverage, our position would be similar. If the store, bank or dealership is being paid a commission, it would need to be licensed as an agency. There is, however, an exception provided in § 38.2-3733 A of the Code of Virginia, which states:

A portion of the premium for credit life insurance or credit accident and sickness insurance may be allowed by the insurer to a creditor for providing and servicing such insurance.

HOME OFFICE EMPLOYEES OR CONTRACTORS

The last subject that we want to address is what activities may or may not be performed by home office employees (or those contracted to perform such services). Newly enacted § 38.2-1821.1 B provides a list of activities that may be performed by officers, directors, and employees of insurers and agencies. We urge you to review these new provisions, which should serve to clarify a number of areas of confusion over the years. Generally speaking, the law will now permit such individuals to be involved in functions that are only indirectly related to the sale, solicitation or negotiation of insurance, and provided they receive no direct or indirect commission for such services. These new requirements do not conflict with existing language in the chapters of Title 38.2 dealing with health services plans (§ 38.2-4224), health maintenance organizations (§ 38.2-4313), legal services plans (§ 38.2-4415), and dental or optometric services plans (§ 38.2-4519). For example, § 38.2-4224 provides as follows:

Subscription contracts may be solicited only through...insurance agents licensed in accordance with Chapter 18 of this title. Home office salaried officers whose principal duties and responsibilities do not include negotiation or solicitation of subscription contracts shall not be required to be licensed. (underlining added)

Accordingly, other employees of the entities authorized under Chapters 42, 43, 44, and 45 who sell, solicit, or negotiate contracts of insurance MUST be licensed as agents. Further, home office salaried officers whose principal duties and responsibilities DO include negotiation or solicitation of contracts of insurance must be properly licensed.

Therefore, with the exceptions noted above, the basic premise is substantially the same as outlined earlier in this administrative letter. Whether the individual involved is an officer, employee, independent contractor, telephone solicitor, or the like, if the person is either selling, soliciting, or negotiating contracts of insurance, and/or is receiving direct or

indirect commission or other valuable consideration, the person must be licensed as an agent.

We take the position that those who, on behalf of an insurer, are making or receiving telephone calls or sending or receiving telefaxes, or utilizing the Internet, must, if they fall within the parameters set forth in this administrative letter, be properly licensed and appointed in Virginia, regardless of whether they reside in Virginia.

It is our hope that the contents of this administrative letter will provide useful information to the insurers, agents, and agencies who receive it. Questions regarding the content of this letter should be directed to the Bureau's Agents Licensing Section at (804) 371-9631.

/s/ Alfred W. Gross
Commissioner of Insurance

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intent to Make Additional Medical Assistance Payments to Physicians Affiliated with a State Academic Health System or an Academic Health System that Operates under a State Authority

Notice is hereby given that the Department of Medical Assistance Services (DMAS) intends to modify its reimbursement plan for physician groups affiliated with a state academic health system or an academic health system that operates under a state authority pursuant to the department's authority under Title XIX of the Social Security Act. This notice is intended to satisfy the requirements of 42 CFR 447.205.

Physician groups affiliated with a state academic health system or an academic health system that operates under a state authority fulfill an important and unique role within the Virginia health care system. Subject to the availability of local government, state and federal funds, the department intends to make supplemental payments to physician groups affiliated with a state academic health system or an academic health system that operates under a state authority such that total payments will be the maximum allowed under federal regulations.

This amendment is estimated to increase total annual Medicaid spending by \$27 million and is expected to become effective August 13, 2002.

A copy of this notice is available for public review from N. Stanley Fields, Director, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 Broad Street, Suite 1300, Richmond, VA 23219, and in local public libraries. Comments or inquiries may be submitted in writing within 30 days of this notice publication to Mr. Fields and such comments are available for review at the same address.

STATE WATER CONTROL BOARD

Proposed Amended Consent Special Order King George County Service Authority

The State Water Control Board (board) proposes to issue an amended Consent Special Order (order) to the King George County Service Authority (county) regarding the Dahlgren wastewater treatment plant (WWTP) located in King George County, Virginia.

The proposed amended order requires that the county complete construction of Phase I of the upgrade of the WWTP by February 28, 2003, and achieve compliance with final permit effluent limits by August 1, 2004. In addition, the order provides the WWTP with interim effluent limits for copper, zinc, selenium, and ammonia until August 1, 2004.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive comments relating to the order through September 12, 2002. Please address comments to Elizabeth Anne Crosier, Northern Virginia Regional Office, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193. Please address comments sent via e-mail to eacrosier@deq.state.va.us. In order to be considered, comments provided by e-mail must include the commenter's name, address, and telephone number. Please write or visit the Woodbridge address, or call (703) 583-3886, in order to obtain or examine a copy of the order.

Proposed Consent Special Order Magnolia Run Apartment, L.L.C.

The State Water Control Board proposes to take enforcement action against Magnolia Run Apartment, L.L.C. Magnolia Run Apartment, L.L.C. is developing the Magnolia Run Apartments, which is located on Lynnhaven Parkway, near the corner of Centerville Turnpike, in Virginia Beach, VA. The proposed enforcement actions is a consent special order that will require the payment of a \$500 civil charge to settle violations of the Virginia Water Control Law.

The Department of Environmental Quality will receive written comments relating to the board's proposed consent special order from August 12, 2002, through September 11, 2002. Comments should be addressed to David S. Gilbert, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462 and should refer to the order specified above. Comments may also be submitted by e-mail to dsgilbert@deq.state.va.us. In order for e-mail comments to be considered, they must include the sender's name, address and phone number. The proposed order may be examined at the above address and copies of the order may be obtained in person, by mail or by e-mail.

Proposed Consent Special Order Valley View Mobile Home Court STP

The State Water Control Board proposes to enter into a Consent Special Order with Valley View Mobile Home Court (Valley View) to resolve violations of the State Water Control

Law and regulations at Valley View's sewage treatment plant in Rockingham County. The facility discharges treated wastewater to an unnamed tributary to Dry Run in the Shenandoah River subbasin, Potomac River basin.

Valley View has experienced BOD and ammonia effluent limitation violations since November 1998.

The proposed Consent Special Order settles the outstanding Notices of Violation and incorporates a schedule of compliance to improve the performance of the facility until the facility can be taken offline in the fall of 2003. The order also assesses a civil charge for the violations.

The board will receive written comments relating to the proposed Consent Special Order for 30 days from the date of publication of this notice. Comments should be addressed to Steven W. Hetrick, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA 22801, and should refer to the Consent Special Order. Comments may also be submitted via electronic mail to swhetrick@deq.state.va.us. In order to be considered, electronic comments must be received prior to the close of the comment period and must include the name, address, and telephone number of the person making the comment.

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, FAX (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
PETITION FOR RULEMAKING - RR13

CALENDAR OF EVENTS

Symbol Key

-  Location accessible to persons with disabilities
 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. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at www.vipnet.org or contact the organization directly.

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

NOTE: CHANGE IN MEETING TIME

August 28, 2002 - 10 a.m. -- Open Meeting

Virginia Board of Accountancy, 3600 West Broad Street, Suite 696, Richmond Virginia.  (Interpreter for the deaf provided upon request)

The Enforcement Committee will review pending complaints, discuss mediation and volunteer networking. Public comment will not be received.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond, VA 23230-4916, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY , e-mail boa@boa.state.va.us.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Agricultural Council

† **August 19, 2002 - 9 a.m.** -- Open Meeting

Agriculture Research and Extension Centers, 33446 Research Drive, Painter, Virginia.  (Interpreter for the deaf provided upon request)

† **August 20, 2002 - 9 a.m.** -- Open Meeting

1444 Diamond Springs Road, Virginia Beach, Virginia.  (Interpreter for the deaf provided upon request)

An annual meeting to act upon financial and business affairs. Field visits to various agricultural interests will begin at 11 a.m. on August 19 and resume at 9 a.m. on August 20. The council will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes on August 20, 2002. Any person who needs any accommodation in order to participate at the meeting should contact Thomas Yates at least five days before the meeting date so that suitable arrangements can be made.

Contact: Thomas R. Yates, Assistant Secretary, Department of Agriculture and Consumer Services, 1100 Bank St., 5th Floor, Room 509, Richmond, VA, telephone (804) 786-6060, FAX (804) 371-8372, (800) 828-1120/TTY 

Virginia Charity Food Assistance Advisory Board

† **August 29, 2002 - 10:30 a.m.** -- Open Meeting

Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia. 

A routine meeting to discuss issues related to hunger, malnutrition, and food insecurity in the Commonwealth, and potential opportunities to alleviate the problem. 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 Steven W. Thomas at least five days before the meeting date so that suitable arrangements can be made.

Contact: Steven W. Thomas, Executive Secretary, Department of Agriculture and Consumer Services, 1100 Bank St., Room 809, Richmond, VA 23219, telephone (804) 786-3936, FAX (804) 371-7788.

Virginia Egg Board

August 21, 2002 - 7 p.m. -- Open Meeting

Hotel Roanoke and Conference Center, Roanoke, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to review financial statements, educational, promotional and research programs. Proposals for future programs will be discussed.

Contact: Cecilia Glembocki, Secretary, Virginia Egg Board, 911 Saddleback Court, McLean, VA 22102, telephone (703) 790-1984, FAX (703) 821-6748, toll-free (800) 779-7759, e-mail virginiaeggcouncil@erols.com.

Farmland Preservation Task Force

† **August 15, 2002 - 10 a.m.** -- Open Meeting
Virginia Farm Bureau Federation Headquarters, 12580 West
Creek Parkway, Richmond, Virginia. ♿

The VDACS Farmland Preservation Task Force has the responsibility of developing a proposed Purchase of Development Rights (PDR) Program for the state. At this session, the Task Force will begin to review the experiences of other states with PDR programs and develop a vision for farmland preservation in Virginia. The Task Force plans to have a draft proposal ready for public comment in the fall of 2002. Any person who needs any accommodation in order to participate at the meeting should contact William P. Dickinson, Jr. at least five days before the meeting date so that suitable arrangements can be made.

Contact: William P. Dickinson, Jr., Assistant Commissioner, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3502, FAX (804) 371-2945, toll-free (800) 828-1120, e-mail wdickinson@vdacs.state.va.us.

Virginia Horse Industry Board

† **August 29, 2002 - 9:30 a.m.** -- Open Meeting
Virginia Department of Forestry, 900 Natural Resources Drive,
Second Floor, Charlottesville, Virginia. ♿

A meeting to review the minutes of the last meeting, the board's current financial status, and ongoing projects. The board will also discuss new projects for the 2002-2003 fiscal year. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

Contact: Andrea S. Heid, Equine Marketing Specialist/Program Manager, Department of Agriculture and Consumer Services, 1100 Bank Street, Suite 1004, Richmond, VA, telephone (804) 786-5842, FAX (804) 371-7786.

Virginia Irish Potato Board

August 19, 2002 - 7 p.m. -- Open Meeting
Sunset Beach Inn, Kiptopeake, Virginia. ♿

A meeting to discuss programs involving promotion, research, and education. In addition, the annual budget and the board's financial statement will be reviewed and the board will entertain any other business that may come before it. 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 Butch Nottingham at least five days before the meeting date so that suitable arrangements can be made.

Contact: Butch Nottingham, Program Director, Department of Agriculture and Consumer Services, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867, FAX (757) 787-5973.

STATE AIR POLLUTION CONTROL BOARD

August 13, 2002 - 10 a.m. -- Public Hearing
Department of Environmental Quality, Northern Regional
Office, 13901 Crown Court, Woodbridge, Virginia. ♿

A public hearing on a proposed revision to the Commonwealth of Virginia State Implementation Plan (SIP) under § 110 of the federal Clean Air Act. The hearing will be held to accept testimony concerning the proposed revision. The regulation requires that affected vehicles be presented to emissions inspection stations biennially to receive an emissions inspection. This is accomplished through a network of service stations, repair garages, and other similar facilities that perform the inspections. Vehicles that fail the test are denied motor vehicle registration until inspection has been accomplished. The geographic coverage of the program consists of the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. The regulation revision makes a number of amendments to conform to changes in Virginia law and federal regulations, including (i) changing the model year coverage from model year 1968 and newer to a rolling exemption for vehicles 25 years and older and (ii) adding requirements for on-board diagnostics (OBD) testing. The department is seeking comment on the amendments, and on the issue of whether the amendments should be submitted to U.S. Environmental Protection Agency (EPA) as part of the SIP. DEQ will also accept written comments submitted to the contact through August 28, 2002.

Contact: Mary E. Major, State Air Pollution Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, (804) 698-4021/TTY ♿, e-mail mlmajor@deq.state.va.us.

† **August 26, 2002 - 7 p.m.** -- Public Hearing
Circuit Courtroom, Russell County Courthouse, 121 East Main
Street, Lebanon, Virginia. ♿

A public hearing to receive comments on a draft federal operating permit pursuant to the regulations of the State Air Pollution Control Board for Appalachian Power Company to operate an electric power generating facility and associated coal and ash processing and handling equipment in Carbo, Virginia.

Contact: Tom Derting, State Air Pollution Control Board, 355 Deadmore St., Abingdon, VA 24210, telephone (276) 676-4831, e-mail tmderting@deq.state.va.us.

† **September 11, 2002 - 9 a.m.** -- Public Hearing
Department of Environmental Quality, 629 East Main Street,
Richmond, Virginia. ♿

A public hearing to receive comments on the notice of intended regulatory action to adopt a regulation establishing testing and certification procedures for manufacturers of on-road heavy-duty diesel engines sold in Virginia.

Contact: Kathleen R. Sands, State Air Pollution Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, e-mail krsands@deq.state.va.us.

Calendar of Events

† **September 11, 2002 - 9 a.m.** -- Public Hearing
Department of Environmental Quality, 629 East Main Street,
Richmond, Virginia. 

A public hearing to receive comments on proposed amendments to the Control and Abatement of Air Pollution Regulations concerning municipal solid waste landfills (Rev B02).

Contact: Karen G. Sabasteanski, State Air Pollution Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, e-mail kgsabastea@deq.state.va.us.

† **September 11, 2002 - 9 a.m.** -- Public Hearing
Department of Environmental Quality, 629 East Main Street,
Richmond, Virginia. 

A public hearing to receive comments on the notice of intended regulatory action to amend the Regulations for the Control and Abatement of Air Pollution concerning VOC emission standards (Rev. C02).

Contact: Kathleen R. Sands, State Air Pollution Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, e-mail krsands@deq.state.va.us.

ALCOHOLIC BEVERAGE CONTROL BOARD

† **August 12, 2002 - 9 a.m.** -- Open Meeting
† **August 26, 2002 - 9 a.m.** -- Open Meeting
† **September 9, 2002 - 9 a.m.** -- Open Meeting
† **September 23, 2002 - 9 a.m.** -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. 

An executive staff meeting to receive and discuss reports and activities. Other matters are not yet determined.

Contact: W. Curtis Coleburn, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409, FAX (804) 213-4442.

ALZHEIMER'S DISEASE AND RELATED DISORDERS COMMISSION

† **September 6, 2002 - 10 a.m.** -- Open Meeting
Department for the Aging, 1600 Forest Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Janet L. Honeycutt, Director of Grant Operations, Alzheimer's Disease and Related Disorders Commission, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9333, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY , e-mail jlhoneycutt@vdh.state.va.us.

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

August 14, 2002 - 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 Professional Engineers Section to 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, (804) 367-9753/TTY , e-mail apelsla@dpor.state.va.us.

August 15, 2002 - 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 Interior Designer Section to 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, (804) 367-9753/TTY , e-mail apelsla@dpor.state.va.us.

† **September 10, 2002 - 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 board to 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, (804) 367-9753/TTY , e-mail apelsla@dpor.state.va.us.

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† **September 10, 2002 - 9 a.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 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 10-10. Public Participation Guidelines.** The purpose of the proposed action is to allow the board to accept requests to be placed on a notification list, and to notify PPG list members, via electronic means and to make necessary grammatical changes and update references to recodified provisions of the APA

Statutory Authority: §§ 2.2-4007 and 54.1-404 of the Code of Virginia.

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, (804) 367-9753/TTY, e-mail apelsla@dpor.state.va.us.

ART AND ARCHITECTURAL REVIEW BOARD

September 6, 2002 - 10 a.m. -- Open Meeting

October 4, 2002 - 10 a.m. -- Open Meeting

† **November 1, 2002 - 10 a.m.** -- Open Meeting

Virginia War Memorial, 601 South Belvidere Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A monthly meeting to review projects submitted by state agencies. AARB submittal forms and submittal instructions can be downloaded by visiting the DGS forms center at www.dgs.state.va.us. Request submittal form DGS-30-905 or submittal instructions form DGS-30-906.

Contact: Richard L. Ford, AIA, Chairman, Art and Architectural Review Board, 1011 E. Main St., Room 221, Richmond, VA 23219, telephone (804) 643-1977, FAX (804) 643-1981, (804) 786-6152/TTY

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

† **October 8, 2002 - 10 a.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia.

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Board for Asbestos, Lead, and Home Inspectors intends to adopt regulations entitled: **18 VAC 15-40. Virginia Certified Home Inspectors Regulations.** The purpose of the proposed regulation is to

establish entry, renewal, and reinstatement requirements for certification by the board for a voluntary certification program for home inspectors established by House Bill 2174 of the 2001 Session of the General Assembly. The proposed regulations also establish minimum standards for conducting certified home inspections as well as standards for conduct and practice.

Statutory Authority: §§ 54.1-201 and 54.1-501 of the Code of Virginia.

Contact: Tom Perry, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128 or (804) 367-9753/TTY

* * * * *

† **October 8, 2002 - 2 p.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia.

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Board for Asbestos, Lead, and Home Inspectors intends to adopt regulations entitled: **18 VAC 15-30. Virginia Lead-Based Paint Activities Regulations.** The purpose of the proposed amendments is to deregulate lead-based paint activities in public building, commercial buildings, and superstructures, and begin regulating these activities in child-occupied facilities. The deregulation is a direct result of the EPA not finalizing certain portions of its proposed regulations, and Virginia's statutory mandate to be no more stringent than the federal regulations. Extensions of interim licenses have been eliminated. The Supervisor and Project Designer training courses have been redefined as two separate and distinct courses. Individuals applying for a second interim license will be required to retake the initial training instead of an eight-hour refresher. Licensure through "grandfathering" has been eliminated. The Inspector Technician discipline has been replaced with Lead Inspector, and the Inspector/Risk Assessor discipline has been replaced with Lead Risk Assessor. Specific degree fields have been added to the option for Risk Assessors to substitute one year of experience with a bachelor's degree. Interim approval will no longer be granted to lead training courses. An on-site audit must be conducted prior to approval.

Statutory Authority: § 54.1-501 of the Code of Virginia.

Contact: Tom Perry, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128 or (804) 367-9753/TTY

† **October 29, 2002 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 5 West,
Richmond, Virginia.

A meeting to conduct routine business and review and respond to comments received on the proposed regulations

Calendar of Events

for certified home inspectors during the 60-day public comment period and public hearing, and adopt final regulations. A public comment period will be held at the beginning of the meeting.

Contact: David Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail asbestos@dpor.state.va.us.

AUCTIONEERS BOARD

† **October 17, 2002 - 10 a.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia.

October 18, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Auctioneers Board intends to amend regulations entitled: **18 VAC 25-10. Public Participation Guidelines**. The purpose of the proposed action is to allow the board to accept requests to be placed on a notification list, and to notify PPG list members, via electronic means and to update references to recodified provisions of the Administrative Process Act.

Statutory Authority: §§ 2.2-4007 and 54.1-602 of the Code of Virginia.

Contact: Marian H. Brooks, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail Auctioneers@dpor.state.va.us.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

August 15, 2002 - 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, including consideration of legislative proposals and the adoption of proposed amendments pursuant to its periodic review of regulations. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.state.va.us.

VIRGINIA AVIATION BOARD

† **August 21, 2002 - 8:30 a.m.** -- Open Meeting
Ramada Plaza Resort Oceanfront, 5700 Atlantic Avenue,
Virginia Beach, Virginia. ♿

The 2002 Virginia Aviation Conference will be held August 21 through August 23, 2002. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community. Individuals with disabilities should contact Carolyn Toth 10 days prior to the meeting if assistance is needed.

Contact: Carolyn Toth, Administrative Assistant, Virginia Aviation Board, 5702 Gulfstream Rd., Richmond, VA 23250, telephone (804) 236-3637, FAX (804) 236-3635, toll-free (800) 292-1034, (804) 236-3624/TTY ☎, e-mail toth@doav.state.va.us.

BOARD FOR BARBERS AND COSMETOLOGY

† **September 9, 2002 - 8:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ♿

A regular board meeting that will include working on proposed wax technician regulations.

Contact: William H. Ferguson, II, Assistant Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295, e-mail barbercosmo@dpor.state.va.us.

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September 10, 2002 - 9:30 a.m. -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

September 27, 2002 - Public comments may be submitted through this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Barbers and Cosmetology intends to adopt regulations entitled: **18 VAC 41-10. Public Participation Guidelines**. The purpose of the proposed action is to promulgate guidelines governing public participation.

Statutory Authority: §§ 2.2-4007 and 54.1-201 of the Code of Virginia.

Contact: William H. Ferguson, II, Assistant Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295 or e-mail barbercosmo@dpor.state.va.us.

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September 10, 2002 - 9:30 a.m. -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

September 27, 2002 - Public comments may be submitted through this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Barbers and Cosmetology intends to adopt regulations entitled: **18 VAC 41-20. Barbering and Cosmetology Regulations**. The proposed regulatory changes will promulgate regulations for

the newly combined Board for Barbers and Cosmetology as directed by Acts of Assembly 2000, c. 726, cl.3.; clarify and standardize requirements for licensure; provide for and ensure that health, sanitation standards, and safety are adequate in facilities where barbering and cosmetology are practiced; extend the temporary work permit from 30 to 45 days to allow sufficient time for posting examination scores and avoid interruption of employment, and adjust licensing fees for regulants of the Board for Barbers and Cosmetology.

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

Contact: William H. Ferguson, II, Assistant Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295 or e-mail barbercosmo@dpor.state.va.us.

BOARD FOR THE BLIND AND VISION IMPAIRED

† **October 15, 2002 - 1 p.m.** -- Open Meeting
Department for the Blind and Vision Impaired, 397 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to review information regarding activities and operations, review expenditures from board endowment fund, and discuss other issues raised for the board members.

Contact: Katherine C. Proffitt, Administrative Staff Assistant, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3145, FAX (804) 371-3157, toll-free (800) 622-2155, (804) 371-3140/TTY , e-mail proffikc@dbvi.state.va.us.

CEMETERY BOARD

August 14, 2002 - 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 business meeting.

Contact: Karen W. O'Neal, Deputy Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail cemetery@dpor.state.va.us.

STATE CHILD FATALITY REVIEW TEAM

† **September 13, 2002 - 10 a.m.** -- Open Meeting
Office of the Chief Medical Examiner, 400 East Jackson Street, Richmond, Virginia. 

The business portion of the State Child Fatality Review Team meeting, from 10 a.m. to 10:30 a.m., is open to the public. At the conclusion of the open meeting, the team will go into closed session for confidential case review.

Contact: Virginia Powell, Coordinator, State Child Fatality Review Team, 400 E. Jackson St., Richmond, VA 23219,

telephone (804) 786-6047, FAX (804) 371-8595, toll-free (800) 447-1708.

COMPENSATION BOARD

August 27, 2002 - 11 a.m. -- Open Meeting
Compensation Board, 202 North 9th Street, 10th Floor, Richmond, Virginia. 

A monthly board meeting.

Contact: Cindy P. Waddell, Administrative Staff Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cwaddell@scb.state.va.us.

BOARD OF CONSERVATION AND RECREATION

September 6, 2002 - 2 p.m. -- Open Meeting
Belle Isle State Park, 1632 Belle Isle Road, Lancaster, Virginia.  (Interpreter for the deaf provided upon request)

A regular 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, e-mail leonapp@dcr.state.va.us.

DEPARTMENT OF CONSERVATION AND RECREATION

August 15, 2002 - 7 p.m. -- Open Meeting
Mary Bethune Complex, Cowford Road, Halifax, Virginia.  (Interpreter for the deaf provided upon request)

The final meeting of the Staunton River State Park master planning process. The draft of the new plan will be discussed and public comment will be received. Requests for interpreter services for the deaf must be received two weeks prior to the meeting.

Contact: Robert S. Munson, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 371-7899, e-mail rmunson@dcr.state.va.us.

† **August 29, 2002 - 1 p.m.** -- Open Meeting
Smith Mountain Lake State Park Visitor Center, 1235 State Park Road, Huddleston, Virginia.  (Interpreter for the deaf provided upon request)

The final committee meeting to complete the master plan process for Smith Mountain Lake State Park. Requests for interpreter for the deaf should be filed two weeks prior to the meeting.

Contact: Robert Munson, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 886-6140, FAX (804) 371-7899, e-mail rsmunson@dcr.state.va.us.

Calendar of Events

BOARD FOR CONTRACTORS

August 21, 2002 - 2 p.m. -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. (Interpreter for
the deaf provided upon request)

August 30, 2002 - Public comments may be submitted until
this date.

Notice is hereby given in accordance with § 2.2-4007 of the
Code of Virginia that the Board for Contractors is amending
regulations entitled: **18 VAC 50-22. Board for
Contractors Regulations;** and **18 VAC 50-30. Tradesman
Rules and Regulations.** The purpose of the proposed
action is to increase the licensing fees for contractors and
tradesmen.

Statutory Authority: §§ 54.1-113 and 54.1-201 of the Code of
Virginia.

Contact: Eric L. Olson, Assistant Director, Department of
Professional and Occupational Regulation, 3600 W. Broad St.,
Richmond, VA 23230-4917, telephone (804) 367-2785, FAX
(804) 367-2474, (804) 367-9753/TTY, e-mail
contractors@dpor.state.va.us.

† August 28, 2002 - 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 board business.

Contact: Eric L. Olson, Assistant Director, Board for
Contractors, 3600 W. Broad St., Richmond, VA 23230,
telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-
9753/TTY, e-mail contractors@dpor.state.va.us.

BOARD OF CORRECTIONS

† September 17, 2002 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room,
Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss correctional services and
policy/regulation matters that may be presented to the full
board.

Contact: Barbara Woodhouse, Administrative Staff Assistant,
Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225,
telephone (804) 674-3124, FAX (804) 674-3605, e-mail
woodhousebl@vadoc.state.va.us.

† September 18, 2002 - 8:30 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Room 3065,
Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss administrative matters that may be
presented to the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant,
Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225,
telephone (804) 674-3124, FAX (804) 674-3605, e-mail
woodhousebl@vadoc.state.va.us.

† September 18, 2002 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room,
Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss correctional matters that may be
brought before the full board.

Contact: Barbara Woodhouse, Administrative Staff Assistant,
Board of Corrections, 6900 Atmore Dr. Richmond, VA 23225,
telephone (804) 674-3124, FAX (804) 674-3605, e-mail
woodhousebl@vadoc.state.va.us.

BOARD OF COUNSELING

† August 22, 2002 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 1, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the Regulatory/Supervision/Legislative
Committee to discuss continuing education requirements
and other items as may be presented on the agenda. Public
comment will be received at the beginning of the meeting.

Contact: Evelyn B. Brown, Executive Director, Board of
Counseling, Southern States Bldg., 6606 W. Broad St., 4th
Floor, Richmond, VA 23230-1717, telephone (804) 662-9912,
FAX (804) 662-9943, (804) 662-7197/TTY, e-mail
ebrown@dhp.state.va.us.

† August 22, 2002 - 3 p.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)

A meeting of the Examination Committee to discuss the
Certified Rehabilitation Provider Examination and consider
other issues as may be presented on the agenda. No public
comment will be received.

Contact: Evelyn B. Brown, Executive Director, Board of
Counseling, Southern States Bldg., 6606 W. Broad St., 4th
Floor, Richmond, VA 23230-1717, telephone (804) 662-9912,
FAX (804) 662-9943, (804) 662-7197/TTY, e-mail
ebrown@dhp.state.va.us.

† August 23, 2002 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 1, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A general business meeting including consideration of
committee reports and regulatory and disciplinary actions as
may be presented on the agenda. Public comment will be
received at the beginning of the meeting.

Contact: Evelyn B. Brown, Executive Director, Board of
Counseling, Southern States Bldg., 6606 W. Broad St., 4th
Floor, Richmond, VA 23230-1717, telephone (804) 662-9912,
FAX (804) 662-9943, (804) 662-7197/TTY, e-mail
ebrown@dhp.state.va.us.

CRIMINAL JUSTICE SERVICES BOARD

† August 19, 2002 - 10 a.m. -- Open Meeting
ADI, 5655-C General Washington Drive, Alexandria, Virginia.

A meeting of the Private Security Services Advisory Board Legislative Committee. Parties are asked to provide brief overviews of proposed legislation via e-mail to the Committee Chair, Deborah Aylward, by August 15, 2002, at Beware.beware@verizon.net. Eleven copies of each proposal and supporting data plus the same information on computer disc must be submitted on the day of the meeting.

Contact: Judith Kirkendall, Regulatory Coordinator, Criminal Justice Services Board, Eighth St. Office Bldg., 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 786-8003, FAX (804) 786-0410, e-mail jkirkendall@dcjs.state.va.us.

BOARD OF DENTISTRY

September 13, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Dentistry intends to amend regulations entitled: **18 VAC 60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene.** The purpose of the proposed action is to increase certain fees charged to applicants and licensed dentists and dental hygienists.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until September 13, 2002, to Sandra K. Reen, Executive Director, Board of Dentistry, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Special Conference Committee

August 23, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 

A panel of the board will convene an informal hearing to inquire into allegations that a certain practitioner may have violated laws governing the practice of dentistry. The panel will meet in open and closed sessions. Public comment will not be received.

Contact: Cheri Emma-Leigh, Operations Manager, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail denbd@dhp.state.va.us.

DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

August 15, 2002 - 11 a.m. -- Open Meeting
September 19, 2002 - 11 a.m. -- Open Meeting
October 17, 2002 - 11 a.m. -- Open Meeting

Virginia War Memorial, 601 South Belvidere Street, Auditorium, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to review requests submitted by localities to use design-build or construction management-type contracts. Contact the Division of Engineering and Buildings to confirm the meeting. Board rules and regulations can be obtained online at www.dgs.state.va.us under the DGS Forms, Form DGS-30-904.

Contact: Freddie M. Adcock, Administrative Assistant, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY , e-mail fadcock@dgs.state.va.us.

BOARD OF EDUCATION

August 28, 2002 - 9 a.m. -- Open Meeting
September 11, 2002 - 9 a.m. -- Open Meeting
Hilton Garden Hotel at Innsbrook, 4050 Cox Road, Glen Allen, Virginia.  (Interpreter for the deaf provided upon request)

A work session of the Committee to Enhance the K-12 Teaching Professions; public comment will not be received. Persons requesting the services of an interpreter for the deaf should do so in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

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September 2, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Education is amending regulations entitled: **8 VAC 20-440. Regulations Governing the Employment of Professional Personnel.** The purpose of the proposed action is to amend and clarify the "breach of contract" provision in the regulation.

Statutory Authority: §§ 22.1-16 and 22.1-302 of the Code of Virginia.

Contact: Dr. Thomas Elliott, Assistant Superintendent, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 225-2924, FAX (804) 225-2524 or e-mail telliott@mail.vak.12ed.edu.

Calendar of Events

September 26, 2002 - 9 a.m. -- Open Meeting

October 16, 2002 - 9 a.m. -- Open Meeting

General Assembly Building, 910 Capitol Square, Senate Room B, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting of the board. Persons who wish to speak or who require the services of an interpreter for the deaf should contact the agency in advance. Public comment will be received.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

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September 26, 2002 - 1 p.m. -- Public Hearing

General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. 

October 2, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Education intends to adopt regulations entitled: **8 VAC 20-650. Regulations Governing the Determination of Critical Teacher Shortage Areas for Awarding the Virginia Teaching Scholarship Loan Program.** The purpose of the proposed action is to collect the supply and demand information from school divisions and provide a reasonable and scientific procedure to identify critical teacher shortage areas in Virginia.

Statutory Authority: § 22.1-290.01 of the Code of Virginia.

Contact: Dr. Thomas Elliott, Assistant Superintendent, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 225-2924, FAX (804) 225-2524 or e-mail telliott@mail.vak.12ed.edu.

October 17, 2002 - 8:30 a.m. -- Open Meeting

October 18, 2002 - 8:30 a.m. -- Open Meeting

Radisson Hotel Historic Richmond, 301 West Franklin Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A working session of the State Special Education Advisory Committee. Public comment will not be received. Persons requesting the services of an interpreter for the deaf should do so in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

DEPARTMENT OF ENVIRONMENTAL QUALITY

† August 27, 2002 - 7 p.m. -- Public Hearing

Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia.  (Interpreter for the deaf provided upon request)

A public hearing to receive comments on the permit amendment to incorporate a groundwater monitoring plan and a variance for the use of alternate concentration limits.

Contact: Rosemarie Ballance, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4223, e-mail rballance@deq.state.va.us.

† September 4, 2002 - 7 p.m. -- Public Hearing

New River Valley Competitiveness Center, 6580 Valley Center Drive, Conference Room, Radford, Virginia. 

A public hearing to receive comments on revocation of the existing RCRA post-closure care permits for units 5 and 7 and issuance of a new RCRA post-closure care permit for units 5, 7, 10 and 16 for the Radford Army Ammunition Plant located in Radford, Virginia.

Contact: Fuxing Zhou, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4126, e-mail fzhou@deq.state.va.us.

† September 4, 2002 - 7 p.m. -- Public Hearing

New River Valley Competitiveness Center, 6580 Valley Center Drive, Conference Room, Radford, Virginia. 

A public hearing to receive comments on issuance of a new RCRA permit treatment and storage of hazardous waste in tanks and hazardous waste treatment by incineration at the Radford Army Ammunition Plant located in Radford, Virginia.

Contact: Garwin W. Eng, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4131, e-mail gweng@deq.state.va.us.

† September 9, 2002 - 9 a.m. -- Open Meeting

Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A meeting of the Ground Water Protection Steering Committee, an interagency advisory committee formed to stimulate, strengthen and coordinate groundwater protection activities in the Commonwealth.

Contact: Mary Ann Massie, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4042, e-mail mamassie@deq.state.va.us.

† September 9, 2002 - 10 a.m. -- Open Meeting

† October 9, 2002 - 10 a.m. -- Open Meeting

Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A meeting of the air impact study group.

Contact: James E. Sydnor, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4424, e-mail jesydnor@deq.state.va.us.

September 12, 2002 - 10 a.m. -- Open Meeting
October 10, 2002 - 10 a.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A meeting of the water impact study group.

Contact: Allan Brockenbrough, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4147, e-mail abrockenb@deq.state.va.us.

VIRGINIA FIRE SERVICES BOARD

August 16, 2002 - 9 a.m. -- Open Meeting
Holiday Inn Hampton Hotel and Conference Center, 1815 West Mercury Boulevard, Hampton, Virginia.  (Interpreter for the deaf provided upon request)

Committees will meet as follows:

Fire Education and Training Committee - 9 a.m.
Administration and Policy Committee - 10 minutes after the conclusion of Fire Education and Training Committee
Fire Prevention and Control Committee - 10 minutes after the conclusion of Administration and Policy Committee
Finance Committee - 10 minutes after the conclusion of Fire Prevention and Control Committee

Contact: Christy L. King, Clerk to the Virginia Fire Services Board, Virginia Fire Services Board, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0219, e-mail cking@vdfp.state.va.us.

August 17, 2002 - 9 a.m. -- Open Meeting
Holiday Inn Hampton Hotel and Conference Center, 1815 West Hampton Boulevard, Hampton, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia State Firefighter's Annual Conference. Please contact Christy King for further information.

Contact: Christy L. King, Clerk to the Virginia Fire Services Board, Virginia Fire Services Board, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0219, e-mail cking@vdfp.state.va.us.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

September 10, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 

A general business meeting including consideration of legislative, regulatory and disciplinary matters as may be on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.state.va.us.

† **September 10, 2002 - 9 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **18 VAC 65-30. Regulations for Preneed Funeral Planning.** The purpose of the proposed action is to clarify and eliminate an unnecessary requirement for a contract number.

Statutory Authority: §§ 54.1-2400 and 54.1-2480 of the Code of Virginia.

Public comments may be submitted until October 11, 2002, to Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

† **September 10, 2002 - 9 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **18 VAC 65-40. Regulations for the Resident Trainee Program in Funeral Service.** The purpose of the proposed action is to ensure that the trainee receives training in preneed funeral arrangements.

Statutory Authority: Chapter 38 of the Code of Virginia.

Public comments may be submitted until October 11, 2002, to Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

BOARD OF GAME AND INLAND FISHERIES

August 22, 2002 - 9 a.m. -- Open Meeting
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond Virginia.  (Interpreter for the deaf provided upon request)

Calendar of Events

A meeting to propose amendments to regulations governing fish and fishing, and wildlife diversity (i.e., wildlife other than in the contexts of hunting, trapping, or fishing). This is the regular biennial review for these regulations, with the resulting amended regulations intended to be in effect 2003 through 2004. The board also intends to propose amendments to regulations governing boating. The board is exempted from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) in promulgating wildlife management regulations, including the length of seasons, bag limits and methods of take set on the wildlife resources within the Commonwealth of Virginia; the board promulgates boating regulations under the authority of § 29.1-701(E) of the Code of Virginia. Under board procedures, regulatory actions occur over two sequential board meetings. At the August 22 meeting, Department of Game and Inland Fisheries' staff will present recommendations for regulatory amendments, the board will solicit and hear comments from the public in a public hearing, and the board then intends to propose regulations or regulation amendments. Any proposed regulatory actions will be published in the Virginia Register, posted on the Internet at www.dgif.state.va.us, and advertised in newspapers. The board is required by § 2.2-4031 of the Code of Virginia to publish all proposed and final regulations. At the August 22, 2002, meeting the board also will adopt 2002-2003 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 and receive comments from the public during the public hearing portion of the meeting for this action. The board also may discuss general and administrative issues; hold a closed session at some time during the August 22 meeting; and elect to hold a dinner Wednesday evening, August 21, 2002, at a location and time to be determined.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond VA 23230, telephone (804) 367-1000, FAX (804) 367-0488, e-mail RegComments@dgif.state.va.us.

† **September 4, 2002 - 7 p.m.** -- Open Meeting
Deep Creek Middle School, 1955 Deal Avenue, Auditorium, Chesapeake, Virginia. (Interpreter for the deaf provided upon request)

Prince Edward County Agriculture and Natural Resources Building, 100 Dominion Drive, Conference Room, Farmville, Virginia. (Interpreter for the deaf provided upon request)

† **September 5, 2002 - 7 p.m.** -- Open Meeting
Department of Game and Inland Fisheries, 4000 West Broad Street, Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

† **September 9, 2002 - 7 p.m.** -- Open Meeting
Mountain Empire Community College, Highway 23 South, Dalton Cantrell Auditorium, Big Stone Gap, Virginia. (Interpreter for the deaf provided upon request)
Department of Game and Inland Fisheries, 4725 Lee Highway, Verona, Virginia. (Interpreter for the deaf provided upon request)

† **September 10, 2002 - 7 p.m.** -- Open Meeting
Wytheville Community College, 1000 East Main Street, Grayson Hall, The Commons, Wytheville, Virginia. (Interpreter for the deaf provided upon request)
Northern Virginia Regional Park Authority, 5400 Ox Road, Fairfax Station, Virginia. (Interpreter for the deaf provided upon request)

† **September 12, 2002 - 7 p.m.** -- Open Meeting
Forest Public Library, 15583 Forest Road, Forest, Virginia. (Interpreter for the deaf provided upon request)
Toano Middle School, 7817 Richmond Road, Toano (James City County), Virginia. (Interpreter for the deaf provided upon request)

The department is holding a series of 10 open meetings for the purpose of receiving public comments regarding proposed changes to regulations governing fishing, wildlife diversity (i.e., wildlife other than in the context of hunting, trapping, or fishing), and boating. The proposals addressed at the meeting series will be those regulations or regulation amendments that the board proposes at its August 22, 2002, meeting. A public comment period opened on the regulation amendments the board proposes will open August 22 and will close October 24, 2002. The proposals will be available on the department's web site, www.dgif.state.va.us, at the department's central and regional offices, published in the Virginia Register of Regulations, and will be available at the public meetings. The public input meeting series is being held prior to the board meeting of October 24, 2002, at which the board intends to adopt final regulations or regulation amendments. The 10 public input meetings are supplemental public hearings to the two hearings that will occur at the August 22 and October 24 board meetings. Comments received on the proposals at the public input meetings will be summarized and reported to the board for their consideration at the October 24, 2002, meeting prior to adopting final regulations. The Department of Game and Inland Fisheries is exempt from the Administrative Process Act in promulgating regulations regarding the management of wildlife, pursuant to subdivision A 3 of § 2.2-4002 of the Code of Virginia. The department publishes all proposed and final wildlife management regulations as required under § 2.2-4031 of the Code of Virginia.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond VA 23230, telephone (804) 367-1000, FAX (804) 367-0488, e-mail regcomments@dgif.state.va.us.

CHARITABLE GAMING COMMISSION

August 22, 2002 - 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 commission meeting. Agenda to be posted at a future date.

Contact: Frances C. Jones, Administrative Staff Assistant, Charitable Gaming Commission, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804)

786-3014, FAX (804) 786-1079, e-mail
jones@cgc.state.va.us.

STATE BOARD OF HEALTH

August 19, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to adopt regulations entitled: **12 VAC 5-407. Procedures for the Submission of Health Maintenance Organization Quality of Care Data.** The purpose of the proposed action is to adopt regulations to carry out Virginia law, specifically Senate Bill 533 (2000).

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

Contact: Margot Fritts, Office of Health Planning, Department of Health, 1500 E. Main St., Suite 227, Richmond, VA 23219, telephone (804) 692-0808, FAX (804) 371-0116 or e-mail mfritts@vdh.state.va.us.

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August 14, 2002 - 10 a.m. -- Public Hearing
Henrico Government Center, Administration Board Room, Richmond, Virginia.
Franklin County Board Room, 275 South Main Street, 2nd Floor, Franklin, Virginia.

October 1, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Health intends to amend regulations entitled: **12 VAC 5-610. Sewage Handling and Disposal Regulations.** The purpose of the proposed action is to regulate mass sewage disposal systems (systems larger than 1,200 gallons per day per acre) that have a greater potential for failure than domestic and small commercial onsite systems. These large systems also pose a higher risk of ground water contamination than smaller systems. The amendments include standards for proper siting, design, construction, operation, and monitoring of mass sewage disposal systems. A second amendment is to regulate the amount of rock fragments surrounding a subsurface soil absorption system.

Statutory Authority: §§ 32.1-12 and 32.1-164 of the Code of Virginia.

Contact: Donald J. Alexander, Director, Division of Onsite Sewage and Water Services, Department of Health, 1500 E. Main St., Room 115, Richmond, VA 23219, telephone (804) 225-4030, FAX (804) 225-4003 or e-mail dalexander@vdh.state.va.us.

DEPARTMENT OF HEALTH

† **August 29, 2002 - 10 a.m.** -- Open Meeting
Natural Resources Building, 900 Natural Resource Drive, Fontaine Research Park, Charlottesville, Virginia. 

A meeting of the Biosolids Use Regulation Advisory Committee to discuss possible language revisions to the Biosolids Use Regulations (12 VAC 5-585). The revisions now being considered include (i) land application fees, (ii) local government monitoring reimbursement, (iii) land application operation, and (iv) nutrient management restrictions and nutrient management practices requirements.

Contact: Cal Sawyer, Director, Division of Wastewater Engineering, Department of Health, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-1755, FAX (804) 786-5567 or e-mail csawyer@vdh.state.va.us.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **August 29, 2002 - 9 a.m.** -- Open Meeting
State Council of Higher Education for Virginia, James Monroe Building, 101 North 14th Street, 9th Floor, Richmond, Virginia.

A work session. No final council actions will be taken at this meeting.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, 101 N. 14th St., Richmond, VA, telephone (804) 225-2602, FAX (804) 371-7911, e-mail lrung@schev.edu.

DEPARTMENT OF HISTORIC RESOURCES

State Review Board and Historic Resources Board

† **September 11, 2002 - 9 a.m.** -- Open Meeting
U. S. Naval Weapons Station, Building 1959, Yorktown, Virginia.  (Interpreter for the deaf provided upon request)

Both boards will consider and recommend register nominations to be placed on the Virginia Landmarks Register and the National Register of Historic Places. The Historic Resources Board will approve highway marker texts and easements. In the afternoon session of the State Review Board, the board will consider and recommend the submitted Preliminary Information Applications.

Contact: Marc Wagner, Manager, National Register Section, Department of Historic Resources, 2801 Kensington Ave., Richmond, VA 23221, telephone (804) 367-2323, FAX (804) 367-2391, (804) 367-2386/TTY , e-mail mwagner@dhr.state.va.us.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

September 3, 2002 - 9 a.m. -- Open Meeting
Hopewell Community Center, 100 West City Point Road, Hopewell, Virginia.  (Interpreter for the deaf provided upon request)

The Local Emergency Preparedness Committee will meet as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, Hopewell Industrial Safety Council, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

Calendar of Events

VIRGINIA ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

† **August 20, 2002 - 10 a.m.** -- Open Meeting
Main Floor Auditorium, Pocahontas Building, 900 East Main Street, Richmond, Virginia. 

The commission will initiate its new work program related to development of a state urban policy. Following a meeting with the Governor's policy staff last month, staff has outlined a work program with three elements: (i) a discussion of terminology with the objective of finding a label that is more inclusive than "urban policy" and more accurately conveys the concept envisioned, (ii) a definition of what a state policy should cover, what the goals should be, what problems it should address, and how it should be implemented, and (iii) a review of programs in other states to select models for successfully accomplishing the goals of a program in Virginia. At its first meeting, the commission will discuss terminology and begin consideration of what a Virginia program should cover. The commission also expects to finalize SJR 218 (2000 Session), Cities Study for publication.

Contact: Alda Wilkinson, Secretary, Virginia Advisory Commission on Intergovernmental Relations, 900 E. Main St., Suite 103, Richmond, VA 23219-3513, telephone (804) 786-6508, FAX (804) 371-7999, (804) 828-1120/TTY , e-mail awilkinson@clg.state.va.us.

† **October 21, 2002 - 1:30 p.m.** -- Open Meeting
Waterside Convention Center, Norfolk, Virginia. 

Agenda will be provided after the August 20 meeting.

Contact: Alda Wilkinson, Secretary, Virginia Advisory Commission on Intergovernmental Relations, 900 E. Main St., Suite 103, Richmond, VA 23219-3513, telephone (804) 786-6508, FAX (804) 371-7999, (804) 828-1120/TTY , e-mail awilkinson@clg.state.va.us

† **November 11, 2002 - 3:30 p.m.** -- Open Meeting
The Homestead, Hot Springs (Bath County), Virginia. 

An agenda will be provided after the October 21 meeting.

Contact: Alda Wilkinson, Secretary, Virginia Advisory Commission on Intergovernmental Relations, 900 E. Main St., Suite 103, Richmond, VA 23219-3513, telephone (804) 786-6508, FAX (804) 371-7999, (804) 828-1120/TTY , e-mail awilkinson@clg.state.va.us.

JAMESTOWN-YORKTOWN FOUNDATION

† **August 14, 2002 - 11 a.m.** -- Open Meeting
Williams Mullen, Two James Center, 1021 East Cary Street, Board Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Executive and Finance Committees will meet jointly to review FY2002 financial and performance measures year-end reports, to discuss proposed adjustments to the FY2003 operating budget and proposed legislation for the 2003 legislative session, and to address agency strategic planning. No public comment will be heard.

Contact: Laura W. Bailey, Executive Assistant to the Boards, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (804) 253-4840, FAX (804) 253-5299, (804) 253-7236/TTY , e-mail lwbailey@jyf.state.va.us.

DEPARTMENT OF LABOR AND INDUSTRY

Apprenticeship Council

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Labor and Industry intends to amend regulations entitled: **16 VAC 20-10. Public Participation Guidelines**. The purpose of the proposed action is to conform the regulation language to current Administrative Process Act requirements, include references to agency Web site and Virginia Regulatory Town Hall, and remove redundant language.

Statutory Authority: §§ 2.2-4007 and 40.1-117 of the Code of Virginia.

Contact: Bonnie R. Hopkins, Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631, FAX (804) 371-6524 or e-mail brh@doli.state.va.us.

STATE LAND EVALUATION ADVISORY COUNCIL

September 5, 2002 - 10 a.m. -- Open Meeting
Department of Taxation, Richmond District Office, 1708 Commonwealth Avenue, 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: Keith Mawyer, Property Tax Manager, Virginia Department of Taxation, 2220 W. Broad St., Richmond, VA 23220, telephone (804) 367-8020.

STATE LIBRARY BOARD

September 23, 2002 - 8:15 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 

Meetings of the board to discuss matters pertaining to the Library of Virginia and the board. Committees of the board will meet as follows:

8:15 a.m. - Public Library Development Committee, Orientation Room;
Publications and Educational Services Committee, Conference Room B;
Records Management Committee, Conference Room C.

9:30 a.m. - Archival and Information Services Committee, Orientation Room;

Collection Management Services Committee, Conference Room B;
Legislative and Finance Committee, Conference Room C.

10:30 a.m. - Library Board, Conference Room 2M.

Contact: Jean H. Taylor, Executive Secretary to the Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-2000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY ☎, e-mail jtaylor@lva.lib.va.us.

MARINE RESOURCES COMMISSION

August 27, 2002 - 9:30 a.m. -- Open Meeting

September 24, 2002 - 9:30 a.m. -- Open Meeting

Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia. ♿

A monthly commission meeting.

Contact: Stephanie Montgomery, Commission Secretary, Marine Resources Commission, 2600 Washington Ave., Suite 107, Newport News, VA 23607, telephone (757) 247-8088, FAX (757) 247-2020, toll-free (800) 541-4646, (757) 247-2292/TTY ☎, e-mail smont@mrc.state.va.us.

BOARD OF MEDICAL ASSISTANCE SERVICES

October 8, 2002 - 10 a.m. -- Open Meeting

Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ♿

A routine business meeting. An agenda will be posted closer to the meeting date.

Contact: Leah Hamaker, Communications Office, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-4626, FAX (804) 371-4981, (800) 343-0634/TTY ☎, e-mail lhamaker@dmas.state.va.us.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

August 16, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-120. Waivered Services Medallion II.** The purpose of the proposed action is to promulgate changes to Medallion II regulations to provide for three issues: one managed care organization in a region; preassignment process; and limit time enrollees have to select a primary care physician.

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

Public comments may be submitted until August 16, 2002, to Adrienne Fegans, Manager, Division of Managed Care, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St.,

Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-1680.

† **November 7, 2002 - 2 p.m.** -- Open Meeting

Department of Medical Assistance Services, 600 East Broad St., Suite 1300, Board Room, Richmond, Virginia. ♿

A meeting to conduct routine business of the Drug Utilization Review Board.

Contact: Marianne Rollings, Pharmacist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4268, FAX (804) 786-1680, (800) 343-0634/TTY ☎, e-mail mrollings@dmas.state.va.us.

BOARD OF MEDICINE

† **September 11, 2002 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

A meeting of the Advisory Committee on Acupuncture to consider regulatory issues as presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail wharp@dhp.state.va.us.

† **September 11, 2002 - 1 p.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

A meeting of the Advisory Board on Radiologic Technology to consider regulatory issues as presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail wharp@dhp.state.va.us.

† **September 12, 2002 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

A meeting of the Advisory Board on Occupational Therapy to consider regulatory issues as presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail wharp@dhp.state.va.us.

† **September 12, 2002 - 1 p.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

Calendar of Events

A meeting of the Advisory Board on Respiratory Care to consider regulatory issues as presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail wharp@dhp.state.va.us.

† **September 13, 2002 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

A meeting of the Advisory Board on Athletic Training to consider regulatory issues as presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail wharp@dhp.state.va.us.

† **September 13, 2002 - 1 p.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

A meeting of the Advisory Board on Physicians Assistants to consider regulatory issues as presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail wharp@dhp.state.va.us.

† **September 27, 2002 - 8:30 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

The Legislative Committee will receive reports from the advisory boards and consider regulatory and legislative items as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail wharp@dhp.state.va.us.

October 2, 2002 - 8:45 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ♿

A panel of the board will convene a formal hearing to inquire into allegations that a practitioner may have violated laws governing the practice of medicine. The panel will meet in open and closed sessions pursuant to the Code of Virginia. Public comment will not be received.

Contact: Peggy Sadler/Renee Dixon, Staff, Board of Medicine, 6606 W. Broad St., Richmond, VA, 23230, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail peggy.sadler@dhp.state.va.us.

† **October 10, 2002 - 8 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

A general business meeting including the adoption of amendments to regulations and other items as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail wharp@dhp.state.va.us.

Informal Conference Committee

August 15, 2002 - 9 a.m. -- Open Meeting

September 17, 2002 - 9 a.m. -- Open Meeting
Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia. ♿

August 21, 2002 - 9:30 a.m. -- Open Meeting

September 18, 2002 - 8:45 a.m. -- Open Meeting
Williamsburg Marriott Hotel, 50 Kingsmill Road, Williamsburg, Virginia.

September 4, 2002 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, Richmond, 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 the Code of Virginia. Public comment will not be received.

Contact: Peggy Sadler or Renee Dixon, Staff, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail Peggy.Sadler@dhp.state.va.us.

STATE MILK COMMISSION

August 28, 2002 - 10:30 a.m. -- Open Meeting

Department of Forestry, 900 Natural Resources Drive, Room 2063, Charlottesville, Virginia. ♿

A regular meeting to consider industry issues, distributor licensing, base transfers, and reports from staff. The commission offers anyone in attendance an opportunity to speak at the conclusion of the agenda. Those persons requiring special accommodations should notify the agency meeting contact at least five working days prior to the meeting date so that suitable arrangements can be made.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 9th St. Office Bldg., 202 N. Ninth St., Room

915, Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, e-mail ewilson@smc.state.va.us.

DEPARTMENT OF MOTOR VEHICLES

August 14, 2002 - 8 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular business meeting of the Medical Advisory Board.

Contact: J. C. Branche, Assistant Division Manager, Department of Motor Vehicles, 2300 West Broad Street, Richmond VA 23220, telephone (804) 367-0531, FAX (804) 367-1604, toll-free (800) 435-5137, (800) 272-9268/TTY, e-mail dmjv3b@dmv.state.va.us.

October 10, 2002 - 9 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia.

A meeting of the Digital Signature Implementation Workgroup. Meetings will be held on the second Thursday of every other month from 9 a.m. until noon at the location noted above unless otherwise noted. The room will be open for coffee and pre-session business at 8:30 a.m.; the business session will begin at 9 a.m.

Contact: Vivian Cheatham, Executive Staff Assistant, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-6870, FAX (804) 367-6631, toll-free (866) 68-5463, e-mail dmvrvc@dmv.state.va.us.

BOARD OF NURSING

August 31, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to amend regulations entitled: **18 VAC 90-50. Regulations Governing the Certification of Massage Therapists.** The purpose of the proposed action is to address concerns about competency of certificate holders by requiring recertification by the National Certification Board for Therapeutic Massage and Bodywork (MCBTMB) or obtaining at least 25 hours of continuing education in the biennium before renewal. The board will also amend regulations to further specify the requirements for licensure by endorsement, to delete outdated "grandfathering" provisions and unnecessary rules for provisional certification, and to incorporate by reference the code of ethics and standards of practice of the NCBTMB.

Statutory Authority: Chapter 30 of Title 54.1 of the Code of Virginia.

Public comments may be submitted until August 30, 2002, to Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St.,

Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

September 23, 2002 - 9 a.m. -- Open Meeting
September 25, 2002 - 9 a.m. -- Open Meeting
September 26, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A panel of the board will conduct formal hearings with licensees or certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY, e-mail nursebd@dhp.state.va.us.

† **September 24, 2002 - 1:30 p.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to amend regulations entitled: **18 VAC 90-20. Regulations Governing the Practice of Nursing.** The purpose of the proposed action is to establish qualifications and renewal requirements for advanced certification for certified nurse aides and the criteria for an approved education and training program.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until October 11, 2002, to Nancy K. Durrett, R.N., Executive Director, Board of Nursing, Southern States Bldg., 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Special Conference Committee

August 12, 2002 - 9 a.m. -- Open Meeting
August 13, 2002 - 9 a.m. -- Open Meeting
August 29, 2002 - 9 a.m. -- Open Meeting
October 8, 2002 - 9 a.m. -- Open Meeting
October 10, 2002 - 9 a.m. -- Open Meeting
October 21, 2002 - 9 a.m. -- Open Meeting
October 22, 2002 - 9 a.m. -- Open Meeting
October 29, 2002 - 9 a.m. -- Open Meeting
† **October 30, 2002 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.

A Special Conference Committee, comprised of two or three members of the Virginia Board of Nursing, will conduct

Calendar of Events

informal conferences with licensees or certificate holders.
Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.state.va.us.

BOARD OF NURSING HOME ADMINISTRATORS

† **October 9, 2002 - 10 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing Home Administrators intends to amend regulations entitled: **18 VAC 95-20. Regulations Governing the Practice of Nursing Home Administrators.** The purpose of the proposed action is to increase certain fees charged to nursing home administrators.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until October 11, 2002, to Sandra Reen, Executive Director, Board of Nursing Home Administrators, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

OLD DOMINION UNIVERSITY

August 12, 2002 - 3 p.m. -- Open Meeting

October 21, 2002 - 3 p.m. -- Open Meeting

Webb University Center, Old Dominion University, Norfolk, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting of the executive committee of the governing board of the institution to discuss business of the board and the institution as determined by the rector and the president.

Contact: Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5678, e-mail dmeeks@odu.edu.

September 13, 2002 - 1:15 p.m. -- Open Meeting

Webb University Center, Old Dominion University, Norfolk, Virginia. ♿ (Interpreter for the deaf provided upon request)

A quarterly meeting of the governing board to discuss business of the board and the institution as determined by the rector and the president.

Contact: Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Norfolk, VA

23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.

BOARD OF OPTOMETRY

August 16, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Optometry intends to amend regulations entitled: **18 VAC 105-20. Regulations of the Virginia Board of Optometry.** The purpose of the proposed action is to revise certain requirements of licensure by endorsement, to reduce the burden of reinstatement, to add some miscellaneous fees consistent with other boards, and to clarify certain provisions related to the provision of patient records if a practice is to be terminated, and the use of professional designations. The board is recommending several changes in requirements for continuing education including an increase in the number of continuing education hours to the statutory limit of 16 but allowing two of those hours to be in recordkeeping and two in CPR.

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

Public comments may be submitted until August 16, 2002, to Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9914 or e-mail elaine.yeatts@dhp.state.va.us.

August 16, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Optometry intends to amend regulations entitled: **18 VAC 105-30. Regulations on Certification of Optometrists to Use Therapeutic Pharmaceutical Agents.** The purpose of the proposed action is to reduce the burden of reinstating an expired certification, reduce the late renewal fee and add some miscellaneous fees consistent with other boards, and specify that two of the continuing education hours required for renewal of licensure must be directly related to prescribing and administration of prescription drugs.

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

Public comments may be submitted until August 16, 2002, to Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9914 or e-mail elaine.yeatts@dhp.state.va.us.

BOARD OF PHARMACY

† **August 15, 2002 - 9 a.m.** -- Open Meeting
 Department of Health Professions, 6606 West Broad Street,
 5th Floor, Conference Room 4, Richmond, Virginia. 

A meeting of the Informal Conference Committee for approval of pilot program applications and possible disciplinary action regarding a robot pharmacy system.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313, e-mail pharmbd@dhp.state.va.us.

August 19, 2002 - 9 a.m. -- Public Hearing
 Department of Health Professions, 6606 West Broad Street,
 5th Floor, Conference Room 2, Richmond, Virginia. 

September 13, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled: **18 VAC 110-20. Regulations Governing the Practice of Pharmacy.** The purpose of the proposed action is to increase certain fees charged to applicants and licensed pharmacists, permitted pharmacies and other entities.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until September 13, 2002, to Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9914 or e-mail elaine.yeatts@dhp.state.va.us.

August 19, 2002 - 9 a.m. -- Public Hearing
 Department of Health Professions, 6606 West Broad Street,
 5th Floor, Conference Room 2, Richmond, Virginia. 

September 13, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled: **18 VAC 110-30. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.** The purpose of the proposed action is to increase certain fees charged to applicants and regulated physicians licensed to sell controlled substances.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until September 13, 2002, to Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9914 or e-mail elaine.yeatts@dhp.state.va.us.

August 19, 2002 - 9:15 a.m. -- Open Meeting
 Department of Health Professions, 6606 West Broad Street,
 5th Floor, Conference Room 2, Richmond, Virginia. 

A general business meeting including consideration of regulatory and disciplinary items as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Scott Russell, R.Ph., Executive Director, Board of Pharmacy, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY , e-mail erussell@dhp.state.va.us.

† **August 15, 2002 - 9 a.m.** -- Open Meeting
 Department of Health Professions, 6606 West Broad Street,
 5th Floor, Conference Room 4, Richmond, Virginia. 

† **August 22, 2002 - 9 a.m.** -- Open Meeting
 † **September 12, 2002 - 9 a.m.** -- Open Meeting
 Department of Health Professions, 6606 West Broad Street,
 5th Floor, Conference Room 3, Richmond, Virginia. 

A meeting of the Special Conference Committee to discuss disciplinary matters.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313, e-mail pharmbd@dhp.state.va.us.

† **November 4, 2002 - 2 p.m.** -- Open Meeting
 Department of Health Professions, 6606 West Broad Street,
 5th Floor, Conference Room 4, Richmond, Virginia. 

A meeting of the Informal Conference Committee to discuss disciplinary matters.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313, e-mail pharmbd@dhp.state.va.us.

POLYGRAPH EXAMINERS ADVISORY BOARD

September 18, 2002 - 10 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 board business. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made for an appropriate accommodation. 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,

Calendar of Events

FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail
polygraph@dpor.state.va.us.

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† **September 18, 2002 - 10 a.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia.

October 11, 2002 - Public comments may be submitted until
this date.

Notice is hereby given in accordance with § 2.2-4007 of the
Code of Virginia that the Polygraph Examiners Board
intends to amend regulations entitled: **18 VAC 120-30.
Regulations Governing Polygraph Examiners.** The
purpose of the proposed action is to clarify current policy in
several areas, make grammatical improvements, and
expand requirements regarding polygraphy schools and the
procedures for renewing or withdrawing department
approval.

Statutory Authority: §§ 54.1-201 and 54.1-1802 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 e-mail APELSLA@dpor.state.va.us.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

September 20, 2002 - 10 a.m. -- Public Hearing
Newport News City Council Chamber, City Hall Building, 2400
Washington Avenue, Newport News, Virginia.

September 23, 2002 - 11 a.m. -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.♿ (Interpreter for
the deaf provided upon request)

October 4, 2002 - 1:30 p.m. -- Public Hearing
Roanoke City Council Chamber, Noel C. Taylor Municipal
Building, 215 Church Avenue, S.W., Roanoke, Virginia.

A public hearing to examine the feasibility and
appropriateness of regulating roller skating rinks in Virginia.
The public hearing is being held pursuant to Senate Bill 436
of the 2002 General Assembly Session.

Contact: Karen O'Neal, Deputy Director for Regulatory
Programs, Department of Professional and Occupational
Regulation, 3600 W. Broad St., Richmond, VA 23230,
telephone (804) 367-8552, FAX (804) 367-6946, e-mail
BPOR@dpor.state.va.us.

September 20, 2002 - 1:30 p.m. -- Public Hearing
Newport News City Council Chamber, City Hall Building, 2400
Washington Avenue, Newport News, Virginia.

September 23, 2002 - 1:30 p.m. -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.♿ (Interpreter for
the deaf provided upon request)

NOTE: CHANGE IN MEETING TIME

October 4, 2002 - 10 a.m. -- Public Hearing
Roanoke City Council Chamber, Noel C. Taylor Municipal
Building, 215 Church Avenue, S.W., Roanoke, Virginia.

A public hearing to examine the feasibility and
appropriateness of regulating estheticians and electrologists
in Virginia.

Contact: Karen O'Neal, Deputy Director for Regulatory
Programs, Department of Professional and Occupational
Regulation, 3600 W. Broad St., Richmond, VA 23230,
telephone (804) 367-8552, FAX (804) 367-6946, e-mail
BPOR@dpor.state.va.us.

September 23, 2002 - 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 board meeting.

Contact: Karen O'Neal, Deputy Director for Regulatory
Programs, Department of Professional and Occupational
Regulation, 3600 W. Broad St., Richmond, VA 23230,
telephone (804) 367-8552, FAX (804) 367-6946, e-mail
BPOR@dpor.state.va.us.

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† **September 26, 2002 - 9 a.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

October 12, 2002 - Public comments may be submitted until
this date.

Notice is hereby given in accordance with § 2.2-4007 of the
Code of Virginia that the Department of Professional and
Occupational Regulations intends to amend regulations
entitled: **18 VAC 120-40. Virginia Professional Boxing
and Wrestling Events Regulations.** The purpose of the
proposed action is to achieve consistency with the federal
Muhammad Ali Boxing Reform Act, to ensure consistency
with state law and to amend the wrestling event license fee.

Statutory Authority: § 54.1-831 of the Code of Virginia and 15
USC 6301 et seq.

Contact: Karen W. O'Neal, Deputy Director, Department of
Professional and Occupational Regulation, 3600 W. Broad St.,
Richmond, VA 23230, telephone (804) 367-8537, FAX (804)
367-2475 or e-mail oneal@dpor.state.va.us.

BOARD OF PSYCHOLOGY

† **September 10, 2002 - 10 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 2, Richmond, Virginia.♿

The Regulatory Committee will consider a petition for
rulemaking for the issuance of a clinical psychologist license
following completion of the doctoral degree, clinical
internship and examination. The committee will consider
other regulatory issues as may be presented on the

agenda. Public comment will be received at the beginning of the meeting.

Contact: Evelyn B. Brown, Executive Director, Board of Psychology, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail ebrown@dhp.state.va.us.

VIRGINIA RACING COMMISSION

† **August 21, 2002 - 9:30 a.m.** -- Open Meeting
Tyler Building, 1300 East Main Street, Richmond, Virginia ♿

The commission will conduct a monthly meeting including a segment for public participation. The meeting will also include a discussion of the forthcoming harness racing meet to open on October 5, 2002.

Contact: William H. Anderson, Director of Policy and Planning, Virginia Racing Commission, 10700 Horsemen's Rd., New Kent, VA 23124, telephone (804) 966-7404, FAX (804) 966-7418, e-mail Anderson@vrc.state.va.us.

REAL ESTATE BOARD

September 11, 2002 - 1 p.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

September 30, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Board intends to amend regulations entitled: **18 VAC 135-20. Real Estate Board Rules and Regulations.** The purpose of the proposed action is to make general clarifying changes; impose less burdensome requirements for reciprocal applicants; clarify language regarding applicants with criminal convictions; revise language regarding the supervision of branch offices to focus on the actual supervision provided rather than the physical location of the office; add clarifying language to the escrow provisions; revise the advertising provisions to incorporate Internet advertising; and combine Parts V and VI, Standards of Practice and Conduct.

Statutory Authority: § 54.1-2105 of the Code of Virginia.

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, (804) 367-9753/TTY ☎, e-mail reboard@dpor.state.va.us.

September 11, 2002 - 1 p.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

September 30, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Board intends to amend regulations entitled: **18 VAC 135-40. Real Estate Board Time-Share Regulations.** The purpose of the proposed action is to ensure that the regulations remain consistent with the Time-Share Act and to create a regulatory framework to protect the public when purchasing or utilizing a time-share project.

Statutory Authority: §§ 54.1-2105 and 55-396 of the Code of Virginia.

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, (804) 367-9753/TTY ☎, e-mail reboard@dpor.state.va.us.

September 11, 2002 - 1 p.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

September 30, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Board intends to amend regulations entitled: **18 VAC 135-50. Real Estate Board Fair Housing Regulations.** The purpose of the proposed action is to amend existing fair housing regulations to reflect changes in the Code of Virginia and federal law.

Statutory Authority: §§ 36-96.20 and 54.1-2105 of the Code of Virginia.

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, (804) 367-9753/TTY ☎, e-mail reboard@dpor.state.va.us.

† **September 16, 2002 - 9 a.m.** -- Open Meeting

† **September 17, 2002 - 9 am.** -- 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. Persons desiring to participate in the meeting and requiring special accommodations or interpretive 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: Debbie Amaker, Legal Assistant, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8582, FAX (804) 367-0194, (804) 367-9753/TTY ☎, e-mail amaker@dpor.state.va.us.

Calendar of Events

REAL ESTATE APPRAISER BOARD

September 11, 2002 - 1 p.m. -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

September 30, 2002 - Public comments may be submitted
until this date.

Notice is hereby given in accordance with § 2.2-4007 of the
Code of Virginia that the Real Estate Appraiser Board
intends to amend regulations entitled: **18 VAC 130-20. Real
Estate Board Regulations.** The purpose of the proposed
action is to incorporate changes to criteria set forth by the
Appraiser Qualifications Board and standards set by the
Appraisal Standards Board of the Appraisal Foundation,
permit renewal on inactive status, and make clarifying
changes.

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

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, (804) 367-9753/TTY , e-mail
reboard@dpor.state.va.us.

VIRGINIA RESOURCES AUTHORITY

August 13, 2002 - 9 a.m. -- Open Meeting

† **September 10, 2002 - 9 a.m.** -- Open Meeting

† **October 15, 2002 - 9 a.m.** -- Open Meeting

Virginia Resources Authority, 707 East Main Street, 2nd Floor
Conference Room, Richmond, Virginia. 

A regular meeting of the Board of Directors to (i) review
and, if appropriate, approve the minutes from the most
recent monthly meeting; (ii) review the authority's
operations for the prior month; (iii) review applications for
loans submitted to the authority for approval; (iv) consider
loan commitments for approval and ratification under its
various programs; (v) approve the issuance of any bonds;
(vi) review the results of any bond sales; and (vii) consider
such other matters and take such other actions as it may
deem appropriate. Various committees of the Board of
Directors may also meet immediately before or after the
regular meeting and consider matters within their purview.
The planned agenda of the meeting and any committee
meetings will be available at the offices of the authority one
week prior to the date of the meeting. Any person who
needs any accommodation in order to participate in the
meeting should contact the authority at least 10 days before
the meeting so that suitable arrangements can be made.

Contact: Bonnie R.C. McRae, Executive Assistant, Virginia
Resources Authority, 707 E. Main St., Suite 1350, Richmond,
VA 23219, telephone (804) 644-3100, FAX (804) 644-3109, e-
mail bmcrac@vra.state.va.us.

SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

† **September 18, 2002 - 10 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Street, Senate Room
B, Richmond, Virginia.

A meeting to hear appeals of Department of Health denials
of septic tank permits.

Contact: Susan C. Sherertz, Business Manager, Sewage
Handling and Disposal Appeal Review Board, 1500 E. Main
St., Room 115, Richmond, VA 23219, telephone (804) 371-
4236, FAX (804) 225-4003, e-mail ssherertz@vdh.state.va.us.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† **August 27, 2002 - 10 a.m.** -- Open Meeting

Department of Business Assistance, 707 East Main Street,
3rd Floor, Richmond, Virginia. 

A meeting to review applications for loans submitted to the
authority for approval and to conduct general business.
Meeting time is subject to change depending upon the
agenda of the board.

Contact: Scott E. Parsons, Executive Director, Department of
Business Assistance, P.O. Box 446, Richmond, VA 23218-
0446, telephone (804) 371-8254, FAX (804) 225-3384, e-mail
sparsons@dba.state.va.us.

STATE BOARD OF SOCIAL SERVICES

August 14, 2002 - 9 a.m. -- Open Meeting

August 15, 2002 - 9 a.m. -- Open Meeting

Comfort Suites, 4195 Main Street, Chincoteague, Virginia. 

A formal business meeting of the board. Public comment
will be received at 1:30 p.m. on August 14.

Contact: Pat Rengnerth, Board Liaison, State Board of
Social Services, 730 E. Broad St., Suite 812, Richmond, VA
23219-1849, telephone (804) 692-1826, FAX (804) 692-1962,
(800) 828-1120/TTY 

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September 13, 2002 - Public comments may be submitted
until this date.

Notice is hereby given in accordance with § 2.2-4007 of the
Code of Virginia that the State Board of Social Services
intends to adopt regulations entitled: **22 VAC 40-675.
Personnel Policies for Local Departments of Social
Services.** The purpose of the proposed action is to provide
a uniform set of personnel policies to guide operations in
local departments of social services in Virginia. Many of the
policies are already in use.

Statutory Authority: §§ 63.1-25 and 63.1-26 of the Code of
Virginia.

Contact: Lori A. Kam, Human Resources Manager II,
Department of Social Services, Division of Human Resources

Management, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1520, FAX (804) 692-1560 or e-mail lak900@dss.state.va.us.

September 20, 2002 - 9 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street, 8th Floor, Conference Room, Richmond, Virginia. ♿

A subcommittee of the Family and Children's Trust Fund will meet at 9 a.m. A regular business meeting of the Family and Children's Trust Fund Board of Trustees will begin at 10 a.m.

Contact: Nan McKenney, Executive Director, State Board of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1823, FAX (804) 692-1869.

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October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-680. Virginia Energy Assistance Program - Low Income Home Energy Assistance Program (LIHEAP).** The purpose of the proposed action is to provide flexibility to adjust the maximum eligibility income limit in response to federal funding fluctuations, and to assist households with summer energy needs by establishing a cooling assistance component and requiring participation by localities.

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

Contact: Margaret Friedenbergh, Energy Assistance Program Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1728, FAX (804) 692-1469 or e-mail mjf900@dcse.dss.state.va.us.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLAND PROFESSIONALS

NOTE: CHANGE IN MEETING DATE

August 20, 2002 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A general board meeting.

Contact: Werner Versch II, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2406, FAX (804) 367-6946, e-mail soilscientist@dpor.state.va.us.

DEPARTMENT OF TECHNOLOGY PLANNING

Wireless E-911 Services Board

August 28, 2002 - 9 a.m. -- Open Meeting
Department of Information Technology, 110 South 7th Street, 3rd Floor Conference Room, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A request will be made to hold the meeting in closed session.

Contact: Steven Marzolf, Public Safety Communications Coordinator, Department of Technology Planning, 110 S. 7th St., Richmond, VA, telephone (804) 371-0015, e-mail smarzolf@ntp.state.va.us.

August 28, 2002 - 10 a.m. -- Open Meeting
Department of Information Technology, 110 South 7th Street, 3rd Floor Conference Room, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A regular meeting of the Wireless E-911 Services Board.

Contact: Steven Marzolf, Public Safety Communications Coordinator, Department of Technology Planning, 110 S. 7th St., Richmond, VA, telephone (804) 371-0015, e-mail smarzolf@ntp.state.va.us.

VIRGINIA TOBACCO SETTLEMENT FOUNDATION

September 10, 2002 - 1:30 p.m. -- Open Meeting
The Siegel Center, 1200 W. Broad Street, Founder Room, Richmond, Virginia. ♿

A meeting of the Board of Trustees to discuss the budget.

Contact: Eloise Burke, Administrative Specialist, Virginia Tobacco Settlement Foundation, 701 E. Franklin St., Suite 501, Richmond, VA 23219, telephone (804) 786-2523, FAX (804) 225-2272, e-mail eburke@tsf.state.va.us.

COMMONWEALTH TRANSPORTATION BOARD

August 14, 2002 - 1 p.m. -- Open Meeting
† **September 18, 2002 - 2 p.m.** -- Open Meeting
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. ♿

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

Contact: Sandra M. Mills, Assistant Legislative Coordinator, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 225-4701, FAX (804) 225-4700, e-mail sandee.mills@VirginiaDOT.org.

August 15, 2002 - 10 a.m. -- Open Meeting
† **September 19, 2002 - 10 a.m.** -- Open Meeting
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. ♿

A monthly meeting of the Commonwealth Transportation Board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the

Calendar of Events

chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.

Contact: Sandra M. Mills, Assistant Legislative Coordinator, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 225-4701, FAX (804) 225-4700, e-mail sandee.mills@VirginiaDOT.org.

UNIVERSITY OF VIRGINIA

† **September 17, 2002 - 2 p.m.** -- Open Meeting
University of Virginia, The Rotunda, East Oval Room, Charlottesville, Virginia. ♿

The Buildings and Grounds Committee will meet.

Contact: Penney Catlett, Assistant to the Assistant Vice President for University Relations, University of Virginia, P.O. Box 400229, Charlottesville, VA 22904-4229, telephone (434) 924-7620, FAX (434) 924-0938, e-mail pdc@virginia.edu.

† **September 19, 2002 - 2 p.m.** -- Open Meeting
University of Virginia, The Rotunda, Board Room, Charlottesville, Virginia. ♿

The Medical Center Operating Board will meet.

Contact: Penney Catlett, Assistant to the Assistant Vice President for University Relations, University of Virginia, P.O. Box 400229, Charlottesville, VA 22904-4229, telephone (434) 924-7620, FAX (434) 924-0938, e-mail pdc@virginia.edu.

BOARD OF VETERINARY MEDICINE

† **August 21, 2002 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

Informal disciplinary hearings. These are public meetings, but public comment will not be received.

Contact: Terri Behr, Administrative Assistant, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY ☎, e-mail terri.behr@dhp.state.va.us.

August 22, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ♿

A general business meeting to include consideration of the AVMA's opposition to the AAVSB's Program for the Assessment of Veterinary Education Equivalence and the drafting of "clean-up" legislation to repeal §§ 54.1-3805.1 and 54.1-3804.1 of the Code of Virginia. Other regulatory and disciplinary matters may be considered as presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915, FAX (804) 662-9504, (804) 662-7197/TTY ☎, e-mail ecarter@dhp.state.va.us.

† **August 22, 2002 - 9 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Veterinary Medicine intends to amend regulations entitled: **18 VAC 150-20. Regulations Governing the Practice of Veterinary Medicine.** The purpose of the proposed action is to revise requirements in order to update facility requirements and to clarify certain provisions that have been confusing or problematic to licensees, especially related to the appropriate delegation of veterinary tasks to licensed technicians or unlicensed assistants.

Statutory Authority: Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until October 11, 2002, to Elizabeth Carter, Executive Director, Board of Veterinary Medicine, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

† **August 22, 2002 - 9:30 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Veterinary Medicine intends to amend regulations entitled: **18 VAC 150-20. Regulations Governing the Practice of Veterinary Medicine.** The purpose of the proposed action is to increase renewal and other fees charged to applicants and licensees.

Statutory Authority: § 54.1-2400 and Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until October 11, 2002, to Elizabeth Carter, Executive Director, Board of Veterinary Medicine, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

VIRGINIA BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

October 3, 2002 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct routine business. A public comment period will be held at the beginning of the meeting.

Contact: David Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail wastemgt@dpor.state.va.us.

VIRGINIA WASTE MANAGEMENT BOARD

† **August 20, 2002 - 10 a.m.** -- Open Meeting
Department of Environmental Quality Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ☎

The first meeting of the Waste Tire End User Reimbursement Regulation Technical Advisory Committee. The committee will be reviewing all aspects of the regulation to determine if changes are needed.

Contact: Allan Lassiter, Virginia Waste Management Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4215, FAX (804) 698-4224, e-mail arlassiter@deq.state.va.us..

STATE WATER CONTROL BOARD

August 30, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **9 VAC 25-195. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Concentrated Aquatic Animal Production Facilities.** The purpose of the proposed action is to reissue the general permit for animal production facilities that establishes limitations and monitoring requirements for point source discharges from fish farms or other aquatic animal production facilities.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Contact: Michael Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065, FAX (804) 698-4032 or e-mail mbgregory@deq.state.va.us.

† **September 26, 2002 - 10 a.m.** -- Open Meeting
Department of Environmental Quality Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ☎

A public meeting to receive comments on the State Water Control Board's notice of intent to consider amending the Aboveground Storage Tank Regulation (9 VAC 25-91) and the Underground Storage Tank Financial and Technical Regulations (9 VAC 25-580 and 9 VAC 25-590).

Contact: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378, FAX (804) 698-4346, e-mail cmb Berndt@deq.state.va.us.

† **September 27, 2002 - 10 a.m.** -- Public Hearing
Department of Environmental Quality Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ☎

A public hearing to receive comments on the proposed repeal and adoption of certain regulations concerning the discharge of sewage from boats.

Contact: Michael Gregory, State Water Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065, FAX (804) 698-4032, e-mail mbgregory@deq.state.va.us.

VIRGINIA BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

September 19, 2002 - 8:30 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. A public comment period will be held at the beginning of the meeting.

Contact: David Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail waterwasteoper@dpor.state.va.us.

INDEPENDENT

STATE LOTTERY BOARD

September 11, 2002 - 9 a.m. -- Open Meeting
Lottery Headquarters, Pocahontas Building, 900 East Main Street, Richmond, Virginia. ☎

A regular board meeting.

Contact: Barbara L. Robertson, Board, Legislative and Regulatory Coordinator, State Lottery Board, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7105, FAX (804) 692-7775, e-mail brobertson@valottery.state.va.us.

VIRGINIA RETIREMENT SYSTEM

August 13, 2002 - Noon -- Open Meeting
October 16, 2002 - Noon -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia. ☎

A regular meeting of the Optional Retirement Plan Advisory Committee.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888)

Calendar of Events

827-3847, (804) 344-3190/TTY ☎, e-mail
dglazier@vrs.state.va.us.

August 14, 2002 - Noon -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond,
Virginia. ♿

Meetings of the following committees:

Audit and Compliance Committee - Noon
Benefits and Actuarial Committee - 1 p.m.
Administration and Personnel Committee - 2:30 p.m.
Investment Advisory Committee - 3 p.m.

Contact: Darla K. Glazier, Office Manager, Virginia
Retirement System, P.O. Box 2500, Richmond, VA 23218,
telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888)
827-3847, (804) 344-3190/TTY ☎, e-mail
dkestner@vrs.state.va.us.

August 15, 2002 - 9 a.m. -- Open Meeting

October 17, 2002 - 9 a.m. -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond,
Virginia. ♿

A regular meeting of the Board of Trustees.

Contact: Darla K. Glazier, Office Manager, Virginia
Retirement System, P.O. Box 2500, Richmond, VA 23218,
telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888)
827-3847, (804) 344-3190/TTY ☎, e-mail
dkestner@vrs.state.va.us.

LEGISLATIVE

JOINT COMMISSION ON ADMINISTRATIVE RULES

September 4, 2002 - 1 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate
Room A, Richmond, Virginia.

A general meeting. Individuals requiring interpreter services
or other accommodations should contact Senate Committee
Operations. Inquiries regarding the agenda should be
directed to Jennifer Garey, Division of Legislative Services,
(804) 786-3591.

Contact: Nathan A. Hatfield, Senate Committee Operations,
P.O. Box 396, Richmond, VA 23218, telephone (804) 698-
7450 or (804) 698-7419/TTY ☎

VIRGINIA CODE COMMISSION

August 21, 2002 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, 6th Floor,
Speaker's Conference Room, Richmond, Virginia.

A meeting to discuss various options for publishing the
Code of Virginia. Public comments will be received at the
end of the meeting.

Contact: Jane Chaffin, Registrar of Regulations, Virginia
Code Commission, General Assembly Bldg., 910 Capitol St.,

Richmond, VA 23219, telephone (804) 786-3591, FAX (804)
692-0625, e-mail jchaffin@leg.state.va.us.

CONSUMER ADVISORY BOARD OF THE VIRGINIA ELECTRICAL UTILITY RESTRUCTURING ACT

September 11, 2002 - 10 a.m. -- Open Meeting

October 10, 2002 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate
Room B, Richmond, Virginia.

A general meeting. Individuals requiring interpreter services
or other accommodations should contact 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 FREEDOM OF INFORMATION ADVISORY COUNCIL

August 19, 2002 - 2 p.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.

Contact: Maria J.K. Everett, Executive Director, Virginia
Freedom of Information Advisory Council, 910 Capitol St.,
Richmond, VA 23219, telephone (804) 225-3056, FAX (804)
371-0169, toll-free (866) 448-4100, e-mail
foiacouncil@leg.state.va.us.

JOINT SUBCOMMITTEE STUDYING LEAD POISONING PREVENTION

† **October 1, 2002 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate
Room A, Richmond, Virginia.

A general meeting. Individuals requiring interpreter services
or other accommodations should contact 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 ☎

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

† **August 13, 2002 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House
Room D, Richmond, Virginia. ♿

The first meeting of the I-Gov Advisory Committee.

Contact: Eric Link, Staff Attorney, Joint Commission on
Technology and Science, 910 Capitol St., 2nd Floor,
Richmond, VA 23219, telephone (804) 786-3591, e-mail
ELink@leg.state.va.us.

† **August 29, 2002 - 10 a.m.** -- Open Meeting
 General Assembly Building, 9th and Broad Streets, House
 Room D, Richmond, Virginia. ☎

The first meeting of the Intellectual Property and
 Entrepreneurial Development Advisory Committee.

Contact: Eric Link, Staff Attorney, Joint Commission on
 Technology and Science, 910 Capitol St., 2nd Floor,
 Richmond, VA 23219, telephone (804) 786-3591, e-mail
 ELink@leg.state.va.us.

CHRONOLOGICAL LIST

OPEN MEETINGS

August 12

† Alcoholic Beverage Control Board
 Nursing, Board of
 - Special Conference Committee
 Old Dominion University
 - Executive Committee

August 13

Nursing, Board of
 - Special Conference Committee
 Resources Authority, Virginia
 - Board of Directors
 Retirement System, Virginia
 - Optional Retirement Plan Advisory Committee
 † Technology and Science, Joint Commission on
 - Integrated Government Advisory Committee

August 14

Architects, Professional Engineers, Land Surveyors,
 Certified Interior Designers, and Landscape Architects,
 Board for
 - Professional Engineers Section
 Cemetery Board
 † Jamestown-Yorktown Foundation
 - Executive and Finance Committees
 Motor Vehicles, Department of
 - Medical Advisory Board
 Retirement System, Virginia
 - Administration and Personnel Committee
 - Audit and Compliance Committee
 - Benefits and Actuarial Committee
 - Investment Advisory Committee
 Social Services, State Board of
 Transportation Board, Commonwealth

August 15

† Agriculture and Consumer Services, Department of
 - Farmland Preservation Task Force
 Architects, Professional Engineers, Land Surveyors,
 Certified Interior Designers, and Landscape Architects,
 Board for
 - Interior Designer Section
 Audiology and Speech-Language Pathology, Board of
 Conservation and Recreation, Department of
 Design-Build/Construction Management Review Board
 Medicine, Board of
 - Informal Conference Committee
 † Pharmacy, Board of

- Informal Conference Committee
 - Special Conference Committee
 Retirement System, Virginia
 Social Services, State Board of
 Transportation Board, Commonwealth

August 16

Fire Services Board, Virginia
 - Administration and Policy Committee
 - Finance Committee
 - Fire Education and Training Committee
 - Fire Prevention and Control Committee

August 17

Fire Services Board, Virginia

August 19

† Agriculture and Consumer Services, Department of
 - Virginia Agricultural Council
 - Virginia Irish Potato Board
 † Criminal Justice Services Board
 - Private Security Services Advisory Board
 Freedom of Information Advisory Council, Virginia
 Pharmacy, Board of

August 20

† Agriculture and Consumer Services, Department of
 - Virginia Agricultural Council
 † Intergovernmental Relations, Virginia Advisory
 Commission on
 Soil Scientists and Wetland Professionals, Board for
 Professional
 † Waste Management Board, Virginia

August 21

Agriculture and Consumer Services, Department of
 - Virginia Egg Board
 † Aviation Board, Virginia
 Code Commission, Virginia
 Medicine, Board of
 - Informal Conference Committee
 † Racing Commission, Virginia
 † Veterinary Medicine, Board of

August 22

† Counseling, Board of
 - Examination Committee
 - Regulatory/Supervision/Legislative Committee
 Game and Inland Fisheries, Board of
 Gaming Commission, Charitable
 † Pharmacy, Board of
 - Special Conference Committee
 Veterinary Medicine, Board of

August 23

† Counseling, Board of
 Dentistry, Board of
 - Special Conference Committee

August 26

† Alcoholic Beverage Control Board

August 27

Compensation Board
 Marine Resources Commission
 † Small Business Financing Authority, Virginia

August 28

Accountancy, Board of
 - Enforcement Committee
 † Contractors, Board for

Calendar of Events

Education, Board of
- Committee to Enhance the K-12 Teaching Professions
Milk Commission, State
Technology Planning, Department of
- Wireless E-911 Services Board CMRS Subcommittee

August 29

† Agriculture and Consumer Services, Department of
- Virginia Charity Food Assistance Advisory Board
- Virginia Horse Industry Board
† Conservation and Recreation, Department of
- Smith Mountain Lake State Park Master Plan Committee
† Health, Department of
† Higher Education for Virginia, State Council of
Nursing, Board of
- Special Conference Committee
† Technology and Science, Joint Commission on
- Intellectual Property and Entrepreneurial Development
Advisory Committee

September 3

Hopewell Industrial Safety Council

September 4

Administrative Rules, Joint Commission on
† Game and Inland Fisheries, Department of
Medicine, Board of
- Informal Conference Committee

September 5

† Game and Inland Fisheries, Department of
Land Evaluation Advisory Council, State

September 6

† Alzheimer's Disease and Related Disorders Commission
Art and Architectural Review Board
Conservation and Recreation, Board of

September 9

† Alcoholic Beverage Control Board
† Barbers and Cosmetology, Board of
† Environmental Quality, Department of
- Ground Water Protection Steering Committee
† Game and Inland Fisheries, Department of

September 10

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers, and Landscape Architects,
Board for
Funeral Directors and Embalmers, Board of
† Game and Inland Fisheries, Department of
† Psychology, Board of
- Regulatory Committee
† Resources Authority, Virginia
Tobacco Settlement Foundation, Virginia
- Board of Trustees

September 11

Education, Board of
- Committee to Enhance the K-12 Teaching Professions
Electrical Utility Restructuring Act, Virginia
- Consumer Advisory Board
† Historic Resources, Department of
- State Review Board and Historic Resources Board
Lottery Board, State
† Medicine, Board of
- Advisory Board on Acupuncture
- Advisory Board on Radiologic Technology

September 12

Environmental Quality, Department of

† Game and Inland Fisheries, Department of
† Medicine, Board of
- Advisory Board on Occupational Therapy
- Advisory Board on Respiratory Care
† Pharmacy, Board of
- Special Conference Committee

September 13

† Child Fatality Review Team, State
† Medicine, Board of
- Advisory Board on Athletic Training
- Advisory Board on Physician Assistants
Old Dominion University
- Board of Visitors

September 16

† Real Estate Board

September 17

† Corrections, Board of
- Correctional Services/Policy and Regulations Committee
Medicine, Board of
- Informal Conference Committee
† Real Estate Board
† University of Virginia
- Buildings and Grounds Committee

September 18

† Corrections, Board of
- Administration Committee
Medicine, Board of
- Informal Conference Committee
Polygraph Examiners Advisory Board
† Sewage Handling and Disposal Appeal Review Board
† Transportation Board, Commonwealth

September 19

Design-Build/Construction Management Review Board
† Transportation Board, Commonwealth
† University of Virginia
- Medical Center Operating Board
Waterworks and Wastewater Works Operators

September 20

Social Services, State Board of
- Family and Children's Trust Fund Board of Trustees

September 23

† Alcoholic Beverage Control Board
Library Board, State
- Archival and Information Systems
- Collection Management Services Committee
- Legislative and Finance Committee
- Publications and Educational Services Committee
- Public Library Development Committee
- Records Management Committee
Nursing, Board of
Professional and Occupational Regulation, Board for

September 24

Marine Resources Commission

September 25

Nursing, Board of

September 26

Education, Board of
Nursing, Board of
† Water Control Board, State

September 27

† Medicine, Board of
- Legislative Committee

October 1

† Lead Poison Prevention, Joint Subcommittee Studying

October 2

Medicine, Board of

October 3

Waste Management Facility Operators, Virginia Board for

October 4

Art and Architectural Review Board

October 8

Medical Assistance Services, Board of
Nursing, Board of
- Special Conference Committee

October 9

† Environmental Quality, Department of

October 10

Electrical Utility Restructuring Act, Virginia
- Consumer Advisory Board
† Medicine, Board of
Motor Vehicles, Department of
- Digital Signature Implementation Workgroup
Environmental Quality, Department of
Nursing, Board of
- Special Conference Committee

October 15

† Blind and Vision Impaired, Board for the
† Resources Authority, Virginia

October 16

Education, Board of
Retirement System, Virginia
- Optional Retirement Plan Advisory Committee

October 17

Design-Build/Construction Management Review Board
Education, Board of
- State Special Education Advisory Committee
Retirement System, Virginia
- Board of Trustees

October 18

Education, Board of
- State Special Education Advisory Committee

October 21

† Intergovernmental Relations, Virginia Advisory
Commission on
Nursing, Board of
- Special Conference Committee
Old Dominion University
- Executive Committee

October 22

Nursing, Board of
- Special Conference Committee

October 29

† Asbestos, Lead, and Home Inspectors, Virginia Board for
Nursing, Board of
- Special Conference Committee

October 30

† Nursing, Board of
- Special Conference Committee

November 1

† Art and Architectural Review Board

November 4

† Pharmacy, Board of
- Informal Conference Committee

November 7

† Medical Assistance Services, Department of
- Medicaid Drug Utilization Review Board

November 11

† Intergovernmental Relations, Virginia Advisory
Commission on

PUBLIC HEARINGS

August 13

Air Pollution Control Board, State

August 14

Health, Department of

August 19

Pharmacy, Board of

August 21

Contractors, Board for

† August 22

Veterinary Medicine, Board of

August 26

† Air Pollution Control Board, State

August 27

† Environmental Quality, Department of

September 4

† Environmental Quality, Department of

September 10

† Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers, and Landscape Architects,
Board for
Barbers and Cosmetology, Board for
Funeral Directors and Embalmers, Board of

September 11

† Air Pollution Control Board, State
Real Estate Board
Real Estate Appraiser Board

September 18

† Polygraph Examiners Advisory Board

September 20

Professional and Occupational Regulation, Board for

September 23

Professional and Occupational Regulation, Board for

September 24

Nursing, Board of

September 26

Education, Board of

† Professional and Occupational Regulation, Board for

September 27

† Water Control Board, State

October 4

Professional and Occupational Regulation, Board for

October 8

† Asbestos, Lead, and Home Inspectors, Virginia Board for

October 9

Nursing Home Administrators, Board of

October 17

† Auctioneers Board