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CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED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printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 2003 VAC Supplement includes final regulations published through *Virginia Register* Volume 19, Issue 11, dated February 10, 2003). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 4. Conservation and Natural Resources			
4 VAC 5-36-50	Amended	19:16 VA.R. 2370	5/21/03
4 VAC 5-36-60	Amended	19:16 VA.R. 2373	5/21/03
4 VAC 5-36-70	Amended	19:16 VA.R. 2375	5/21/03
4 VAC 5-36-90	Amended	19:12 VA.R. 1881	3/27/03
4 VAC 5-36-100	Amended	19:12 VA.R. 1883	3/27/03
4 VAC 5-36-110 through 4 VAC 5-36-140	Amended	19:16 VA.R. 2376-2379	5/21/03
4 VAC 5-36-170 through 4 VAC 5-36-210	Amended	19:16 VA.R. 2379-2392	5/21/03
4 VAC 15-430-40	Erratum	19:14 VA.R. 2176	--
4 VAC 15-430-210	Erratum	19:14 VA.R. 2177	--
4 VAC 20-252-130 emer	Amended	19:12 VA.R. 1905	1/31/03-2/28/03
4 VAC 20-252-130	Amended	19:14 VA.R. 2086	3/1/03
4 VAC 20-252-150 emer	Amended	19:12 VA.R. 1906	1/31/03-2/28/03
4 VAC 20-252-150	Amended	19:14 VA.R. 2087	3/1/03
4 VAC 20-380-10	Amended	19:14 VA.R. 2087	3/1/03
4 VAC 20-380-30	Amended	19:14 VA.R. 2087	3/1/03
4 VAC 20-380-50	Amended	19:14 VA.R. 2087	3/1/03
4 VAC 20-380-60	Amended	19:14 VA.R. 2088	3/1/03
4 VAC 20-563-10 through 4 VAC 20-563-50 emer	Added	19:16 VA.R. 2417	3/26/03-4/24/03
4 VAC 20-620-50	Amended	19:14 VA.R. 2088	3/1/03
4 VAC 20-620-70	Amended	19:14 VA.R. 2089	3/1/03
4 VAC 20-720-20 emer	Amended	19:12 VA.R. 1906	2/1/03-3/3/03
4 VAC 20-720-40 emer	Amended	19:12 VA.R. 1907	2/1/03-3/3/03
4 VAC 20-720-50 emer	Amended	19:12 VA.R. 1907	2/1/03-3/3/03
4 VAC 20-720-70 emer	Amended	19:12 VA.R. 1908	2/1/03-3/3/03
4 VAC 20-720-80	Erratum	19:12 VA.R. 1915	--
4 VAC 20-720-80 emer	Amended	19:12 VA.R. 1909	2/1/03-3/3/03
4 VAC 20-910-45 emer	Amended	19:12 VA.R. 1911	1/31/03-2/28/03
4 VAC 20-910-45	Amended	19:14 VA.R. 2089	3/1/03
4 VAC 20-950-30	Amended	19:14 VA.R. 2090	3/1/03
4 VAC 20-950-45	Amended	19:14 VA.R. 2090	3/1/03
4 VAC 20-1050-10	Added	19:16 VA.R. 2392	3/26/03
4 VAC 20-1050-20	Added	19:16 VA.R. 2392	3/26/03
4 VAC 20-1050-30	Added	19:16 VA.R. 2392	3/26/03
4 VAC 20-1060-10	Added	19:16 VA.R. 2393	3/26/03
4 VAC 20-1060-20	Added	19:16 VA.R. 2393	3/26/03
4 VAC 20-1060-30	Added	19:16 VA.R. 2393	3/26/03
4 VAC 25-40 (Forms)	Amended	19:17 VA.R. 2589	--
Title 6. Criminal Justice and Corrections			
6 VAC 20-210-10 through 6 VAC 20-210-110 emer	Added	19:10 VA.R. 1511-1512	1/7/03-1/6/04
Title 8. Education			
8 VAC 20-440-10	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440-90	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440-110	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440-120	Amended	19:12 VA.R. 1886	3/28/03

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
8 VAC 20-440-140	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440-150	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440-160	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440 Appendix A	Amended	19:12 VA.R. 1887	3/28/03
8 VAC 20-440 Appendix B	Amended	19:12 VA.R. 1890	3/28/03
Title 9. Environment			
9 VAC 5-20-204	Amended	19:17 VA.R. 2486	6/4/03
9 VAC 5-20-310	Amended	19:17 VA.R. 2486	6/4/03
9 VAC 5-40-6000 through 9 VAC 5-40-6150	Amended	19:17 VA.R. 2487-2494	7/1/03
9 VAC 5-40-6180	Amended	19:17 VA.R. 2494	7/1/03
9 VAC 5-40-6190	Amended	19:17 VA.R. 2499	7/1/03
9 VAC 5-40-6220	Amended	19:17 VA.R. 2500	7/1/03
9 VAC 5-40-7950	Amended	19:17 VA.R. 2501	7/1/03
9 VAC 5-40-7960	Amended	19:17 VA.R. 2502	7/1/03
9 VAC 5-40-8090	Amended	19:17 VA.R. 2505	7/1/03
9 VAC 5-40-8100	Amended	19:17 VA.R. 2505	7/1/03
9 VAC 5-40-8110 through 9 VAC 5-40-8160	Amended	19:17 VA.R. 2507-2519	7/1/03
9 VAC 5-40-8180	Amended	19:17 VA.R. 2519	7/1/03
9 VAC 20-60-18	Amended	19:12 VA.R. 1891	3/26/03
9 VAC 20-130 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 25-70	Repealed	19:14 VA.R. 2090	4/23/03
9 VAC 25-71-10 through 9 VAC 25-71-70	Added	19:14 VA.R. 2090	4/23/03
9 VAC 25-210 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 25-210 (Forms)	Added	19:16 VA.R. 2418	--
9 VAC 25-260-140	Amended	18:24 VA.R. 3289	†
9 VAC 25-260-155	Amended	18:24 VA.R. 3289	†
9 VAC 25-260-310	Amended	18:20 VA.R. 2659	†
9 VAC 25-260-390	Amended	18:20 VA.R. 2661	†
9 VAC 25-420	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-430	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-440	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-450	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-452	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-460	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-470	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-480	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-490	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-500	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-510	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-520	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-530	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-540	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-550	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-560	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-570	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-572	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-660 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 25-660 (Forms)	Added	19:16 VA.R. 2418	--
9 VAC 25-670 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 25-680 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 25-680 (Forms)	Added	19:16 VA.R. 2418	--
9 VAC 25-690 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 25-690 (Forms)	Added	19:16 VA.R. 2418	--
9 VAC 25-720-10 through 9 VAC 25-720-140	Added	19:14 VA.R. 2091-2138	4/24/03

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

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-730	Repealed	19:14 VA.R. 2090	4/23/03
Title 11. Gaming			
11 VAC 5-10-10 through 11 VAC 5-10-70	Amended	19:15 VA.R. 2264	5/7/03
11 VAC 5-10-80	Added	19:15 VA.R. 2264	5/7/03
11 VAC 5-20-10	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-60	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-70	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-80	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-90	Repealed	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-100	Repealed	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-110	Repealed	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-120 through 11 VAC 5-20-180	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-420	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-30	Repealed	19:15 VA.R. 2265	5/7/03
11 VAC 5-31-10 through 11 VAC 5-31-200	Added	19:15 VA.R. 2266	5/7/03
11 VAC 5-40	Repealed	19:15 VA.R. 2266	5/7/03
11 VAC 5-41-10 through 11 VAC 5-41-340	Added	19:15 VA.R. 2266-2269	5/7/03
Title 12. Health			
12 VAC 5-31-610	Added	19:3 VA.R. 493	²
12 VAC 5-31-620	Added	19:3 VA.R. 494	²
12 VAC 5-31-730	Added	19:3 VA.R. 516	²
12 VAC 5-31-940	Added	19:3 VA.R. 503	²
12 VAC 5-31-1030	Added	19:3 VA.R. 504	5/6/03 ³
12 VAC 5-31-1140	Added	19:3 VA.R. 505	5/6/03 ³
12 VAC 5-90-80 emer	Amended	19:13 VA.R. 1971	2/11/03-2/10/04
12 VAC 5-585-10	Amended	19:14 VA.R. 2138	4/23/03
12 VAC 5-585-40	Amended	19:14 VA.R. 2140	4/23/03
12 VAC 5-585-50	Amended	19:14 VA.R. 2141	4/23/03
12 VAC 5-585-270	Amended	19:14 VA.R. 2141	4/23/03
12 VAC 5-585-660 through 12 VAC 5-585-750	Added	19:14 VA.R. 2141-2145	4/23/03
12 VAC 5-590-10	Amended	19:17 VA.R. 2520	6/4/03
12 VAC 5-590-370	Amended	19:17 VA.R. 2526	6/4/03
12 VAC 5-590-420	Amended	19:17 VA.R. 2549	6/4/03
12 VAC 5-590-440	Amended	19:17 VA.R. 2565	6/4/03
12 VAC 5-590-530	Amended	19:17 VA.R. 2568	6/4/03
12 VAC 5-590 Appendix M	Amended	19:17 VA.R. 2575	6/4/03
12 VAC 30-120-140 emer	Amended	19:15 VA.R. 2270	3/17/03-3/16/04
12 VAC 30-120-150 emer	Amended	19:15 VA.R. 2273	3/17/03-3/16/04
12 VAC 30-120-160 emer	Amended	19:15 VA.R. 2274	3/17/03-3/16/04
12 VAC 30-120-165 emer	Added	19:15 VA.R. 2276	3/17/03-3/16/04
12 VAC 30-120-170 emer	Amended	19:15 VA.R. 2281	3/17/03-3/16/04
12 VAC 30-120-180 emer	Amended	19:15 VA.R. 2282	3/17/03-3/16/04
12 VAC 30-120-190 emer	Amended	19:15 VA.R. 2284	3/17/03-3/16/04
Title 13. Housing			
13 VAC 10-40-110	Amended	19:12 VA.R. 1892	1/24/03
13 VAC 10-40-220	Amended	19:12 VA.R. 1892	1/24/03
13 VAC 10-40-230	Amended	19:12 VA.R. 1892	1/24/03
13 VAC 10-180-10	Amended	19:16 VA.R. 2394	4/2/03
13 VAC 10-180-50	Amended	19:16 VA.R. 2394	4/2/03
13 VAC 10-180-60	Amended	19:16 VA.R. 2394	4/2/03
13 VAC 10-180-60	Amended	19:16 VA.R. 2404	1/1/04

² Section withdrawn in 19:16 VA.R. 2393.

³ Section readopted in 19:16 VA.R. 2393.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 14. Insurance			
14 VAC 5-200-20	Amended	19:12 VA.R. 1893	4/1/03
14 VAC 5-200-30	Amended	19:12 VA.R. 1893	4/1/03
14 VAC 5-200-40	Amended	19:12 VA.R. 1893	4/1/03
14 VAC 5-200-60	Amended	19:12 VA.R. 1893	4/1/03
14 VAC 5-200-75	Amended	19:12 VA.R. 1893	4/1/03
14 VAC 5-200-77	Added	19:12 VA.R. 1894	4/1/03
14 VAC 5-200-150	Amended	19:12 VA.R. 1894	4/1/03
14 VAC 5-200-153	Added	19:12 VA.R. 1894	4/1/03
14 VAC 5-200-200	Amended	19:12 VA.R. 1894	4/1/03
14 VAC 5-260 (Forms)	Amended	19:14 VA.R. 2169	--
Title 15. Judicial			
15 VAC 5-80-50	Amended	19:17 VA.R. 2579	4/11/03
Title 18. Professional and Occupational Licensing			
18 VAC 5-21-20	Amended	19:12 VA.R. 1895	3/26/03
18 VAC 90-20-360	Amended	19:13 VA.R. 1967	4/9/03
18 VAC 90-20-361	Added	19:13 VA.R. 1967	4/9/03
18 VAC 90-20-362	Added	19:13 VA.R. 1967	4/9/03
18 VAC 90-20-363	Added	19:13 VA.R. 1968	4/9/03
18 VAC 90-20-364	Added	19:13 VA.R. 1968	4/9/03
18 VAC 135-20-10 through 18 VAC 135-20-80	Amended	19:12 VA.R. 1899-1901	4/1/03
18 VAC 135-20-30	Erratum	19:14 VA.R. 2177	--
18 VAC 135-20-60	Erratum	19:14 VA.R. 2177	--
18 VAC 135-20-100	Amended	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-105	Added	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-110 through 18 VAC 135-20-150	Amended	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-155	Added	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-160 through 18 VAC 135-20-180	Amended	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-185	Added	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-190	Amended	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-200	Repealed	19:12 VA.R. 1903	4/1/03
18 VAC 135-20-220	Amended	19:12 VA.R. 1903	4/1/03
18 VAC 135-20-230	Repealed	19:12 VA.R. 1903	4/1/03
18 VAC 135-20-240 through 18 VAC 135-20-300	Amended	19:12 VA.R. 1903-1904	4/1/03
18 VAC 135-20-260	Erratum	19:14 VA.R. 2177	--
18 VAC 135-20-320	Repealed	19:12 VA.R. 1904	4/1/03
18 VAC 135-20-330	Amended	19:12 VA.R. 1904	4/1/03
18 VAC 135-20-340	Amended	19:12 VA.R. 1904	4/1/03
18 VAC 135-20-360	Amended	19:12 VA.R. 1904	4/1/03
18 VAC 135-20-370	Amended	19:12 VA.R. 1904	4/1/03
18 VAC 135-20-410	Amended	19:12 VA.R. 1904	4/1/03
18 VAC 140-20-30	Amended	19:14 VA.R. 2145	4/23/03
Title 20. Public Utilities and Telecommunications			
20 VAC 5-312-20	Amended	19:17 VA.R. 2579	4/10/03
20 VAC 5-400-180	Repealed	19:17 VA.R. 2583	4/10/03
20 VAC 5-417-10 through 20 VAC 5-417-80	Added	19:17 VA.R. 2583-2587	4/10/03
20 VAC 5-429-10 through 20 VAC 5-429-60	Added	19:17 VA.R. 2587-2588	4/10/03
Title 22. Social Services			
22 VAC 30-20-10 through 22 VAC 30-20-40	Amended	19:14 VA.R. 2147-2154	4/24/03
22 VAC 30-20-60	Amended	19:14 VA.R. 2154	4/24/03
22 VAC 30-20-80	Amended	19:14 VA.R. 2154	4/24/03
22 VAC 30-20-90	Amended	19:14 VA.R. 2155	4/24/03
22 VAC 30-20-95	Added	19:14 VA.R. 2155	4/24/03
22 VAC 30-20-100 through 22 VAC 30-20-130	Amended	19:14 VA.R. 2155-2164	4/24/03
22 VAC 30-20-150	Amended	19:14 VA.R. 2164	4/24/03

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 30-20-160	Amended	19:14 VA.R. 2164	4/24/03
22 VAC 30-20-170	Amended	19:14 VA.R. 2165	4/24/03
22 VAC 30-20-181	Amended	19:14 VA.R. 2166	4/24/03
22 VAC 30-20-200	Amended	19:14 VA.R. 2167	4/24/03
Title 24. Transportation and Motor Vehicles			
24 VAC 30-280-20	Amended	19:16 VA.R. 2414	3/24/03
24 VAC 30-280-40	Amended	19:16 VA.R. 2415	3/24/03
24 VAC 30-280-50	Amended	19:16 VA.R. 2415	3/24/03
24 VAC 30-280-60	Amended	19:16 VA.R. 2416	3/24/03

PETITIONS FOR RULEMAKING

TITLE 2. AGRICULTURE

STATE BOARD OF AGRICULTURE AND CONSUMER SERVICES

Initial Agency Notice

Title of Regulation: *N/A - There are no present regulations on this subject.*

Statutory Authority: § 3.1-296.14 of the Code of Virginia.

Name of Petitioner: Kyle Hegamyer.

Nature of Petitioner's Request: The petitioner requests that *Hydrilla verticillata* be declared a noxious weed and regulated as such under Chapter 17.2 (§ 3.1-296.11 et seq.) of the Code of Virginia (Noxious Weed Law).

Agency's Plan for Disposition of Request: The agency plans to place this petition before the Board of Agriculture and Consumer Services for its consideration.

Written comments may be submitted until midnight, June 8, 2003.

Agency Contact: Frank M. Fulgham, Program Manager, P.O. Box 1163, Room 703, Richmond, VA 23218, telephone (804) 786-3515, FAX (804) 371-7793, or e-mail ffulgham@vdacs.state.va.us.

VA.R. Doc. No. R03-180; Filed April 17, 2003, 11:11 a.m.

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Initial Agency Notice

Title of Regulation: **9 VAC 5-80. Permits for Stationary Sources (E03).**

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

Name of Petitioner: Virginia Manufacturers Association.

Nature of Petitioner's Request: To initiate an expedited rulemaking pursuant to § 2.2-4006 A 4 c of the Code of Virginia to incorporate recent federal new source review reforms into Virginia's major new source review regulations (Articles 8 and 9 of 9 VAC 5-80).

Agency's Plan for Disposition of Request: At the first available meeting of the State Air Pollution Control Board following the end of the comment period, the board will make a decision on whether to grant the petition request or deny the petition request.

NOTE: All comments must be in writing and reference the specific petition number to which they are responding. This petition number is "E03."

Comments may be submitted by mail, facsimile transmission, or e-mail, and must be submitted to the agency contact identified below. 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 matters of public record.

Written comments may be submitted until 4 p.m., June 9, 2003.

Agency Contact: Karen G. Sabasteanski, Policy Analyst, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482 or e-mail kgsabastea@deq.state.va.us.

VA.R. Doc. No. R03-181; Filed April 22, 2003, 9:24 a.m.

Initial Agency Notice

Title of Regulation: **9 VAC 5-80. Permits for Stationary Sources (F03).**

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

Name of Petitioner: Virginia Manufacturers Association.

Nature of Petitioner's Request: Undertake and swiftly conclude a rulemaking to incorporate recent federal new source review reforms and other innovations previously proposed by the board into Virginia's minor new source review regulations (Article 6 of 9 VAC 5-80).

Agency's Plan for Disposition of Request: At the first available meeting of the State Air Pollution Control Board following the end of the comment period, the board will make a decision on whether to grant the petition request or deny the petition request.

NOTE: All comments must be in writing and reference the specific petition number to which they are responding. This petition number is "F03."

Comments may be submitted by mail, facsimile transmission, or e-mail, and must be submitted to the agency contact identified below. 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 matters of public record.

Written comments may be submitted until 4 p.m., June 9, 2003.

Agency Contact: Robert Mann, Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4419, FAX (804) 698-4510, toll-free 1-800-592-5482 or e-mail ramann@deq.state.va.us.

VA.R. Doc. No. R03-182; Filed April 22, 2003, 9:23 a.m.

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 9. ENVIRONMENT

STATE WATER 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 Water Control Board intends to consider amending regulations entitled **9 VAC 25-630, General Virginia Pollution Abatement General Permit Regulation for Poultry Waste Management**. The purpose of the proposed action is to amend the VPA General Permit for poultry waste management, where applicable, to reflect changes to 40 CFR Parts 9, 122, 123, and 412, as published in the Federal Register on February 12, 2003. This general permit regulation governs the authorization to manage pollutants from confined poultry feeding operations, including storage and land application of animal waste. (See 19:17 VA.R. 2470 May 5, 2003, for more detailed information on this regulatory action.)

Statutory Authority: §§ 62.1-44.15 and 62.1-44.17:1.1 of the Code of Virginia.

Public comments may be submitted until June 4, 2003.

Contact: Scott Haley, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4443, FAX (804) 698-4032, or e-mail ts Haley@deq.state.va.us.

VA.R. Doc. No. R03-179; Filed April 16, 2003, 10:33 a.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 Department of Labor and Industry intends to consider promulgating regulations entitled **16 VAC 25-155, General Requirements for Clearances, Construction of Electric Transmission and Distribution Lines and Equipment, Construction Industry - Subpart V**, and amending regulations entitled **16 VAC 25-175, Federal Identical Construction Industry Standards**. The purpose of this action is to **adopt** a regulation unique to the Virginia Occupational Safety and Health Program (VOSH) entitled 16 VAC 25-155, General Requirements for

Clearances, Construction of Electric Transmission and Distribution Lines and Equipment, Construction Industry - Subpart V, that will make the Construction Industry safety requirements for electrical transmission workers identical to the current federal identical General Industry regulation counterpart, 16 VAC 25-90-1910.269(l)(2)(i). This action will also amend the Federal Identical Construction Industry Regulation, 16 VAC 25-175 by repealing 16 VAC 25-175-1926.950 (c) (1) (i).

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

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

Public comments may be received until June 5, 2003.

Contact: John J. Crisanti, Policy Analyst Senior, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-4300, FAX (804) 786-8418, email jjc@doli.state.va.us.

VA.R. Doc. No. R03-176; Filed April 11, 2003, 12:35 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

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

Notice of Intended Regulatory Action

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 10-20, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Rules and Regulations**. The purpose of the proposed action is to adjust fees as necessary in accordance with § 54.1-113 of the Code of Virginia (Callahan Act). Any other changes that may be necessary may also be considered.

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

Statutory Authority: §§ 54.1-113, 54.1-201.4, 54.1-404, and 54.1-411 of the Code of Virginia.

Public comments may be submitted until June 4, 2003.

Contact: Mark N. Courtney, Executive Director, Department of Professional and Occupational Regulation, 3600 W. Broad

Notices of Intended Regulatory Action

St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail APELSCIDLA@dpor.state.va.us.

VA.R. Doc. No. R03-177; Filed April 11, 2003, 2:20 p.m.

BOARD OF PHYSICAL THERAPY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Physical Therapy intends to consider amending regulations entitled **18 VAC 112-20, Regulations Governing the Practice of Physical Therapy**. The purpose of the proposed action is to clarify and update educational, examination and practice requirements. The board has determined that some of its requirements may need to be more consistent with national standards in the practice of physical therapy, may need to be clarified to facilitate compliance by licensees, or may need to be modified to reduce the burden of compliance.

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

Statutory Authority: § 54.1-2400 and Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until June 18, 2003.

Contact: Elizabeth Young, Executive Director, Board of Physical Therapy, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9943 or e-mail elizabeth.young@dhp.state.va.us.

VA.R. Doc. No. R03-191; Filed April 30, 2003, 10:59 a.m.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLANDS 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 Wetlands Professionals intends to consider amending regulations entitled **18 VAC 145-20, Board for Professional Soil Scientists Regulations**. The purpose of the proposed action is to adjust fees as necessary in accordance with § 54.1-113 of the Code of Virginia (Callahan Act). Any other changes that may be necessary may also be considered.

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

Statutory Authority: §§ 54.1-113 and 54.1-201.4 of the Code of Virginia.

Public comments may be submitted until June 4, 2003.

Contact: Mark N. Courtney, Executive 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 SoilScientists@dpor.state.va.us.

VA.R. Doc. No. R03-178; Filed April 11, 2003, 2:20 p.m.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Waterworks and Wastewater Works Operators intends to consider amending regulations entitled **18 VAC 160-20, Board for Waterworks and Wastewater Works Operators Regulations**. The purpose of the proposed action is to increase fees for applications and regulants of the Board for Waterworks and Wastewater Works Operators in order to comply with § 54.1-113 of the Code of Virginia (Callahan Act), which requires the board to adjust its fees when the expenses allocated to it for the past biennium are found to be more than 10% greater or less than the moneys collected on its behalf. The board will revise its fees so that the revenue received will be sufficient, but not excessive, to cover the board's expenses.

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

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

Public comments may be submitted until June 18, 2003.

Contact: Joseph Kossan, Assistant Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128 or e-mail waterwasteoper@dpor.state.va.us.

VA.R. Doc. No. R03-192; Filed April 30, 2003, 11:08 a.m.

TITLE 22. SOCIAL SERVICES

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 repealing regulations entitled **22 VAC 40-110, Minimum Standards for Licensed Family Day Homes**. The purpose of the proposed action is to repeal the current regulation. The necessary provisions will be incorporated into a new regulation, 22 VAC 40-111, Standards for Licensed Family Day Homes.

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

Statutory Authority: § 63.2-217, 63.2-1701, and 63.2-1734 of the Code of Virginia.

Public comments may be submitted until June 18, 2003.

Contact: Doris Sherrod, Human Services Program Consultant, Department of Social Services, Division of Licensing Programs, 730 E. Broad St., 7th Floor, Richmond,

Notices of Intended Regulatory Action

VA 23219, telephone (804) 692-1748, FAX (804) 692-2370 or e-mail dss7@dss.state.va.us.

VA.R. Doc. No. R03-185; Filed April 28, 2003, 10:50 a.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 adopting regulations entitled **22 VAC 40-111, Standards for Licensed Family Day Homes**. The purpose of the proposed action is to consider repealing the current Minimum Standards for Licensed Family Day Homes (22 VAC 40-110) and adopting a new regulation. The new regulation, Standards for Licensed Family Day Homes (22 VAC 40-111), will incorporate: (i) findings from the periodic review completed in 1999; (ii) recommendations from ad hoc committee meetings held in 1999; (iii) changes in the Code of Virginia from 1993 to the recodification of the licensing statute, effective October 1, 2002; and (iv) comments received in response to the changes proposed in the Notice of Regulatory Action published on April 22, 2002. The new regulation will cover the following topics: personnel; household members; orientation and training; physical environment; equipment; care of children; emergency preparedness and procedures; water safety; and recordkeeping. These are the same topics covered in the current regulation. The goal of the regulation is ensure that the activities, services and facilities of family day homes are conducive to the health, safety and well-being of children.

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

Statutory Authority: § 63.2-217, 63.2-1701, and 63.2-1734 of the Code of Virginia.

Public comments may be submitted until June 18, 2003.

Contact: Doris Sherrod, Human Services Program Consultant, Department of Social Services, Division of Licensing Programs, 730 E. Broad St., 7th Floor, Richmond, VA 23219, telephone (804) 692-1748, FAX (804) 692-2370 or e-mail dss7@dss.state.va.us.

VA.R. Doc. No. R03-186; Filed April 28, 2003, 10:47 a.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 40-120, Minimum Standards for Licensed Family Day-Care Systems**. The purpose of the proposed action is to repeal the current regulation. The necessary provisions will be incorporated into a new regulation, 22 VAC 40-121, Standards for Licensed Family Day Systems.

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

Statutory Authority: § 63.2-217, 63.2-1701, and 63.2-1734 of the Code of Virginia.

Public comments may be submitted until June 18, 2003.

Contact: Doris Sherrod, Human Services Program Consultant, Department of Social Services, Division of Licensing Programs, 730 E. Broad St., 7th Floor, Richmond, VA 23219, telephone (804) 692-1748, FAX (804) 692-2370 or e-mail dss7@dss.state.va.us.

VA.R. Doc. No. R03-187; Filed April 28, 2003, 10:47 a.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 adopting regulations entitled **22 VAC 40-121, Standards for Licensed Family Day Systems**. The purpose of the proposed action is to consider repealing the current Minimum Standards for Licensed Family Day-Care Systems (22 VAC 40-120) and adopting a new regulation. The new regulation is titled Standards for Licensed Family Day Systems (22 VAC 40-121). Family day systems approve family day homes as members of the system, and refer children to available member homes. There have been no major revisions to this regulation since it was originally adopted in 1981. The goal is to ensure that the activities, services and facilities of the system and its member homes operate in a manner that is conducive to the health, safety and welfare of children received for care.

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

Statutory Authority: § 63.2-217, 63.2-1701, and 63.2-1734 of the Code of Virginia.

Public comments may be submitted until June 18, 2003.

Contact: Doris Sherrod, Human Services Program Consultant, Department of Social Services, Division of Licensing Programs, 730 E. Broad St., 7th Floor, Richmond, VA 23219, telephone (804) 692-1748, FAX (804) 692-2370 or e-mail dss7@dss.state.va.us.

VA.R. Doc. No. R03-188; Filed April 28, 2003, 10:45 a.m.

† Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the State Board of Social Services has withdrawn the Notice of Intended Regulatory Action for **22 VAC 40-660, Child Day Care Services Policy**, which was published in 16:24 VA.R 3036 August 14, 2000. This action was taken at the board's April 16, 2003, meeting.

Contact: L. Richard Martin, Jr., Regulatory Coordinator, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219-1849, telephone (804) 692-1825.

† Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the State Board of Social Services has withdrawn the Notice of Intended Regulatory Action for **22 VAC 40-705, Child Protective Services**, which was published in 18:9 VA.R 1177 January 14, 2002. This action was taken at the board's April 16, 2003, meeting.

Notices of Intended Regulatory Action

Contact: L. Richard Martin, Jr., Regulatory Coordinator,
Department of Social Services, 730 East Broad Street,
Richmond, Virginia 23219-1849, telephone (804) 692-1825.

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 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Reproposed

NOTICE: Pursuant to § 2.2-4007 G of the Code of Virginia, the State Board of Social Services is publishing a revised proposed regulation. According to the Department of Social Services, the regulation originally proposed in 18:22 VA.R. 2902-2926 July 15, 2002, contained details similar to those in the policy manual the department developed for guidance for the local departments. After receiving a large number of comments critical of the level of detail, the department reviewed the proposed regulation using a workgroup composed of local and state staff and decided to revise and resubmit the regulation at the proposed stage of the regulatory process. The regulation now being submitted has been reduced to the minimum necessary to meet federal and state requirements and the needs of the local departments of social services. Detailed guidance will be provided to local departments in policy manuals. Changes from the original proposed are enclosed in brackets.

Title of Regulation: **22 VAC 40-675. Personnel Policies for Local Departments of Social Services (adding 22 VAC 40-675-10 through 22 VAC 40-675-220).**

Statutory Authority: §§ 63.2-217 and 63.2-219 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until June 18, 2003.

(See Calendar of Events section for additional information)

Agency Contact: Lori A. Kam, Human Resources Manager II, Department of Social Services, Division of Human Resources Management, 730 East Broad Street, Richmond, Virginia 23219, telephone (804) 692-1520, FAX (804) 692-1560 or e-mail lak900@dss.state.va.us.

Basis: Section 63.2-217 of the Code of Virginia provides the general authority for the State Board of Social Services to adopt regulations necessary for the administration of social services programs under Title 63.2 of the Code of Virginia. Section 63.2-219 of the Code of Virginia requires the State Board of Social Services to “. . . adopt regulations to maintain such education, professional and training requirements and performance standards, including such regulations as may be embraced in the development of a system of personnel administration meeting requirements of the Department of Health and Human Services under appropriate federal legislation relating to programs administered by the Board. . . .”

This regulation will provide the minimum requirements necessary to ensure the personnel system used to administer Title 63.2 of the Code of Virginia meets state and federal requirements.

The federal Standards for a Merit System of Personnel Administration (5 CFR 900.601 (b) (2002)) states that certain federal grant programs require, as a condition of eligibility, that state and local agencies receiving grants establish merit systems for personnel engaged in administration of the grant-aided program. The proposed regulation addresses policies that fulfill the merit principles that apply to all personnel administration systems required to comply with the standards.

Purpose: The proposed regulation will satisfy the legal requirement that the State Board of Social Services adopt regulations to establish a merit personnel system. The regulation details the options local departments of social services have in the administration of local personnel systems to ensure fairness and consistency in treatment of employees and potential employees. Consistency in personnel policies across local departments strengthens the social service network and provides a workforce that is better equipped to protect the health, safety and welfare of the citizens of the Commonwealth. The goal of this proposed action is to provide and formalize a consistent, appropriate, structure that ensures the welfare of employees and potential employees in local departments of social services.

Substance: This is a reproposed version of a new regulation. Changes from the original proposed regulation were made based on comments received during the public comment period. In addition, there are technical changes as a result of the recodification of Title 63.1 to Title 63.2. The majority of comments received were critical of the level of detail contained in the proposed regulation. The department agreed with those comments and, as a result, the regulation being reproposed is less than half the length of the original. Changes made to the original proposed regulation include:

1. Deleting, adding and modifying several definitions;
2. Deleting the level designation and caseload level;
3. Clarifying the roles, responsibilities and options of the State Board of Social Services, Department of Social Services, and local departments of social services;
4. Deleting the option for agencies to deviate in grievance procedures to be consistent with the Code of Virginia;
5. Removing excessive procedural and policy details throughout the regulation;
6. Adding a reference to adult protective services and language addressing bonuses for employees of local departments;
7. Adding a requirement for local practices to meet specific merit principles;

Proposed Regulations

8. Addressing (i) types of employees, (ii) a requirement for reimbursements to be in accordance with department policies and procedures, and (iii) termination or separation from service;

9. Removing detailed performance standards, scoring procedures, methodology used to complete performance forms, filing procedures and the requirement for local agencies to forward copies of forms to the review, and addressing instead performance evaluation of the local directors and the local directors' responsibilities for evaluation of local employees;

10. Deleting details on the preparation of affirmative action plans;

11. Covering the board's promotion of equal opportunity in the recruitment and selection process and requiring local departments to file affirmative action plans, providing recourse for employees or applicants who believe they have been discriminated against, and requiring that local departments cooperate in investigations; and

12. Adding the intent and application of the standards of conduct.

Issues: Regulating certain policies and procedures would help to ensure uniform and equitable practices in the 121 local agencies in the Commonwealth, providing measurable advantages for the Commonwealth, the State Department of Social Services and the 121 local departments of social services who serve every city and county in the Commonwealth. Much of the proposed regulation addresses practices that support a qualified, representative workforce, factors strongly associated with effective provision of services to local citizens. There are no known disadvantages to this regulation.

Fiscal Impact: There will be no additional cost to the state, localities or the public to implement this regulation. This action meets the requirements in the Code of Virginia for the board to adopt regulations relating to local department personnel systems. The regulation will cover practices followed by the 121 local departments of social services. Most of these practices have been addressed in policy and procedures manuals.

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 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. Pursuant to §§ 63.2-217 and 63.2-219 of the Code of Virginia, the Department of

Social Services (DSS) proposes to establish regulations governing personnel policies in local departments of social services.

Estimated economic impact. Sections 63.2-217 and 63.2-219 of the Code of Virginia require DSS to establish regulations for personnel policies in local departments of social services. Currently, personnel policies are administered according to a policy manual issued by the State Board of Social Services. This manual was last updated in the early 1980s and never published as a regulation. The agency is now seeking to publish the general framework of these policies as regulation without establishing detailed requirements. The detailed standards in the policy manual will continue to be followed. The proposed regulations address the following issues in general terms: position classification and compensation; recruitment, screening, and selection of employees; employee status; employee performance; equal employment opportunity; standards of conduct; grievance policies; employee political activity; and outside employment.

The primary purpose of the proposed regulations is to comply with the statutory requirements to establish regulations for personnel policies in local departments of social services. According to DSS, the proposed regulations will not alter the current personnel policies that have been in effect since the early 1980s. As before, local departments will continue to have the flexibility to be included in local jurisdiction-wide personnel plans instead of utilizing personnel policies outlined in the policy manual. These comprehensive jurisdiction plans must meet merit system standards and be comparable to personnel policies included in the policy manual and the State Board of Social Services must approve these plans prior to the inclusion of local department of employees in the plan. Since the proposed regulations reflect current practices, they are not likely to have any fiscal impact or economic consequences.

Businesses and entities affected. The proposed regulations apply to each of the 121 local departments of social services in the Commonwealth.

Localities particularly affected. The proposed regulation will not uniquely affect any particular localities as it applies statewide.

Projected impact on employment. The proposed regulation is not expected to have any impact on employment in Virginia.

Effects on the use and value of private property. The proposed regulation is not expected to have any significant effects on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Social Services concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The repropoed regulations establish personnel policies in local departments of social services and will provide an additional legal basis for policies and practices in local departments of social services. Many of the policies are required as a condition for continued receipt of federal grants. The proposed regulation addresses classification

and compensation, recruitment and selection, employee status and benefits, employee performance evaluation, equal employment opportunity, standards of conduct, grievance procedures, and other employee relations practices.

CHAPTER 675.
PERSONNEL POLICIES FOR LOCAL DEPARTMENTS OF
SOCIAL SERVICES.

PART I.
GENERAL PROVISIONS.

22 VAC 40-675-10. Definitions.

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

"Administrative manual" means the Administrative Manual for Local Departments of Social Services Human Resource Management [, which outlines the personnel policies and procedures].

["Board" means the State Board of Social Services.]

"Classification" means the systematic grouping of positions based on shared characteristics.

"Class [~~specifications~~ specification]" means a detailed statement that [~~defines~~ describes] the characteristic elements of each classification [~~title~~] and identifies the [~~factors that relate to that particular classification~~ duties and KSAs].

["~~Commission~~" means the Workers' Compensation Commission.]

"Commissioner" means the Commissioner of the Virginia Department of Social Services [, his designee or authorized representative].

["~~Compensation~~" means rate of pay, based upon level of work performed and supervision given or received.

"~~Compensation schedule and plan~~" means DSS' classification and pay plan for local jurisdictions. This classification and pay plan has salary grades and pay steps of intervening increments from the minimum to maximum established for each grade. Classification titles are linked to a salary grade on the schedule by use of factors for ranking and comparing positions.]

"Department" means the [~~Virginia State~~] Department of Social Services.

["~~DSS' DHRM~~" means the department's Division of Human Resources Management.

"~~Exempt~~" means not subject to the overtime provisions of the Fair Labor Standards Act.

"Deviat" means to adopt all or portions of the local jurisdiction personnel policies.]

"Jurisdiction" [or "local jurisdiction"] means the city, county, or town under which the local department is a governmental unit.

"KSA" means a knowledge, skill, or ability needed to perform a position.

"Local board" means the local board of [~~public welfare or~~] social services [~~in each county and city, as provided in Article 1 (§ 63.1-38 et seq.) of Chapter 3 of Title 63.1 of the Code of Virginia representing one or more counties or cities~~].

["Local compensation plan" is the locally developed pay plan that lists classifications, salary grades, and pay steps of intervening increments from the minimum to the maximum amounts established for each grade, and includes other pay actions.]

"Local department" [or "local agency"] means [~~any one of~~] the local [~~departments~~ department] of social services [~~or public welfare throughout the Commonwealth, as provided in Article 1 (§ 63.1-38 et seq.) of Chapter 3 of Title 63.1 of the Code of Virginia of any city or county of this Commonwealth~~].

"Local director" means the director or [~~superintendent his~~ designated representative] of [~~any—of~~] the local [~~departments~~ department] of [~~social services or public welfare~~ the city or county].

["~~Local hiring authority~~" means the local director, local board, or a designee with authorization to employ staff.

"~~Local jurisdiction~~" means any of the local cities or counties with which the local department and local board are affiliated.]

"Merit system plan" means those [~~rules and~~] regulations [~~promulgated~~ adopted] by the [~~state~~] board in the development and operation of a system of personnel administration meeting requirements of the federal Department of Health and Human Services [as relates to compliance with federal merit system standards set forth in the Code of Federal Regulations (5 CFR Part 900)].

["~~On call~~" means constantly accessible to receive and respond to child protective service complaints on an emergency basis outside of the local department.

"~~Recruitment announcement~~" means the job vacancy posting that contains the position title and number along with other pertinent information, including type of position; salary; position expiration date, if applicable; special requirements or preferences, if any; a brief duties and responsibilities paragraph; entry-level knowledge, skill, and ability statements (KSAs); announcement period closing date; and mailing address.

"~~Recruitment announcement period~~" means the period of time, usually 10 workdays, during which applicants may apply for a position.

"~~Referral list~~" means the list prepared by DSS' DHRM that contains the names of applicants whom the local department may further consider in order to determine which applicants will be offered an interview.

"~~State board~~" means the Virginia Board of Social Services.

"Salary range" means salary grades and pay steps of intervening increments from the minimum to the maximum established for each grade, which includes reimbursable and nonreimbursable steps.]

Proposed Regulations

~~["Statewide "State] Classification Plan" means [DSS' statewide the department's classification] plan that consists of [an] approved [number of positions classifications and their corresponding class groups, salary grades, classification codes, equal employment opportunity codes and effective dates]. [The plan lists class specifications according to class code, occupational group, effective date, salary grade, and EEO code. Local departments select applicable classes based upon need and in conjunction with prescribed standards for allocating positions.~~

~~"WCA" means the Virginia Workers' Compensation Act.~~

~~"State Compensation Plan" means the department's pay plan, which provides local departments a basis to develop local compensation plans.]~~

22 VAC 40-675-20. Local [agency department] designation.

~~[A.] Local [agencies departments] are designated as Levels I through VI. The level assigned is determined by the number of authorized positions [, which, in turn, is based upon the caseload of the local agency and the number and types of programs offered]. [The designations are:~~

LEVEL	NUMBER OF POSITIONS
I	Up to 10
II	11-20
III	21-80
IV	81-160
V	161-360
VI	361 or more

~~B. The levels are used in the development and approval of the local department classification and compensation plans.]~~

22 VAC 40-675-30. [Inclusion in local jurisdiction-wide personnel plans Development of personnel policies and procedures]

~~A. [It is the policy of the state board to allow local agency employees to be included in approved local jurisdiction-wide personnel plans instead of utilizing a local agency personnel plan. The board shall approve statewide personnel policies and procedures that are consistent with these regulations and the merit principles as outlined in the Code of Federal Regulations (5 CFR Part 900). These policies and procedures are contained in the Administrative Manual.]~~

~~B. [Comprehensive jurisdiction-wide plans shall include classification; compensation; applicant recruitment, screening and selection; employee procedures; benefits; affirmative action; grievance procedures; standards of conduct; and employee performance evaluation. The local director shall submit an updated copy of the Human Resource Policy Record as designated by the department.]~~

~~[C. Such plans must be thoroughly documented to the satisfaction of DHRM.~~

~~D. The state board must approve a jurisdiction-wide personnel plan prior to the inclusion of local agency employees in the plan.]~~

22 VAC 40-675-40. [Process for approval of Inclusion in] local jurisdiction [-wide] personnel plans.

~~[A. The following criteria are used by the state board to approve local jurisdiction-wide personnel plans:~~

~~1. The plan must be applicable to all employees of the jurisdiction with the exception of those specifically exempted.~~

~~2. The plan must provide standards, policies and rules to effectuate a merit system in accordance with federal merit system standards (5 CFR Part 900) and state policies and procedures set forth in the Local Agency Compensation Plan, revised December 1, 2000.~~

~~3. Personnel practices must be administered in accordance with these standards, policies and rules.~~

~~4. A copy of the personnel plan, including the merit system plan, the compensation and classification plans, employee relations materials, leave and attendance policies, and all other local personnel policies must be submitted to the commissioner for review prior to state board consideration.~~

~~5. The local jurisdiction's personnel plan must be in substantial conformity with the personnel standards established by the state board as applicable to local departments.~~

~~6. The commissioner and appropriate jurisdictional official must establish and agree to a periodic review of the operation of the personnel plan to assure that the plan continues to be consistent with federal and state standards.~~

~~7. The cost of administering the recruitment and selection process under the jurisdictional merit system plan must not exceed the department's cost of providing that service.~~

~~8. Proposed changes in the original documentation of the plans must be submitted for approval by the state board through DSS' DHRM prior to implementation.~~

~~9. DSS' DHRM will periodically review the approved plans. Continued authorization of a local jurisdiction-wide personnel plan will be contingent upon compliance with the self-analysis audit document.~~

~~10. The state developed KSAs shall be used until local KSAs are fully developed.~~

~~A. It is the policy of the board to allow local department employees to be included in the approved local jurisdiction personnel plans instead of utilizing personnel policies outlined in the Administrative Manual.]~~

~~B. [A copy of the certification document, signed by the chief executive of the local jurisdiction, must be submitted along with the other documentation. The certification document signifies agreement to maintain a system of personnel administration in conformance with federal merit system standards. Such certification is required in 5 CFR 900.604, Standards for a Merit System of Personnel Administration. Comprehensive jurisdiction plans shall meet merit system standards and be comparable to personnel policies included in the Administrative Manual. Specific personnel functions~~

that must be included in the local jurisdiction personnel plans are listed in the Administrative Manual.

C. Such plans must be documented to the satisfaction of the board.

D. The board must approve a jurisdiction personnel plan prior to the inclusion of local department employees in the plan.]

22 VAC 40-675-50. Adoption of specific policies of the local jurisdiction.

A. [~~Local boards may adopt specific local jurisdictional policies instead of using the state policies.~~ A local department, upon approval by the local board, may request to deviate from state policies by adopting specific local jurisdiction policies instead of using personnel policies and procedures outlined in the Administrative Manual.] The following local policy options may be requested on the Local Policy Request form:

1. Performance evaluation;
2. Standards of conduct;
3. Leave policies;
4. Holiday schedule;
5. Inclement weather;
6. Probationary period; or
7. Layoff.

B. Local policy options also exist for classification [and] compensation [; and] affirmative action [, and the grievance procedure. Requests for deviation from state policies shall be submitted consistent with the requirements of this section].

C. When the local [board department] wants to exercise one of the allowable options, it must [obtain required approvals and] submit the [Local Policy Request Form to the Employee Relations Manager of DSS' DHRM. DHRM will provide its analysis to the state board required forms to the department in accordance with the Administrative Manual. The commissioner will provide his analysis to the board].

[D. When policy changes, the local department shall submit a Local Policy Request Form to the department.

PART II.

STATE CLASSIFICATION AND COMPENSATION.]

22 VAC 40-675-60. [Preparation and explanation of the review process State Classification Plan].

[A. The local director shall submit an updated copy of the human resource policy record no later than October 31 of each odd-numbered year. The local director shall:

1. Indicate the city or county.
2. Check each item to indicate whether the local department follows the policy contained in the administrative manual or the local policy of the jurisdiction.
3. Date and sign the form.
4. Prepare the form in triplicate and reproduce locally using the format in the administrative manual.

~~B. The local department shall retain one copy and send the other two copies to the employee relations manager in DSS' DHRM.~~

~~1. DSS' DHRM will review the policy record to ensure that each local policy has been properly approved at a previous time on the Local Policy Request Form.~~

~~2. The policy record will be signed and returned to the local department as official notification of the human resource policies currently in effect.~~

~~C. When policy changes occur between normal reporting periods, they must be reported to DSS' DHRM. If the change is to request adoption of a local policy instead of a state policy, then the Local Policy Request Form must be submitted to the state board through DSS' DHRM. If a state policy is requested instead of a previously approved local policy, state board approval must be obtained by submissions through DSS' DHRM. The State Classification Plan consists of a broad range of approved classifications and accompanying specifications for use by the local departments to develop their local compensation plans to administer the programs set forth in Title 63.2 of the Code of Virginia].~~

[PART II.

POSITION CLASSIFICATION AND COMPENSATION.

22 VAC 40-675-70. Overview of DSS' statewide classification plan.

~~A. The purpose of the statewide classification plan is to identify the specific job tasks that need to be performed in order to provide social services to the citizens of the Commonwealth. The statewide classification plan is organized for use throughout all local departments.~~

~~B. The statewide classification plan shall include class specifications that assign the classification title; determine the parameters of each classification, including the level and scope of responsibility; and record characteristic duties of the classification. All class specifications listed in the plan represent the duties and responsibilities inherent to effective local department performance.~~

~~C. The statewide classification plan shall provide for fair and equitable treatment of employees with regard to original appointment, transfer, reemployment, promotion, and demotion.~~

22 VAC 40-675-80. Commissioner's responsibilities.

~~A. The commissioner shall establish DSS' statewide classification plan, applicable to all local department positions, and shall be submitted to the state board for approval.~~

~~B. The commissioner shall maintain the statewide classification plan to ensure that it has the appropriate numbers and types of classifications to meet the divergent personnel needs of local departments.~~

~~C. The commissioner shall establish new positions and reallocate existing positions based on demonstrated needs. The commissioner may utilize a system of caseload measurement as a guide for approving and reallocating positions.~~

Proposed Regulations

~~D. The state board shall approve all requests of local departments for exceptions to the statewide classification plan.~~

~~**22 VAC 40-675-90. Development of DSS' statewide classification plan.**~~

~~A. DSS' DHRM shall develop the statewide classification plan, which includes approved class specifications with the class code, occupational group, effective date, salary grade, and EEO code assigned to each specification.~~

~~B. DSS' DHRM shall use the position classification method to establish the statewide classification plan. DHRM shall group position descriptions that have similar kinds and levels of duties, responsibilities, and other characteristics into a class. These groupings then shall become the basis for allocating positions. Through a comparison of the position description to the class specifications, DHRM will determine the level of job function and the resulting salary.~~

~~C. DSS' DHRM shall provide written class specifications of the job classes available for local departments' classification plans. The definitions shall describe the essential nature of the work characteristics of positions of the class, and also shall contain qualification guidelines.~~

~~**22 VAC 40-675-100. Maintenance of DSS' statewide classification plan.**~~

~~A. DSS' DHRM shall conduct periodic reviews or statewide classification studies as part of the maintenance of the statewide classification plan. Whenever a class revision is needed, DHRM shall submit a proposal to the state board for approval.~~

~~B. DSS' DHRM shall revise an existing local department classification plan based upon the local department's needs, and shall ensure that all position allocations are made in conformance with prescribed standards for determining the number and level of positions required in each local department.~~

~~**22 VAC 40-675-110. Deviations to DSS' statewide classification plan.**~~

~~Upon review and approval by the state board, exceptions to the statewide classification plan shall be permitted. A local department may be a part of an overall local jurisdictional classification system, provided minimum standards for comparable classifications are met.~~

~~**22 VAC 40-675-120. Sanctions.**~~

~~If a local agency does not comply with the principles and practices of the statewide classification plan, the department may withhold reimbursement to the local agency. After DSS' DHRM has notified the local agency of a misclassified position, DHRM shall report to the department's Division of Finance any findings of local positions continuing to be improperly classified.~~

~~**22 VAC 40-675-130. Establishment, abolishment or allocation of positions.**~~

~~A. DSS' DHRM shall allocate all positions to their appropriate classes based on assigned duties and responsibilities.~~

~~1. Whenever there is a need to establish a new position, abolish an existing position, or reallocate a position because its duties have changed substantially, the local director shall submit a Local Position Classification Request to DHRM for determination of appropriate action.~~

~~2. If DSS' DHRM staff disapprove the request, an appeal may be submitted to the department's Human Resource Director, who will review the request and either support or reverse the disapproval.~~

~~**B. Types of local position classification actions.**~~

~~1. Position establishment. When a local department finds it necessary to create a new position due to an increase in the workload or the implementation of a new program, a request for the establishment of one or more additional positions may be submitted for approval to DSS' DHRM. Each approval must be in accordance with program standards, workload measurement methods, and within funding and other administrative guidelines.~~

~~2. Position abolishment. When the local department no longer needs an established position, it may submit a request for the abolishment of the position to DSS' DHRM.~~

~~3. Position abolishment and establishment. When the local department's organizational requirements dictate the need for immediate changes in the duties and responsibilities of a position and there is no vacant position, the local department may submit a request to abolish a position and establish a new one in its place. After the new position is established and filled, the position vacated by the employee selected for the new position shall be abolished.~~

~~4. Position reallocation.~~

~~a. The local agency may request upward reallocation when significant changes in a position occur gradually over time that result in higher level duties and responsibilities being performed.~~

~~b. The local agency may request a downward reallocation when changes in a position occur that result in diminished duties and responsibilities.~~

~~c. The local agency may request a lateral reallocation when changes in a position occur that result in the need for the position to be placed in another classification at the same grade level.~~

~~**22 VAC 40-675-140. Organizational charts.**~~

~~A. Organizational charts provide a "picture" of the local department's structure. The local agency should group occupational areas and designate each manager, supervisor, and worker within a particular area. Each class title and position number must be noted, and reporting relationships accurately indicated.~~

~~B. It is important for local departments to maintain up-to-date organizational charts.~~

~~An organizational chart must accompany every local position classification request submitted to DSS' DHRM.~~

22 VAC 40-675-150. Compensation.

A. With prior approval by the state board, local boards shall have flexibility in selecting rates of pay that are suitable to local situations. The range for each class shall provide a local minimum and maximum rate and intervening steps.

B. No employee may receive less than the minimum nor more than the maximum of the range applicable to the class of position held. In local agencies that deviate from the approved compensation plan, no employee may receive less than the minimum. However, an employee may receive more than the maximum.

22 VAC 40-675-160. Changes to the state compensation plan.

A. The state board shall review the state compensation plan annually.

B. Amendments to the state compensation plan shall be presented to the state board for approval. DSS' DHRM shall advise local agencies of all changes to the compensation plan and any mandates that require revision of local salaries

C. All requested position classifications must be approved prior to implementation by local agencies.

22 VAC 40-675-170. Development of the local department's schedule and compensation plan.

A. Each local department shall develop its own schedule and compensation plan annually and submit to DSS' DHRM by May 31.

1. Development generally shall occur during the budget planning cycle to become effective July 1 of each year. However, when a revision is needed during other times of the year, the local department may submit a request for the change to DSS' DHRM for analysis and for state board approval.

2. The request for a revision must be submitted at least 60 days before the meeting of the state board.

3. DSS' DHRM annually develops and provides to each local department instructions for completing the local compensation plan form. Changes to DSS' classification and pay plan for local jurisdictions are included. DHRM will notify local departments of specific time frames for the submission of the annual local compensation plan.

B. Classification titles are linked to a salary grade on the basic state compensation schedule by use of an established ranking and comparative process called the factor method.

C. The selection of salary ranges for each local classification also shall be based on consideration of a survey of salaries paid for similar or related work; the availability of qualified applicants; sources of competition from other employers in the locality; and turnover rate. The salary ranges selected must maintain the hierarchical integrity of classes within the series and the local department.

D. The local department's schedule and compensation plan shall include a listing of all classification titles and complete salary ranges and grades. Development of the local compensation schedule shall ensure internal equity in terms of

starting steps. The salary ranges shall contain sufficient length to ensure that the steps are relevant, and consider initial, intermediate, and maximum steps that maintain competitiveness.

E. Each local department's annual compensation plan shall include a procedure for awarding salary increments, conversions, merit increases, special compensation for child protective service work, and any other type of approved increases. Salary determinations shall be rendered in a fair and consistent manner to ensure equal pay for equal work.

F. Types of salary actions.

1. Appointment. All employees must be paid at least the minimum basic state compensation rate for their classification. With approval from DSS' DHRM, rate flexibility is permitted. The following two options apply uniformly to probationary, transfer, reemployment, and temporary employees:

a. Related field. A candidate who possesses KSAs in a field related to the position to which he is being appointed may be offered a salary that is at or below the midpoint of the salary range.

b. Same field. A candidate who possesses exceptional KSAs in the same field as the position to which he is being appointed may be offered a salary that is at any step of the local salary range.

2. Completion of the probationary period. A salary increase may be awarded upon successful completion of the probationary period. The local department establishes the length of the probationary period, which may be either six or 12 months. Probationary increases must be documented in the local compensation plan.

3. Promotion. A promotional increase may be awarded as a result of competitive attainment of a position or an upward reallocation. The local agency must pay a promoted employee at a step that provides a pay increase to at least the minimum step of the local range for the classification. The local department may use a range of 3.0% to 10% for the promotional increase. The exact percentage must be included in the local compensation plan. Each promotional increase must be applied consistently throughout the fiscal year to ensure equitable treatment of all employees.

4. Merit increase. A plan for awarding a merit increase must define the criteria for approving the salary increase and the interval of time between each award period. All merit increases shall be based upon a predetermined schedule as part of the local compensation plan. A merit increase shall not be automatically awarded, but shall be granted in recognition of meritorious performance. No other increase given on the same day may take the place of a merit increase.

a. Local departments may award a merit increase under one of the two following options: one merit increase date applies to all employees; or the merit increase is awarded in recognition of the anniversary date of either the date of initial employment, the date of the most recent promotion, the date of attainment of permanent status, or the date six months from the date of promotion.

Proposed Regulations

~~b. The effective date of a merit increase may be either the first day of the month following the anniversary date, the first day of the month when the anniversary date falls on the first through the 14th day of the month, and the 15th day of the month when the anniversary date falls on the 15th through the 31st day of the month; or the 15th day of the month when the anniversary date falls on the first through the 15th day of the month, and the first day of the next month when the anniversary date falls on the 16th through the 31st day of the month.~~

~~c. The local compensation plan must describe in full detail any other variations and agency-unique methods for setting anniversary and merit increase dates uniformly in the local department. DHRM will consider exceptions, provided reasons are submitted in a written request by the local department.~~

~~5. Cost-of-living increase. When conditions warrant a salary increase in order to correlate the salary with cost-of-living changes, the local department must grant the increase to all its employees. If the cost-of-living option is selected, it must be clearly stated in the compensation schedule. A cost-of-living increase is separate and apart from any other salary increase.~~

~~G. Range revisions. When warranted, a local department may adjust salary ranges upward or downward. Methods include:~~

~~1. Step for step increase. This method places the salary at the same step of the new range as the employee's step on the former range. For every step increase in the range minimum, there is a corresponding step increase in the employee's salary.~~

~~2. No increase. This method changes the salary range. However, the salary of the employee remains the same, except that an employee's salary may not fall below the minimum step of the new salary range. A salary below the minimum of the new salary grade must be adjusted to the new minimum step.~~

~~3. Downward revision. This method results in a new range where the revised first step is below the first step of the former range. In no case may a salary range maximum drop below an employee's current salary.~~

~~H. Demotion salary rates. The three types of demotion salary rates are:~~

~~1. Demotion in lieu of layoff due to a reduction in force. When an employee is moved to a lower classification and grade within the agency due to a reduction in force because of economic reasons, his salary rate shall remain the same, if feasible. If not, the salary shall be adjusted to the closest comparable rate of pay.~~

~~2. Demotion due to redefinition. When an employee is in a position that is redefined to a lower classification and grade, the employee's salary rate shall remain the same. If the employee's salary is above the maximum for the new classification, the salary shall be frozen until the range is revised and the salary steps allow for increases in accordance with local department policy.~~

~~3. Other types of demotion. If an employee elects a voluntary demotion within the same agency, or if the employee's performance is not acceptable, the new salary shall not be higher than the rate of pay prior to the demotion.~~

~~I. Title change salary rate. When an employee's title changes, his salary shall remain the same unless the employee's rate of pay is above or below the local department's approved range for the new classification. An employee must receive at least the minimum rate of the new salary range. If the employee's salary prior to the title change is above the new salary range, it must be reduced to the highest step of the local department's approved range for the new classification.~~

~~22 VAC 40-675-180. Compensation for child protective service workers.~~

~~A. The state compensation plan shall provide compensation for employees performing duties associated with child protective services after normal work hours. Such compensation shall provide for on-call duty, direct door-to-door services, and back-up duty.~~

~~B. Employees who perform child protective services must be knowledgeable about child protective services policy and they shall have completed appropriate training.~~

~~C. Covered employees shall include those with the following classifications:~~

~~1. Administrative support classes, including directors, assistant directors, and chief social work supervisors.~~

~~2. Service program supervision classes, including social work supervisors and senior social work supervisors.~~

~~3. Service program staff classes, including principal social workers, senior social workers, child protective services workers I and II, and generic intake workers.~~

~~D. Child protective services compensation plan:~~

~~1. Each local department must file, edit, and revise its plan for compensating child protective services workers after normal work hours. This plan shall be a part of the annual compensation plan submitted to DHRM for review and approval. The department's reimbursements shall be limited to the applicable maximums allowed. However, the local department payment may be made from 100% local-only funds above the state maximum.~~

~~2. When an employee is compensated in the form of compensatory time or overtime compensatory time, a maximum of 240 hours may be accrued. Any compensatory leave earned under this plan must be used within a 12-month period.~~

~~3. Compensation for on-call duty. At all times, 24 hours a day, seven days a week, each local department must assign staff to provide coverage outside of normal work hours. One staff member must be on-call. The local department's board shall determine the type of compensation to be given to an employee for on-call duty served in addition to the employee's regular work week. To ensure that the on-call employee is compensated appropriately, each local department must include an on-~~

~~call policy in the local compensation policies submitted to DHRM. The local department must select one of three options:~~

~~a. Option 1. An on-call employee shall receive compensation of up to a maximum of one hour of compensatory time per each eight-hour shift of on-call duty.~~

~~b. Option 2. An on-call employee shall receive compensation of up to a maximum of \$7.00 per each eight-hour shift of on-call duty.~~

~~c. Option 3. At the discretion of the local director, an on-call employee shall receive compensation of either up to a maximum of one hour of compensatory time per each eight-hour shift of on-call duty or up to a maximum of \$7.00 per each eight-hour shift of on-call duty. The amount of time and money must be designated in local compensation policies.~~

~~4. Compensation for door-to-door direct service.~~

~~a. The local board shall determine how to compensate employees who provide door-to-door direct service for the protection of children.~~

~~b. To ensure that employees are compensated appropriately, each local department must include a door-to-door direct service policy in the local compensation plan submitted to DSS' DHRM.~~

~~(1) For employees who are exempt from the Fair Labor Standards Act, or nonexempt employees who work less than 40 hours per week, the local department must select either Option 1, 2 or 3.~~

~~(a) Option 1. An employee providing door-to-door direct service shall receive compensation of the regular salary rate for each hour worked in the field.~~

~~(b) Option 2. An employee providing door-to-door direct service shall receive compensation of one hour of compensatory time for each hour worked in the field.~~

~~(c) Option 3. At the discretion of the local director, an employee who provides door-to-door direct service shall receive compensation of either the employee's regular hourly rate of pay or one hour of compensatory time for each hour worked in the field. When determining which form of compensation is appropriate, factors such as funding constraints, staff coverage needs, and leave balances may be taken into consideration by the local director.~~

~~(2) For nonexempt employees who work more than 40 hours per week, either Option 4, 5, or 6 must be selected.~~

~~(a) Option 4. The employee shall be paid the overtime salary rate (one and one-half times the employee's regular hourly rate) for each hour worked more than 40 hours.~~

~~(b) Option 5. The employee shall receive overtime compensatory time (one and one-half hours of leave time) for each hour worked more than 40 hours.~~

~~(c) Option 6. At the discretion of the local director, an employee shall receive compensation of either the overtime salary rate (one and one-half times the employee's regular hourly rate) or overtime compensatory time (one and one-half hours of leave time) for each hour worked more than 40 hours.~~

~~(3) In order to offer overtime compensatory time instead of overtime pay, the local department and the employee must agree on the option selected before the actual assignment is performed. If the local department decides to pay off compensatory leave or overtime compensatory leave balances, the payment must be calculated using the employee's current regular hourly rate of pay on the date that the payoff occurs. When an employee leaves the local department, these balances must be paid off.~~

~~e. Compensation for back-up duty.~~

~~(1) Back-up duty is defined as those times when an employee receives calls only because the on-call employee is unavailable.~~

~~(2) Employees serving back-up duty are not eligible for payment while assigned such duty. However, if a back-up worker is required to perform door-to-door service as a back-up to an on-call worker, then the back-up worker shall be entitled to compensation. Payment shall be made or compensatory time granted in accordance with the same procedure for compensating an employee who provides door-to-door direct service.~~

~~d. Compensation for provision of 24-hour child protective services by the local director and supervisory staff.~~

~~(1) The local board shall determine if the local director will be one of the employees designated to provide 24-hour direct child protective services. If designated, the local director shall be entitled to the same compensation provided to other employees who provide the service.~~

~~(2) Compensation for the provision of on-call and door-to-door direct services provided by the local director and supervisory staff in the capacity of assisting social workers in the delivery of door-to-door direct services shall be in accordance with the local compensation plan.~~

~~22 VAC 40-675-190. Other local compensation issues.~~

~~A. Local-only reimbursement when the local director serves as the local board. In localities where the governing body has elected to have a director of social services instead of a local board and has vested the duties and responsibilities of a local board in the director position, the amount that would otherwise be paid to board members for their services shall be a nonreimbursable portion of the director's annual salary.~~

~~B. Reimbursement for overtime. Provisions shall be made by the commissioner for overtime and compensatory time.~~

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~~Reimbursement shall be made for overtime worked in accordance with the Fair Labor Standards Act (29 USC §§ 201-219) and the local department designation of nonexempt employees. The reimbursement shall be up to the reimbursable maximum of the applicable position classification. Local departments with approved deviating compensation plans also will be reimbursed up to the maximum of the applicable position classification. When the local deviating maximum exceeds the state reimbursable maximum, local-only funds shall be used to compensate for overtime.~~

~~C. The commissioner shall make provisions for paying employees acting in the capacity of a higher level position (see 22 VAC 40-675-300).~~

~~D. As specified in 22 VAC 40-675-290, reimbursements shall be made for absences that result from the closing of local departments' operations because of inclement weather conditions.~~

~~22 VAC 40-675-200. Maintenance of the local compensation schedule and plan.~~

~~Maintenance of the local compensation plan is the shared responsibility of the local board, the local director, the department, and DSS' DHRM.~~

~~1. The local board shall be responsible for approval and adoption of the local compensation schedule and plan.~~

~~2. The local director shall be responsible for granting salary increases in accordance with the local plan.~~

~~3. The state board shall be responsible for the overall approval of the statewide compensation plan.~~

~~4. DHRM shall be responsible for analysis of local compensation plans.~~

~~22 VAC 40-675-210. Sanctions.~~

~~Actions taken by the local department are subject to review and audit through payroll records to determine conformity to compensation plans and schedules. When the department finds that noncompliance or inappropriate actions have occurred, sanctions may be imposed or reimbursement of funds withheld until such time as deemed necessary for the proper administration of the local compensation plan.~~

~~22 VAC 40-675-220. Deviation from the basic state classification or compensation plan.~~

~~A. As specified in 22 VAC 40-675-50, the state board may approve local department classification and compensation plans that apply to all governmental employees within a particular jurisdiction.~~

~~B. Such state board approved plans, known as "deviations," may include classification and compensation, or compensation only.~~

~~C. The state board may allow an exception to the classification policy, which provides that all local social services positions fall under DSS' statewide classification plan.~~

~~1. An exception will be approved only when the local department's plan is part of a comprehensive classification plan applicable to all employees in the local jurisdiction.~~

~~2. The local jurisdiction-wide plan must be approved by the state board as being in substantial conformity with the policies and procedures of the statewide classification plan.~~

~~3. The local departments will be required to use the validation procedures set forth under the policy section for certification of applicants to establish the KSAs for each classification that differs from the state class equivalent.~~

~~D. Process for requesting approval to deviate from the basic plan.~~

~~1. While the state board encourages localities to use DSS' basic state classification and compensation plans, exceptions may be approved. When it is beneficial to a jurisdiction for a local department to deviate from those plans, a written request for deviation may be submitted. As part of this process, the following conditions must exist:~~

~~a. DSS' basic state classification or basic compensation plan does not meet the needs of the local department. The unmet needs must be identified.~~

~~b. Other circumstances make use of the basic state classification or compensation plan impractical. Reasons for the impracticality must be provided.~~

~~2. When submitting a deviation request, the local jurisdiction must provide the following documentation, depending upon the type of request:~~

~~a. Initial classification and compensation deviation request or classification-only deviation request.~~

~~(1) A written request must be submitted to DSS' DHRM 60 days before the meeting of the state board. A plan for implementing the change must be provided.~~

~~(2) The plan must explain how employees' class specifications and salaries will be used to convert positions and employees from the current plan to the proposed new one.~~

~~(3) All applicable class specifications must be provided. If any class specifications contain requirements beyond the specifications comparable to the basic state classification plan, then the title, class concept, distinguishing features, and duties or responsibilities must be included.~~

~~(4) A list of all locality classifications and their salary grades and ranges must be submitted to DSS' DHRM.~~

~~(5) All present and proposed salary ranges, a plan for implementing the new salary ranges, and an estimate of the cost of making the changes must be submitted to DSS' DHRM. The new schedule must be submitted at least 45 days before the implementation date. All salary minimums must be as high as those in the basic state compensation plan. Any other rules pertaining to how salaries are to be set and revised should be included.~~

~~(6) Applicable portions of Parts A and B of the Self-Analysis Audit Questionnaire must be completed and submitted.~~

~~(7) Any study documents or reports indicating how conclusions were reached must be submitted. Also, a statement as to how the locality designates equivalent job classes must be provided.~~

~~(8) Other items to be submitted included promotion and demotion policies and the plan for compensating employees whose class specification falls in the child protective services series.~~

~~b. Initial compensation only deviation request.~~

~~(1) Local departments must submit a written request to DSS' DHRM 60 days before the meeting of the state board. A plan for implementing the change must be provided. The plan must explain how employees' class specifications and salaries will be used to convert positions and employees from the current plan to the proposed new one.~~

~~(2) All present and proposed salary ranges, a plan for implementing the new salary ranges, and an estimate of the cost of making the changes must be submitted to DSS' DHRM. The new schedule must be submitted at least 45 days before the implementation date. All salary minimums must be as high as those in the basic state compensation plan.~~

~~(3) Applicable portions of Part B of the Self-Analysis Audit Questionnaire must be completed and submitted.~~

~~(4) Other items to be submitted included promotion and demotion policies and the plan for compensating employees whose class specification fall in the child protective services series.~~

~~c. Subsequent classification and compensation deviation request and jurisdiction wide deviation request.~~

~~(1) A written request must be submitted to DSS' DHRM 60 days before the meeting of the state board. A plan for implementing the change must be provided. The plan must explain how employees' class specifications and salaries will be used to convert positions and employees from the current plan to the proposed new one.~~

~~(2) All applicable class specifications must be provided. If any class specifications contain requirements beyond the specifications comparable to DSS' basic state classification plan, then the title, class concept, distinguishing features, and duties and responsibilities must be included.~~

~~(3) A list of all locality classifications and their salary grades and ranges must be included.~~

~~(4) All present and proposed salary ranges, a plan for implementing the revised salary ranges, and an estimate of the cost of making the changes also must be submitted to DSS' DHRM. The revised schedule must be submitted at least 45 days before the~~

~~implementation date. All salary minimums must be as high as those in DSS' basic state compensation plan.~~

~~(5) Any study documents or reports indicating how conclusions were reached must be submitted. Also, a statement as to how the locality designates equivalent job classes must be provided.~~

~~d. Subsequent classification only deviation request.~~

~~(1) A written request must be submitted to DSS' DHRM 60 days before the meeting of the state board. A plan for implementing the change must be provided. The plan must explain how employees' class specifications and salaries will be used to convert positions and employees from the current plan to the proposed new one.~~

~~(2) All applicable class specifications must be provided. If any class specifications contain requirements beyond the specifications comparable to the basic state classification plan, then the title, class concept, distinguishing features, and duties and responsibilities must be included.~~

~~(3) A list of all locality classifications and their salary grades and ranges must be included.~~

~~(4) Any study documents or reports indicating how conclusions were reached also must be submitted. In addition, a statement as to how the locality designates equivalent job classes must be provided.~~

~~e. Subsequent compensation only deviation request.~~

~~(1) A written request must be submitted 60 days before the meeting of the state board. A plan for implementing the change must be provided. The plan must explain how employees' class specifications and salaries will be used to convert positions and employees from the current plan to the proposed new one.~~

~~(2) All present and proposed salary ranges, a plan for implementing the revised salary ranges, and an estimate of the cost of making the changes must be submitted to DSS' DHRM. The revised schedule must be submitted at least 45 days prior to the implementation date. All salary minimums must be as high as those in the basic state compensation plan.~~

~~(3) Other items to be submitted included promotion and demotion policies and the plan for compensating employees whose class specification falls in the child protective services series.~~

~~3. Validation of KSAs. The locality is responsible for validating the entry level and full performance KSAs for all deviating class specifications. Entry level KSAs are the desired or required qualifications for entry into a position. An applicant for employment may acquire entry level KSAs through education, experience, or training. Entry level KSAs are used in recruitment advertisements. Full performance KSAs provide a clear indication of what is needed in order to function fully in a position.~~

~~G. Evaluation and approval of deviation requests.~~

Proposed Regulations

~~1. Upon receipt of all required documentation, DSS' DHRM staff will review and evaluate the deviation request. The local department shall not implement a new deviation or make changes to an existing deviation plan with prior approval of DHRM.~~

~~a. As part of the evaluation process, DHRM will compare the proposed class specifications to existing state classifications.~~

~~b. DHRM also will determine equivalent salary ranges on which reimbursements will be based. Any decision about salary range placement shall rest with DHRM.~~

~~c. When necessary, DHRM staff will meet with the jurisdictional employee responsible for coordinating information with DHRM. Meetings also may be held with consultants, human resource officers, local directors, and independent contractors.~~

~~2. One of the primary factors considered by DSS' DHRM when deciding whether or not to approve the local department's deviation request is the local jurisdiction's ability to provide support services. There should be a designated human resource office with the capability of reviewing, revising, and maintaining adequate systems that will enable operations to function smoothly and equitably and to be responsive to the needs of the local jurisdiction.~~

~~3. If the evaluation is favorable, then DHRM shall submit a recommendation for approval to DSS' state board, who shall render a decision.~~

~~a. The state board reserves the right to disapprove any proposed actions that are incongruent with the policies and procedures that protect all local employees for whom the Commonwealth has responsibility.~~

~~b. If a deviation request is approved, all salary ranges for reimbursement purposes shall be limited to the maximum of the state applicable range for the comparable classification. In no case shall a local department be allowed to compensate any employee below the minimum salary rate for any class of position. However, the locality may use local-only funds to compensate employees above the maximum range.~~

~~D. Financial responsibility. The locality must absorb all costs associated with a compensation-related deviation. Additional state funds will not be available for these purposes. Requests for the allocation of additional funding during the budget cycle will not be approved.~~

~~PART III.~~

~~RECRUITMENT, SCREENING AND SELECTION OF LOCAL AGENCY EMPLOYEES.~~

~~22 VAC 40-675-230. General hiring provisions.~~

~~A. The commissioner shall determine the application process and employment forms to be used by all applicants for original appointment, promotion, demotion, transfer, and reemployment.~~

~~B. The state board places the responsibility of the final selection process with the local director and local board.~~

~~1. Selection decisions made by the local agency shall be objective, consistent with agency Equal Employment and Affirmative Action Plans, and directly based on the applicants' possession of job-related KSAs.~~

~~2. Selection decisions shall be thoroughly documented. Such documentation shall be retained by the local agency for a period of 36 months. All original applications will be returned to DSS' DHRM.~~

~~C. Appointments to fill positions in local departments shall be made on the basis of merit and fitness in accordance with merit principles. Original, temporary, seasonal, and reemployment appointments shall be made from a list of eligible candidates developed according to the federal Merit System Standards.~~

~~22 VAC 40-675-240. Applicant recruitment.~~

~~Local agencies may conduct open, intra-agency, inter-agency, jurisdictional, and limited recruitment.~~

~~1. Open recruitment means recruitment is open to all applicants. The local department or DSS' DHRM may prepare open recruitment announcements. When underutilization of minorities and females exists in the EEO-4 category of the position to be filled, DHRM must prepare the open recruitment announcement.~~

~~2. Intra-agency recruitment means recruitment is limited to current permanent, probationary, restricted, and temporary employees of the local department where the vacancy exists. Intra-agency recruitment may be used only if underutilization of minorities and females does not exist in the EEO-4 category of the position to be filled. The local department must prepare intra-agency recruitment announcements.~~

~~3. Inter-agency recruitment means recruitment is limited to current permanent, probationary, restricted, and temporary employees of the department and local departments in Virginia. Inter-agency recruitment may be used only if underutilization of minorities and females does not exist in the EEO-4 category of the position to be filled. Inter-agency recruitment announcements must be prepared by DSS' DHRM.~~

~~4. Jurisdictional recruitment means recruitment is limited to current permanent or probationary employees of the city, town, or county government of which the local department is a governmental unit. Jurisdictional recruitment may be used only if underutilization of minorities and females does not exist in the EEO-4 category of the position to be filled. The local department must prepare jurisdictional recruitment announcements.~~

~~5. Limited recruitment means recruitment is limited to permanent or probationary employees of either a specific unit or a classification of the local department to prevent lay-off of an employee due to the abolishment and establishment of a position. Limited recruitment announcements must be prepared by the local department.~~

22 VAC 40-675-250. Preliminary screening and selection.

~~DSS' DHRM provides preferential processing when the local hiring authority selects the preliminary screening option over the complete screening option. If preliminary screening is selected:~~

- ~~1. DHRM shall screen all applications received in response to the recruitment announcement.~~
- ~~2. DHRM shall send a list of the names of all applicants who meet or exceed the minimum required or desired qualifications for the position and their applications to the local hiring authority for further evaluation.~~
- ~~3. Using the same criteria that the DHRM evaluator used, the local hiring authority shall determine which applicants will be offered an interview.~~
- ~~4. As a safeguard, DHRM reserves the right to monitor the local hiring authority's evaluation of applications. If it is determined that a local hiring authority's actions are not in compliance with acceptable evaluation practices, DHRM may withdraw the preliminary screening option.~~
- ~~5. An interview panel of the local hiring authority or both shall conduct the interviews.~~
- ~~6. After concluding the interviews and selecting an individual for the position, the local hiring authority shall send written notification of application status to all applicants whose names were on the referral list.~~
- ~~7. The local hiring authority shall indicate the disposition by each applicant's name on the referral list, and shall return the list and all applications to DHRM.~~

22 VAC 40-675-260. Evaluation guidelines for employment applications.

~~The following guidelines are to be applied by local hiring authorities who elect to use the preliminary screening option:~~

- ~~1. DSS' DHRM staff will first review all applications for employment received by the closing date of the recruitment announcement period. Criteria for the review are the duties and responsibilities paragraph of the recruitment announcement, entry-level KSAs, and special or preferred qualifications information. Upon completion of the review, a referral list containing the name of all applicants whose qualifications meet or exceed the minimum requirements for the position and their applications are sent to the local hiring authority.~~
- ~~2. Next, the local hiring authority evaluates the applications of all applicants listed on the referral list to determine which applicants to interview for the position. To conduct this review with consistency, the evaluator should follow these steps:
 - ~~a. Prepare an evaluation work sheet containing the names of all applicants and a place for the evaluation rating and notes.~~
 - ~~b. Carefully review the duties and responsibilities paragraph, the KSAs, and special requirements or preferences, if any, listed on the recruitment~~~~

~~announcement. Review the current position description, if additional information is desired.~~

~~e. Keeping in mind the information on the recruitment announcement read each application and all attachments. Although it is natural for some subjectivity to occur, strive to evaluate each applicant's qualifications in an objective manner. Using the information posted on the recruitment announcement, determine which applicants' overall qualifications most closely match the duties, responsibilities, KSAs, and special requirements or preferences. Consider the type, level, recency, duration, and relatedness to the position of all experience, education, and training. On the work sheet, circle "1" if qualifications are average, "2" if qualifications are above average, and "3" if qualifications are excellent.~~

~~d. Upon completion of the initial evaluation, determine if there is a sufficient number of applicants who received a "3" rating to form an interview group. Whenever possible, no fewer than five or more than 20 applicants should be interviewed for a position. When two or more positions are announced together, 20 applicants should be a sufficient number from which to make hiring selections.~~

~~e. If the number of applicants assigned a "3" rating is small, then conduct a second review of the applicants who received a "2" rating. The strongest of those applicants may be merged with the applicants rated "3" to form the interview groups. Place a plus sign (+) by those applicants' "2" rating to indicate this action. If the number of applicants to be interviewed is still small, then all applicants who received a "2" or "3" rating may be interviewed. If there are few applicants who received a "2" or "3" rating, then a second review of the applicants rated "1" may be conducted to determine if any of the strongest of that group should be added to the interview group. Place a plus sign (+) by those applicants' "1" rating to indicate this action.~~

~~f. The hiring authority will be held accountable for ensuring that a fair evaluation is afforded each referred applicant.~~

**PART IV.
EMPLOYMENT STATUS AND BENEFITS.**

22 VAC 40-675-270. Employee status in the merit system plan.

~~Merit status defines the employee's permanency in the system as it relates to benefits and the use of grievance policies. The types of employee status included in the merit system plan are probationary, permanent, restricted, temporary, emergency, and exempt.~~

~~1. Employees who fill a permanent or restricted position serve a probationary period. This includes new employees, employees who transfer to a new local agency to fill a permanent or restricted position, and those re-employed to fill a permanent or restricted position following more than a 30-day break in service.~~

~~a. Probationary employees are eligible for agency benefits such as leave, holidays and insurance. They usually may not use the grievance procedure. Likewise,~~

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~~standards of conduct normally are not used to deal with disciplinary problems.~~

~~b. The failure of a probationary employee to meet conduct and performance standards is grounds for immediate removal.~~

~~2. A permanent position has an indefinite duration with no expiration date. Depending upon circumstances, the permanent position may be filled by an employee whose status is probationary, permanent, temporary, or emergency.~~

~~3. A restricted position is set up for a specific time period. Due to funding or other requirements, the position shall expire on a specified date. As with a permanent position, a restricted position may be filled by an employee whose status is probationary, permanent, temporary, or emergency.~~

~~4. A temporary position is established to meet a special need of the local department. The duration of a temporary position may not exceed twelve months. Only an employee whose status is temporary or emergency may fill this type of position.~~

~~a. A seasonal position is a special category of temporary position.~~

~~b. A seasonal position is utilized to provide additional staffing for predictable periods or cycles during the year when there is a need for extra employees.~~

~~5. An emergency position is set up without regard to standard policy for the purpose of meeting special, immediate needs of the local department. An emergency position shall be filled only by an employee whose status is emergency.~~

~~6. An exempt position is one that is not subject to the provisions of the Fair Labor Standards Act (29 USC §§ 201-219). Exempt positions may be filled by employees of all the statuses described in this section.~~

22 VAC 40-675-280. Categories of employment.

~~The state board has established categories of employment and the terms and conditions of each. Employment categories include permanent employees, temporary employees, and emergency employees.~~

~~1. Permanent employees are those who fill positions listed in the local compensation plan. They have successfully passed the probationary period.~~

~~a. Tenure of employment. Any employee covered by the administrative manual has no guarantee of employment for a particular term and may be terminated in accordance with policy.~~

~~b. Compensation. Compensation must be at one of the pay steps of the salary grade to which an employee's position is assigned. Compensation is determined by the approved local compensation plan.~~

~~c. Benefits. A permanent employee is entitled to:~~

~~(1) Accumulate and use paid leave and to take unpaid leave as specified in the administrative manual;~~

~~(2) If full-time, participate in the local department's benefits plans and receive benefits accorded by the Virginia Workers' Compensation Act (Chapter 1 (§ 65.2-100 et seq.) of Title 65.2 of the Code of Virginia).~~

~~d. Grievance procedure. Permanent employees are entitled to use the employee grievance procedure as outlined in the administrative manual.~~

~~e. Human resource management policies. The human resource management policies promulgated by the state board apply.~~

~~2. Temporary employees are those who fit the description in 22 VAC 40-675-270.~~

~~a. Tenure of employment. A temporary employee has no guarantee of employment or a particular term, and may be terminated in accordance with policy.~~

~~b. Compensation. Compensation must be at one of the pay steps of the salary grade to which an employee's position is assigned, and is determined by the approved local compensation plan.~~

~~c. Benefits are determined by the approved local compensation plan.~~

~~d. The grievance procedure is typically not available to a temporary employee.~~

~~e. The human resource management policies promulgated by the state board apply.~~

~~3. Emergency employees are those who meet the description in 22 VAC 40-675-270.~~

~~a. Tenure of employment:~~

~~(1) An emergency employee has no guarantee of employment for a particular term, serves at the pleasure of the appointing authority, and may be terminated at any time.~~

~~(2) A wage employee is limited to working 180 days per 365-day time frame from the first day of employment. Once an employee has reached the 180-day maximum, the employee may not be permitted to work again in the local department until the 365-day period has expired.~~

~~(3) Any exceptions to the 180-day limit must be approved by DSS' Human Resource Director Senior.~~

~~(4) Rehiring an emergency employee during the same 365-day period in which he already worked the maximum 180 days is expressly prohibited unless an exception has been granted.~~

~~(5) Once an emergency employee has completed 180 days within the 365-day period, the next 365-day period shall be calculated beginning with the employee's subsequent date of rehire.~~

~~(6) Local departments shall maintain accurate documentation of the hours worked by emergency employees.~~

~~b. Compensation.~~

~~(1) An emergency employee shall be paid only for the actual hours worked; therefore, a record of the hours worked must be maintained on each emergency employee.~~

~~(2) Compensation must be at one of the pay steps of the salary grade to which an employee's position is assigned.~~

~~(3) Compensation is determined by the approved local compensation plan.~~

~~(4) An emergency employee shall be considered nonexempt for the purpose of application of the Fair Labor Standards Act (29 USC §§ 201-219).~~

~~c. Benefits. An emergency employee is not entitled to the same benefits listed for a classified or temporary worker, except that an emergency employee:~~

~~(1) Is covered by the WCA;~~

~~(2) Shall be allowed family and medical leave without pay for family and medical reasons; and~~

~~(3) Shall be allowed military leave without pay for service in reserve components. When an emergency employee enters active military service, reemployment will be granted under the terms provided for in the Veterans' Reemployment Rights Act.~~

~~d. The grievance procedure typically is not available to an emergency employee.~~

~~e. Human resource management policies. The human resource management policies promulgated by the state board apply.~~

~~f. Application for full or part-time employment. An emergency employee may apply for full or part-time positions. If hired into a classified or temporary position, the employee shall not receive service credit for any period of emergency employment.~~

22 VAC 40-675-290. Reimbursement to local departments for benefits paid to employees.

~~A. The state board provides reimbursement for the following benefits: retirement; group life, accidental death and dismemberment insurance; health insurance; unemployment compensation; worker's compensation and OASDI contributions as defined in the applicable rules for this policy.~~

~~B. The state board also reimburses local agencies for time not worked due to authorized sick, vacation, and holiday leave, as well as the closing of local departments' operations because of inclement weather conditions.~~

~~C. Reimbursement for the local jurisdiction's attendance and leave policies, as well as any other policies that affect the employee's salary, shall be limited to the amounts covered by applicable federal and state policies.~~

22 VAC 40-675-300. Status changes.

~~Employees can be moved to different positions through promotion, demotion, lateral transfer or title change or the position they occupy can be redefined to another classification. The objective of the state board is to have all employee changes of status documented through system transactions. This section applies to full-time and part-time classified (permanent), restricted, and temporary employees.~~

~~1. Promotion.~~

~~a. Status change. An employee may move from a position in one salary grade into a higher salary grade only after being selected for the higher position through the competitive process.~~

~~b. Compensation. Upon promotion, the employee will receive salary increases to the minimum of the new salary grade or according to the approved local compensation plan for the locality.~~

~~2. Demotion.~~

~~a. Status change. Demotion is the reassignment of an employee to a new position in a lower salary grade than the grade of the current or former position.~~

~~b. Compensation. An employee may not receive an increase upon demotion and the salary will be determined according to the approved local compensation plan for the locality.~~

~~3. Lateral transfer.~~

~~a. Status change. This status change occurs when an employee is placed in a position in the same salary grade as his former position. Lateral transfers do not apply to employees transferring into the local agency from other local departments.~~

~~b. Compensation. The employee's compensation may not change as the result of a lateral transfer.~~

~~4. In-charge assignments.~~

~~a. Status change. An in-charge assignment is used for brief absences of individuals occupying upper management level positions. The employee in-charge still maintains responsibility for his current job.~~

~~b. Compensation. An employee who is designated as in-charge shall receive a 10-step increase above the current rate of pay.~~

~~5. Temporary acting assignment.~~

~~a. Status change.~~

~~(1) A temporary acting assignment is used for an extended period of absence or for the beginning of a new program. The employee must be deemed qualified to perform the duties of the temporary acting position by DSS' DHRM.~~

~~(2) During a temporary acting assignment, the employee stops current job duties to function full or part-time in the other position and classification for a specified period of time.~~

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~~(3) At the conclusion of the temporary acting assignment, the employee shall be returned to the rate of pay that would have been earned, had the assignment not been taken.~~

~~b. Compensation. An employee assigned to an acting position may receive acting pay in accordance with the approved local compensation plan.~~

~~6. Redefinition.~~

~~a. Status change. The change in the classification assignment of a position as a result of a gradual change in the duties in a redefined position shall not be required to compete with other applicants for the new classification.~~

~~b. Compensation. The employee's salary will be determined according to the approved local compensation plan.~~

~~7. Title change.~~

~~a. Status change. A title change is the change of an employee from one position classification to another classification having the same salary grade on the state compensation schedule. The employee shall compete with other applicants for the new position, or may be changed as the result of a disciplinary action or application of the layoff policy.~~

~~b. Compensation. The employee's current rate of pay will remain the same unless:~~

~~(1) The rate is below the local minimum, in which case it must be increased to the new minimum and no higher; or~~

~~(2) The rate is above the locally approved range, in which case it will be reduced to the highest step of the appropriate local range.~~

~~22 VAC 40-675-310. Termination or separation from local service.~~

~~A. It is the objective of the state board to identify the types of separation from local service and their related procedures, and to advise terminating employees of benefits to which they may be entitled. This section applies to classified and temporary positions, including both full-time and part-time employees.~~

~~B. The local board or other appointing authority subject to the merit system plan shall ensure that employees are separated in accordance with established procedures. Employees who have acquired permanent status shall not be separated except for cause, curtailment of work or lack of funding for the position. Kinds of separation include resignation, retirement, dismissal, reduction in force, and death.~~

~~1. Resignation.~~

~~a. Advance notice of voluntary resignation. An employee who plans to resign from local service should give reasonable notice to the agency along with a written explanation for the resignation. An employee's failure to give the agency reasonable notice of resignation may be documented on the employee's termination report.~~

~~(1) Withdrawal of voluntary resignation. An employee who wishes to withdraw a resignation must submit a written request to withdraw the resignation no later than one month after the effective date of the proposed resignation and the position must still be vacant.~~

~~(2) The local board or designee must approve the continuation of the employee in the position as though the resignation had not been filed.~~

~~b. Involuntary resignation. A separation that is reported as a resignation but then is found to have been involuntary shall be treated as a dismissal.~~

~~2. Retirement.~~

~~a. There is no mandatory retirement age for employees.~~

~~b. Disability retirement. Local department employees may retire on disability under the provisions of their local retirement system.~~

~~c. Early retirement. Local department employees may elect early retirement under the provisions of their local retirement system.~~

~~d. Retirement as an alternative when an employee is unable to perform the duties and responsibilities of the position.~~

~~(1) If an employee becomes mentally or physically incapable of performing the job, and there is no reasonable accommodation, including transfer or demotion to another position that will enable the employee to perform the job, the agency may require the employee to apply for disability or early retirement.~~

~~(2) If an employee declines disability or early retirement, the agency may apply disciplinary measures to address unsatisfactory performance.~~

~~3. Dismissal. Dismissal is an employee's involuntary termination from local service, but does not include termination as a result of layoff.~~

~~4. Reduction in force. When an employee is removed from his position as a result of reduction in force or agency reorganization, the established layoff policy will apply.~~

~~5. Death in service. The death of an employee shall be indicated as "deceased" on all documentation of separation from service.~~

~~C. Payment for accrued leave upon termination or separation. Covered employees separating from local service may be entitled to receive payments for accrued annual, sick, compensatory, and overtime leave, in accordance with approved leave policies.~~

~~D. Recording the date of termination or separation.~~

~~1. Employee not on leave. The termination report of an active employee shall state the separation date as the last day the employee worked and shall include any amounts to be paid for accrued leave.~~

~~2. Employee on leave. The termination report of an employee on leave shall state the separation date as the~~

~~last day that the employee was at work, except that, for an employee on leave due to illness or disability, the separation date shall be stated as the last day of paid leave.~~

22 VAC 40-675-320. Workers' compensation.

~~A. All local employees receive benefits provided by the WCA if they suffer a work-related injury or disease. Covered employees who are entitled to benefits under the WCA also are eligible for supplemental benefits provided by the locality.~~

~~B. This section's provisions regarding benefits required by the WCA applies to all employees. The provisions regarding supplemental benefits apply only to full- and part-time classified and temporary employees.~~

~~C. This section does not describe the benefits to which all employees are entitled under the WCA, but is limited to describing the supplemental benefits provided to classified and temporary employees.~~

~~D. Types of injuries under the WCA:~~

~~1. Accidents. In order to be covered, an "accident" must:~~

- ~~a. Occur at work or during a work-related function;~~
- ~~b. Be caused by a specific work activity; and~~
- ~~c. Happen suddenly at a specific time. (Injuries incurred gradually or from repetitive trauma are not covered, although diseases caused by repetitive trauma are covered.)~~

~~2. Diseases. In order to be covered, a "disease" must:~~

- ~~a. Be caused by work; and~~
- ~~b. Not be a disease of the back, neck, or spinal column.~~

~~E. The local department must pay the following benefits under the WCA:~~

~~1. Wage replacement (temporary total or partial):~~

- ~~a. While temporarily unable to perform any work, an employee is entitled to 2/3 of the gross average weekly wage up to a set maximum weekly limit.~~
- ~~b. Seven days of disability must transpire before benefits are payable. However, if disabled for more than three weeks, the employee will receive payment for the first seven days.~~
- ~~c. Benefits cannot exceed five hundred weeks unless the employee is totally and permanently disabled.~~
- ~~d. If the injured employee cannot return to regular work and is given a light duty job at a lower wage, benefits are two-thirds of the difference between the preinjury wage and the current pay, up to the maximum weekly limit.~~

~~2. Lifetime medical benefits:~~

- ~~a. Medical expenses for conditions caused by the accident or occupational disease are payable for as long as necessary, provided a claim was filed by the employee within the required time period.~~
- ~~b. The employee must select a doctor from a panel of three physicians provided by the employer or carrier. If a~~

~~panel is not offered after notice of the accident, the employee may seek treatment from any physician. The treating physician may refer the employee to other doctors. Once treatment begins, the physician cannot be changed without approval of the employer or carrier or after a hearing by the commission.~~

~~c. The employee must cooperate with medical treatment or the weekly benefits may be suspended.~~

~~d. Medical bills should be sent to the insurance carrier for payment.~~

~~3. Benefits for permanent partial impairment.~~

~~a. Separate benefits are payable for the permanent loss of use of a body part, such as an arm, leg, finger, or eye. Vision and hearing loss, as well as disfigurement also may be compensated. This does not include the back, neck, or body as a whole.~~

~~b. Benefits are for a specific number of weeks, depending on the percentage of loss.~~

~~c. The employee can receive these benefits while working if maximum medical improvement has been reached.~~

~~4. Permanent and total disability. Lifetime wage benefits may be payable if an individual loses both hands, arms, feet, legs, eyes, or any two in the same accident, or is paralyzed or disabled from a severe brain injury.~~

~~5. Other benefits:~~

~~a. A surviving spouse, children under 18, children under 23 enrolled full-time in an accredited education institution, parents in destitute circumstances or other qualifying dependents may be entitled to wage benefits.~~

~~b. Death benefits include funeral expenses not to exceed \$5,000 and transportation costs of \$500.~~

~~F. An injured employee is responsible for:~~

- ~~1. Giving notice to the employer as soon as possible.~~
- ~~2. Filing a claim with the commission within two years from:

 - ~~a. The date of the accident; or~~
 - ~~b. The date of the doctor's diagnosis of an occupational disease.~~~~
- ~~3. Selecting a doctor from a panel of three provided by the employer or carrier.~~
- ~~4. Seeking and accepting employment if released to light duty, and cooperating with rehabilitation counselors. An employee who is released to light duty work must prove that he is actively looking for a light duty job, even if he expects to return to the regular job. The employee must accept all suitable positions offered or risk suspension of benefits.~~

~~G. The employee must specifically request cost-of-living increases. Cost-of-living supplements are not paid on temporary partial benefits.~~

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*PART V.
EMPLOYEE PERFORMANCE.*

~~22 VAC 40-675-330. Performance standards for local directors.~~

~~The performance standards for local directors specified in this section are to be used as the basis for the local director's performance evaluation.~~

- ~~1. Strategic planning and partnerships.
 - ~~a. Develops or coordinates a strategic plan for the local departments.~~
 - ~~b. Involves major stakeholder groups in the planning process.~~
 - ~~c. Develops short and medium-range objectives for implementation of the plan in the local department.~~~~
- ~~2. Program execution.
 - ~~a. Organizes and coordinates all operation activities.~~
 - ~~b. Develops and implements policies and procedures.~~
 - ~~c. Develops performance measures that relate process outputs and outcomes to progress toward departmental goals and objectives.~~
 - ~~d. Accomplishes goals, timeliness, accuracy, depth of analysis, and quality of presentation.~~~~
- ~~3. County or city representation and public relations.
 - ~~a. Attends meeting to represent city or county participation in job-related organizations.~~
 - ~~b. Serves as a representative for the locality on committees and boards.~~
 - ~~c. Provides informational opportunities for public awareness of social services programs.~~~~
- ~~4. Budget control.
 - ~~a. Prepares the local department's annual budget to obtain funding.~~
 - ~~b. Monitors and controls funds within the budget.~~
 - ~~c. Forecasts the need for budgetary changes.~~~~
- ~~5. Human resources development.
 - ~~a. Supervises, develops, and directs all personnel in the local department.~~
 - ~~b. Ensures commitment to equal employment in personnel management.~~~~
- ~~6. Staff development.
 - ~~a. Reviews employees' performance ratings.~~
 - ~~b. Reviews and supports training, career development, and management development programs.~~~~
- ~~7. Department knowledge.
 - ~~a. Advises other agencies, the city manager or county administrator, and boards of departmental activities.~~~~

- ~~b. Reports to boards on policies.~~
- ~~c. Recommends changes to ensure proper administration of the department.~~
- ~~8. Communication skills.
 - ~~a. Expresses ideas or viewpoints with the public and other business representatives.~~
 - ~~b. Negotiates or mediates with various constituents and parties.~~
 - ~~c. Maintains open communication with the department.~~
 - ~~d. Serves as liaison between organizations and the locality.~~~~
- ~~9. Leadership.
 - ~~a. Conducts business in a manner that encourages and fosters efficiency.~~
 - ~~b. Provides direction for local programs.~~
 - ~~c. Follows all associated state and federal policies.~~~~

~~22 VAC 40-675-340. Performance evaluation of local directors.~~

~~A. The local board shall complete the performance evaluation of the local director. A single copy of all evaluations shall be forwarded to the department's regional director for further evaluation and signing prior to submission to the employee relations manager of DSS' DHRM.~~

~~B. When it is determined that the local director's performance is unsatisfactory, the board may dismiss the local director. Instead of immediate dismissal, the board may apply the procedures established for performance that is less than satisfactory.~~

~~C. Procedures for completing the local director's service rating form:~~

- ~~1. Local directors receiving an original appointment serve a probationary period of twelve months. At the end of the twelfth month, the local board chairperson or board must rate the local director's performance on the form entitled "Service Rating of Director/Superintendent by Local Board and Regional Director." The local board subsequently rates the performance of local directors after two additional years and thereafter at intervals of three years on the month and day of permanent status.~~
- ~~2. Local directors receiving a promotion to the director level as permanent employees will have a service rating done by the local board chairperson or board 12 months from the date of promotion. Subsequent ratings are made annually for two more years and thereafter at intervals of three years on the month and day of promotion.~~
- ~~3. The elements of the local director's work are set forth in the service rating form and are evaluated separately. The individual elements are then translated into one of three levels of performance: exceeds expectations, meets expectations, or does not meet expectations. The rating may be supplemented by a narrative statement that elaborates on any phases of the local director's work,~~

~~substantiates the individual or overall ratings or supplies any information not previously covered.~~

~~4. The local board chairperson or board must discuss the evaluation with the local director. The evaluation must be signed by all participating parties prior to becoming part of the employee's permanent file.~~

22 VAC 40-675-350. Performance evaluation of other local department employees.

~~A. All employees who receive an original appointment serve a six or 12-month probationary period, except local directors and approved probationary period deviations. Although the employee's performance should be monitored continually, the supervisor must complete a performance evaluation at the end of the first five months of a six-month probationary period, or at the end of the first 11 months of a 12-month probationary period.~~

~~1. If the evaluation is satisfactory, the employee shall attain permanent or restricted status. An unsatisfactory performance evaluation may result in the termination of the employee.~~

~~2. For employees with satisfactory evaluations, subsequent performance evaluations are conducted annually by the supervisor, one month prior to the anniversary of the employee's date of permanent status.~~

~~B. Employees receiving a promotion, title change or demotion must have a performance evaluation conducted by the supervisor five months after the date of promotion, title change or demotion.~~

~~1. Thereafter, performance shall be evaluated annually one month prior to the month and day of the promotion, title change or demotion.~~

~~2. Employees promoted to director must be evaluated according to the rules for the director evaluation.~~

~~C. For probationary employees, the evaluation form must indicate whether permanent employment is recommended. For employees with permanent status, the form must state whether retention, dismissal, or other recommendations are made.~~

~~D. Procedure for administering the performance evaluation.~~

~~1. Part I of the form shall list the five major goals, objectives or elements upon which the actual productivity of the employee will be evaluated. The supervisor shall use the scale provided to derive a numerical score indicating the quality and quantity of performance for each goal or element. The scores for all five elements are then added to give a total quality score and a total quantity score.~~

~~2. In Part II of the form, the employee's conduct in each area listed is evaluated, using the numerical scale provided for each question. The scores are then added to give a total score.~~

~~3. In Part III, the numerical evaluation score for the quality of work is determined by dividing the quality of work total by five. The numerical score for quantity of work is determined by dividing the quantity of work total by five. The conduct~~

~~numerical score is determined by dividing the conduct total by four. The quality, quantity and conduct numerical scores are then added together and divided by three to determine the overall evaluation numerical score.~~

~~4. The final numerical score is then compared to the scale provided on the form to determine the level of the employee's performance. Any numerical score of less than 4.0 is unsatisfactory. The maximum achievable score is 9.0.~~

~~E. Signing and dating the evaluation.~~

~~1. After determining whether the employee's performance is satisfactory, the supervisor should make appropriate recommendations and sign and date the evaluation.~~

~~2. The next level supervisor will act as reviewer and will sign and date the evaluation and make any appropriate comments. The reviewer shall not make any changes on the evaluation. Any comments should be shared with the evaluator and the employee.~~

~~3. The employee should sign and date the evaluation and make any comments desired. The employee's signature does not necessarily indicate agreement with the evaluation; however, it does indicate that the evaluation has been seen.~~

~~a. If the employee refuses to sign the evaluation, the evaluator should enter the comment "refused to sign" on the appropriate line.~~

~~b. Failure to sign does not negate the evaluation.~~

~~F. Less than satisfactory performance. When an employee's performance is determined to be less than satisfactory, the employee's supervisor, the appointing authority and the local agency personnel officer (if any) shall review the performance. From this review, the appointing authority shall determine whether the unsatisfactory performance should be classified as Category One or Category Two.~~

~~1. Category One. This category includes performance difficulty resulting from an inability to adapt to job requirements. If a determination is made that the employee lacks the ability, the following steps should be taken:~~

~~a. A plan of action should be outlined identifying any options that might reasonably exist at that time or in the near future, such as reassignment to an opening elsewhere in the local agency that would be compatible with the employee's ability. Such an opening may be an equal or lower rated position. The lateral or downward placement of such employees within a local agency will take precedence over the hiring of new employees into the agency.~~

~~b. In some cases in this category, an employee may possess highly satisfactory skills for other occupational classes. In such instances, the employee may elect to apply for openings at a higher level, in which case the employee will be considered along with other applicants.~~

~~c. The employee should be advised that if a solution fails to materialize during the next three months, the employee will be asked to resign. If the employee does not elect to~~

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~~resign, the employee will be removed. The removal should be identified as "unadapted for assigned work."~~

~~2. Category Two. Unsatisfactory job performance as a result of insufficient job application or self-discipline regarding job performance will constitute Category Two.~~

~~a. Performance difficulty resulting from insufficient job application or self-discipline regarding job performance may constitute inadequate or unsatisfactory job performance as identified in the Employee Standards of Conduct Policy, discussed in 22 VAC 40-675-380 et seq.~~

~~b. A supervisor confronted with a Category Two performance situation should discuss the seriousness of the performance problem with the employee. The employee should be advised that unless the performance is corrected, corrective action as outlined in the Standards of Conduct will apply.~~

~~c. There is no specified time period for the corrective action process. In some cases, no written notices will need to be issued because of the employee's responsiveness to the situation. In other cases, the employee may ultimately be terminated as the result of the accumulation of written notices. The time between the written notices will vary with the nature of the assigned work and the employee's particular problem. In a case where accuracy is the problem, repetition or error may be noticed very quickly, and the written notice would be issued accordingly. In other instances, where job cycles are longer or the performance problem is more difficult to measure, the time between written notices may be several months.~~

~~d. If the performance is corrected and such correction is evident on a sustained basis, the supervisor should conduct a new performance evaluation. If the new evaluation is satisfactory, and the employee is not at the maximum pay rate, a performance increase should be processed. A performance increase may not be delayed more than 12 months following the issuance of the last written notice for corrective action purposes.~~

~~G. Other requirements in the evaluation process:~~

~~1. When an employee performance evaluation has been completed, the employee service rating date must be changed.~~

~~2. Only one evaluation form is completed and it shall become part of the permanent employee file maintained in the local agency. The evaluation must be discussed with the employee before becoming part of the permanent file.~~

~~3. The information in the evaluation form shall not be shared with persons other than those authorized access to the file, unless the employee provides written and signed permission.~~

~~4. A single copy of the evaluation shall be forwarded to the regional director for further evaluation and signing prior to submission to the employee relations manager of DSS' DHRM.~~

~~22 VAC 40-675-360. Deviation in performance evaluation plan.~~

~~In local jurisdictions with a performance evaluation plan that applies uniformly to all local governmental employees, the local plan may be used, provided it is approved by the state board as being in substantial conformity with Merit System Standards and requirements established in this section.~~

~~PART VI.~~

~~EQUAL EMPLOYMENT OPPORTUNITY.~~

~~22 VAC 40-675-370. Equal employment opportunity.~~

~~A. The state board promotes equal employment opportunity in the recruitment and selection process by ensuring that qualification requirements are job-related and that such requirements do not limit or restrict employment opportunities because of race, color, religion, sex, age, disability, national origin or political affiliation (except where sex or age is a bona fide occupational qualification).~~

~~1. Local departments shall follow this policy in all actions pertaining to recruitment, selection, promotions, demotions, transfers, layoffs, terminations, compensation and benefits, training, leave, and use of facilities.~~

~~2. Recruitment and job advertisement efforts over and above those enumerated in this policy, and consistent with the department plan (such as special recruiting efforts to attract minorities and females) shall be deemed to be supportive of the department's and local departments' Equal Employment Opportunity/Affirmative Action Plans.~~

~~B. All local departments shall prepare their own plan, or comply with a written local jurisdiction plan, which provides an aggressive, coherent management program for equal employment opportunity for all employees and applicants for employment.~~

~~1. Such a plan must require equal employment opportunity on the basis of fitness and merit without regard to race, color, religion, sex, age, disability, national origin or political affiliation (except where sex or age is a bona fide occupational qualification). In addition, the plan shall prohibit any form of sexual harassment.~~

~~2. The plan shall be tailored specifically to the work force and available skills in the community. The plan will include specific actions with goals, timetables, responsibilities, and resources to meet identified needs.~~

~~3. Compliance with the plan requires that all qualified applicants be afforded equal opportunity to compete for employment and promotion within local departments.~~

~~C. Avenues of recourse. Employees or applicants for employment who believe that they have been discriminated against may file a complaint with the Virginia Department of Human Resources Management, Office of Equal Employment Services, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.~~

~~All local departments are required to cooperate fully with the Office of Equal Employment Services when they are conducting official investigations of charges of discrimination. Cooperation includes providing papers, notes, documents,~~

and any other written material, and responding to questions deemed necessary by that office to investigate the charge.

**PART VII.
STANDARDS OF CONDUCT.**

22 VAC 40-675-380. Policy, intent, and purpose.

~~A. The intent of the Standards of Conduct, as adopted by the state board, is to protect the well-being and rights of all employees, to assure safe, efficient operations, and to ensure compliance with public law.~~

~~B. The purpose of the Standards of Conduct is to:~~

- ~~1. Establish a fair and objective process for correcting and treating unacceptable conduct;~~
- ~~2. Distinguish between less serious and more serious actions of misconduct and provide timely corrective action accordingly; and~~
- ~~3. Limit corrective action to employee conduct occurring only when employees are at work or when otherwise representing the local board in an official or work-related capacity, unless otherwise specifically provided for in this procedure.~~

~~C. The options of local boards in regard to standards of conduct are to adopt the standards under 22 VAC 40-675-380 et seq. or to adopt local jurisdictional standards of conduct which apply to all local employees except those exempt under the Code of Virginia. Such local standards must be in conformity with state board policy.~~

- ~~1. Local jurisdictional standards of conduct must be submitted to DSS' DHRM and approved by the state board before the date of implementation in the local agency.~~
- ~~2. Any changes in approved jurisdictional standards of conduct must be submitted to DHRM and approved by the state board prior to the effective date of the proposed revision.~~

22 VAC 40-675-390. Content of standards.

~~Many of the standards in this section are the kinds that guide employee behavior anywhere in business relationships. Other standards and procedures are more particularly applicable to employees of local government agencies. The following standards are not all-inclusive, but illustrate the minimum expectations for acceptable work performance and workplace behavior.~~

- ~~1. Attendance.

 - ~~a. Employees should report to work as scheduled.~~
 - ~~b. An employee who cannot report as scheduled should:

 - ~~(1) Arrange planned absences, including reporting to work late or leaving work early, in advance with supervisors; and~~
 - ~~(2) Report unexpected absences, including reporting to work late or having to leave early, to supervisors as promptly as possible.~~~~~~
- ~~2. Satisfactory work performance.~~

~~a. Employees are expected to meet established performance standards.~~

~~b. Supervisors should assist employees in understanding the expectations of these Standards of Conduct and those set forth in employees' performance plans.~~

~~3. Compliance with policies. Employees are expected to abide by all policies promulgated by the department and their agencies.~~

~~4. Reporting circumstances that affect satisfactory work performance.~~

~~a. Employees should report to their supervisors any conditions or circumstances that prevent satisfactory work performance.~~

~~b. Employees should advise their supervisor of unclear instructions or procedures that may affect satisfactory work performance.~~

22 VAC 40-675-400. Inability to meet working conditions.

~~A. An employee unable to meet the working conditions of employment due to circumstances such as the following may be removed under this section. Reasons include:~~

- ~~1. Loss of driver's license required for performance of the job;~~
- ~~2. Incarceration for an extended period; or~~
- ~~3. Loss of license or certification required for the position.~~

~~B. Resignation or "removal." If an employee is removed, such removal, if not a resignation, shall be reported as "dismissal" with a description of the circumstances written on the transmittal document.~~

~~C. Due process. Prior to such removal, the appointing authority shall gather full documentation supporting such action and shall notify the employee, verbally or in writing, of the reasons for such a removal, giving the employee a reasonable opportunity to respond to the charges. Final notification of removal should be through memorandum or letter, not by a Written Notice Form.~~

22 VAC 40-675-410. Unacceptable conduct.

~~A. The following offenses are not all-inclusive, but are examples of unacceptable behavior for which specific disciplinary actions may be warranted. Accordingly, any offense that, in the judgment of the local director, undermines the effectiveness of the agency's activities, may be considered unacceptable and treated in a manner consistent with the provisions of this section.~~

~~B. The offenses listed in this section are organized into three groups according to severity.~~

~~1. Group I offenses include those types of behavior that are least severe in nature, but that requires correction in the interest of maintaining a productive and well-managed workforce. They are:~~

- ~~a. Unsatisfactory attendance or excessive tardiness;~~

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~~b. Abuse of agency time, including unauthorized time away from the work area, use of agency time for personal business, and abuse of sick leave;~~

~~c. Use of obscene or abusive language;~~

~~d. Inadequate or unsatisfactory work performance;~~

~~e. Disruptive behavior; and~~

~~f. Conviction of a moving traffic violation while using a state-owned or other public-use vehicle.~~

~~2. Group II offenses include acts and behavior that are more severe in nature. An accumulation of two Group II offenses normally should warrant removal. They are:~~

~~a. Failure to follow a supervisor's instructions, perform assigned work, or otherwise comply with established written policy;~~

~~b. Violating a safety rule where there is no threat of bodily harm;~~

~~c. Leaving the work site during work hours without permission;~~

~~d. Failure to report to work as scheduled without proper notice to supervisor;~~

~~e. Unauthorized use or misuse of local or state property or records; and~~

~~f. Refusal to work overtime hours, as required.~~

~~3. Group III offenses include acts and behavior of such a serious nature that a first occurrence normally should warrant removal. They are:~~

~~a. Absence more than three days without proper authorization or a satisfactory reason;~~

~~b. Falsifying any records, including, but not limited to, vouchers, reports, insurance claims, time records, leave records, or official agency documents;~~

~~c. Willfully or negligently damaging or defacing agency records, agency property, or property of other persons (including, but not limited to employees, patients, supervisors, inmates, students and visitors);~~

~~d. Theft or unauthorized removal of agency records, state property, or property of other persons (including, but not limited to, employees, patients, supervisors, inmates, students and visitors);~~

~~e. Gambling on agency property or during work hours;~~

~~f. Fighting or other acts of physical violence;~~

~~g. Violating safety rules where there is a threat of physical harm;~~

~~h. Sleeping during work hours;~~

~~i. Participating in any kind of work slowdown or similar concerted interference with agency operations;~~

~~j. Unauthorized possession or use of firearms, dangerous weapons, or explosives;~~

~~k. Threatening or coercing persons associated with any agency (including, but not limited to, employees, supervisors, and visitors); and~~

~~l. Criminal convictions for illegal conduct occurring on or off the job that clearly are related to job performance or are of such a nature that to continue employees in their positions could constitute negligence in regard to the agency's duties to the public or to other local or state employees.~~

22 VAC 40-675-420. Corrective action.

~~A. As soon as a supervisor becomes aware of an employee's unsatisfactory behavior or performance, or commission of an offense, the supervisor or other management should take corrective action to address such behavior. Corrective action may include referral to professional assistance, counseling, disciplinary action, or a combination of these alternatives.~~

~~1. Whether a supervisor uses informal counseling or formal disciplinary action depends upon the nature of the behavior and attending circumstances.~~

~~2. Management should apply corrective actions consistently, while taking into consideration the specifics of each individual case.~~

~~B. Correction alternatives. Before the need for, or in addition to, corrective action, supervisors may refer employees to professional counseling services. Referrals shall not be considered a substitute for any disciplinary action imposed for the commission of an offense.~~

~~C. Supervisory counseling.~~

~~1. Counseling should consist of private discussion between the employee and supervisor regarding the desired course of action to improve the employee's performance or behavior, as well as the supervisor's expectations for the employee.~~

~~2. While many performance and behavior problems can be resolved through informal counseling, counseling is not a prerequisite to formal disciplinary action.~~

~~3. Counseling may be documented by letter or memorandum, but not on the Written Notice Form. Documentation regarding counseling should be retained in the supervisor's files, not in employee's personnel files, except as necessary to support subsequent formal disciplinary action.~~

22 VAC 40-675-430. Procedures for implementing disciplinary actions.

~~Disciplinary action should be used in response to the commission of offenses, and may consist of a written notice and suspension, transfer, demotion, or termination, or a combination of these alternatives.~~

~~1. Written notices.~~

~~a. Management should issue a written notice as soon as possible after the employee's commission of an offense.~~

~~b. The severity of a written notice depends upon the type of offense for which it is issued, and is measured by the~~

~~period for which it is "active": The active period for a written notice is definite and may not be extended due to an employee's absence.~~

~~(1) A written notice for a Group I offense is active for two years from its date of issuance to the employee.~~

~~(2) A written notice for a Group II offense is active for three years from its date of issuance to the employee.~~

~~(3) A written notice for a Group III offense is active for four years from its date of issuance to the employee.~~

~~c. Written notices that are no longer active shall not be considered in an employee's accumulation of written notices, or in determining the appropriate disciplinary action for a new offense.~~

~~d. Written notices shall be kept in employees' personnel files.~~

~~(1) A written notice may be removed from an employee's personnel file if the agency modifies or vacates its disciplinary action.~~

~~(2) If, through the grievance procedure, it is determined that the written notice was not justified, the panel may direct its removal from the employee's personnel file.~~

~~(3) A written notice removed from an employee's personnel file shall not be destroyed, but shall be retained in a grievance file or separate confidential file.~~

~~(4) Once removed, a written notice shall not be considered in relation to any future disciplinary or other personnel action.~~

~~2. Mitigating circumstances.~~

~~a. While the disciplinary actions imposed shall not exceed those set forth for specific offenses, agencies may reduce the disciplinary action if there are mitigating circumstances such as:~~

~~(1) Conditions that would compel a reduction in the disciplinary action to promote the interests of fairness and objectivity; or~~

~~(2) An employee's long service or otherwise satisfactory work performance.~~

~~b. Mitigating circumstances may result in an employee's demotion, transfer or suspension, or a combination of these actions, as an alternative to discharge.~~

~~c. When the local agency determines suspension to be the appropriate alternative to discharge, suspension shall not exceed 30 workdays for a Group III offense or for an accumulation of four Group I and two Group II offenses.~~

~~3. Disciplinary actions for specific offenses.~~

~~a. The normal disciplinary action for a Group I offense is the issuance of a written notice. Group I written notices are cumulative.~~

~~(1) Upon the accumulation of three active written notices for Group I offenses, the employee normally~~

~~should be suspended without pay for a period not to exceed five days.~~

~~(2) A fourth active written notice for a Group I offense normally should result in discharge, except that mitigating circumstances may justify the transfer or demotion of the employee. Mitigating circumstances also may justify a suspension for up to 30 workdays as an alternative to discharge.~~

~~b. The normal disciplinary action for a Group II offense is issuance of a written notice only, or a written notice and up to 10 days of suspension without pay. Group II written notices are cumulative.~~

~~(1) A second active Group II written notice normally should result in discharge.~~

~~(2) A Group II written notice following three active Group I written notices normally should result in discharge.~~

~~(3) Mitigating circumstances related to an employee's commission of a Group II offense may result in the employee's demotion or transfer. The employee also may be suspended for up to 30 workdays as an alternative to discharge.~~

~~(4) If an employee is not discharged due to mitigating circumstances, the agency should notify the employee that a subsequent written notice during the active life of the written notice may result in discharge.~~

~~c. The normal disciplinary action for a Group III offense is the issuance of a written notice and discharge.~~

~~(1) Mitigating circumstances related to an employee's commission of a Group III offense may result in the employee's demotion or transfer. The employee also may be suspended for up to 30 workdays.~~

~~(2) If an employee is not discharged due to mitigating circumstances, the agency should notify the employee that any subsequent written notice during the active life of the written notice may result in discharge.~~

~~4. Procedures related to disciplinary suspension, demotion, transfer, or termination.~~

~~a. Prior to any disciplinary suspension, demotion, or transfer, or disciplinary removal action, an employee must be given oral or written notification of the offense, an explanation of the agency's evidence in support of the charge, and a reasonable opportunity to respond.~~

~~b. Management may immediately remove an employee, with pay, from the work area without providing advance notification when the employee's continued presence:~~

~~(1) May be harmful to the employee, other employees, clients, or patients;~~

~~(2) Makes it impossible for the agency to conduct business; or~~

~~(3) May constitute negligence in regard to the agency's duties to the public or other employees.~~

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~~c. As soon as possible after an employee's removal from the work area, management must provide the employee with notification of the intended disciplinary action and evidence of the offense for which the disciplinary action is being contemplated. Management must also provide the employee with a reasonable opportunity to respond before taking any disciplinary action.~~

~~d. Management shall report an employee's removal from the work place as "Pre-disciplinary Action Leave." Pre-disciplinary action leave is leave with pay, without charge to an employee's leave balances, for a period normally limited to five workdays.~~

~~e. A written notice documenting the cause and nature of the disciplinary action, and stating the employee's right to grieve the disciplinary action, shall be provided to any employee who subsequently is disciplined. A copy of the written notice shall be placed in the employee's personnel file.~~

~~5. Procedures related to suspension pending investigations or court actions:~~

~~a. A suspension may be imposed pending:~~

~~(1) An investigation of an employee's conduct by his agency; or~~

~~(2) An investigation involving the employee's conduct by the State Police or other federal, state, or local law enforcement agencies, or a court action.~~

~~b. Written notice of suspension pending an investigation or other action should be by memorandum, not by the written notice form.~~

~~c. At an employee's request, and at the agency's option, accrued annual leave may be charged to the period of suspension pending an investigation or court action to reduce or eliminate loss of earnings.~~

~~d. If, following the conclusion of the investigation, the agency determines that the disciplinary action was not appropriate, accrued leave applied to the period of shall be reinstated.~~

~~e. If during, or upon the conclusion of, the period of an employee's suspension pending an investigation or court action, the agency determines that a disciplinary suspension is warranted, the disciplinary suspension shall begin immediately, and the period of suspension that the employee has served pending the investigation or court action shall count towards the period of disciplinary suspension.~~

~~f. Suspended employees normally shall not be allowed on the agency's premises, nor shall they be allowed to work, except to fulfill previously scheduled court obligations or to file and process a grievance.~~

~~6. Provisions specific to suspension pending agency investigation:~~

~~a. Length of suspension. The period of suspension pending the agency's investigation shall be limited to 10 workdays. If the agency does not make a decision~~

~~regarding disciplinary action within 10 workdays, the employee shall be permitted to return to work pending completion of the investigation. The 10-day limit on the period of suspension pending the agency investigation shall not apply if the court action or investigation by law enforcement agencies involves alleged criminal misconduct that occurred either on or off the job; or the misconduct under investigation is of such a nature that to retain the employee in his position could constitute negligence in regard to the agency's duties to the public.~~

~~b. If the agency investigation clears the employee of any misconduct, the agency shall reinstate the employee with back pay for the period of suspension.~~

~~c. Upon the conclusion of an investigation by law enforcement agencies or of the court action, the agency has the discretion to:~~

~~(1) Impose disciplinary action, including discharge; or~~

~~(2) Not impose discipline, in which case the employee must be reinstated with full back pay.~~

~~7. Disciplinary suspensions of exempt employees~~

~~a. When it is necessary to impose a suspension for an exempt employee for reasons other than an infraction of a safety rule of major significance, the suspension shall not be less than a full work week of 40 hours. Suspensions of more than a work week will be in multiples of full work weeks. An employee may not be permitted to serve such a suspension period in less than whole work week segments.~~

~~b. Suspension of an exempt employee for an infraction of a safety rule of major significance may be applied for less than a full work week. Safety rules of major significance, such as prohibiting smoking in explosive areas, are defined as provisions intended to prevent serious danger to the workplace or to other employees.~~

~~c. Pay and benefits during suspension. The following provisions regarding compensation and benefits apply to suspension, whether initiated pending an investigation or court action, or imposed for disciplinary reasons.~~

~~(1) Compensation. All suspensions are without pay, except that employees suspended pending an investigation or court action may be allowed to use accrued annual leave to receive pay. The agency should update records immediately upon suspending employees, and upon subsequent demotions, transfers, discharges, or reinstatements.~~

~~(2) Incentive increases. An employee's eligibility for incentive increases may be affected by the time on suspension.~~

~~(3) Annual and sick leave accrual. An employee on suspension shall not accrue annual or sick leave, except that:~~

~~(a) If a suspension extends into a second pay period, accrual of annual and sick leave shall resume in the second pay period, unless the period of suspension exceeds 15 calendar days; and~~

~~(b) If a suspension extends into a third pay period, accrual of annual and sick leave shall resume in the third pay period, unless the period of suspension exceeds 31 calendar days.~~

~~(4) Health insurance.~~

~~(a) A suspended employee's health insurance coverage continues until the end of the month in which the suspension began, except that there shall be no break in coverage if the employee is reinstated in time to work half of the workdays in the following month.~~

~~(b) If the length of the period of suspension results in a break in health insurance coverage, the suspended employee may retain group insurance coverage for 12 months by paying the monthly insurance premiums (both the employee's and the state's contribution) in advance.~~

~~(c) Upon reinstatement:~~

~~(i) If an agency reinstates a suspended employee with back pay for any period of the suspension, the agency shall refund to the employee the state's portion of any health insurance premiums the employee paid to continue coverage during the suspension.~~

~~(ii) If an agency reinstates a suspended employee without back pay, there shall be no reimbursement for any portion of health insurance premiums paid to continue coverage.~~

~~(5) Life insurance coverage may continue for up to 24 months, with the agency making the full contribution.~~

22 VAC 40-675-440. Employee grievance procedure.

~~A. Employees may challenge disciplinary actions through the employee grievance procedure.~~

~~B. Authority of a grievance panel or hearing officer.~~

~~1. A grievance panel or hearing officer may uphold, modify, or reverse disciplinary action taken by an agency, so long as the panel's decision is consistent with written policy.~~

~~2. If a grievance panel or hearing officer orders an employee's reinstatement for suspension, discharge or demotion, the panel or hearing officer may order full, partial or no back pay and/or credit for annual and sick leave that the employee did not accrue during the period of discharge or suspension.~~

~~3. If a grievance panel or hearing officer reduces an employee's disciplinary record such that termination no longer could take place (i.e., the employee has only three Group I Written Notices or one Group II Written Notice), the panel must reinstate the employee with full back pay (minus an appropriate disciplinary suspension, if it wishes).~~

~~4. A grievance panel or hearing officer's award of back pay shall be offset by any interim earnings that the employee received during the period of separation, including unemployment compensation received from the Virginia Employment Commission.~~

~~5. If a grievance panel or hearing officer orders reinstatement with back pay for any period of the separation, the employee shall receive reimbursement for any health insurance premiums paid during the period that would have been paid by the agency if the employee had not been separated.~~

~~6. If a grievance panel or hearing officer orders reinstatement without back pay, the employee shall not receive reimbursement for any portion of the health insurance premiums paid during the separation.~~

PART VIII.

OTHER EMPLOYEE RELATIONS POLICIES.

22 VAC 40-675-450. Political activity.

~~A. No local department employee shall make use of his official authority or influence to:~~

~~1. Interfere with or affect the result of a nomination or election of office;~~

~~2. Directly or indirectly coerce, command or advise a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes; or~~

~~3. Be a candidate for public elective office in a partisan primary, general or special election.~~

~~B. The department's provisions on political activity are consistent with the federal Hatch Act (5 USC §§ 1501-1509) and facilitate effective control of prohibited political activity by employees.~~

~~C. Coverage.~~

~~1. In general, the law covers officers or employees of a state or local agency if their principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a federal agency.~~

~~2. An employee subject to political activity laws and regulations continues to be covered by these laws and regulations while on annual leave, sick leave, leave without pay, administrative leave, or furlough.~~

~~D. Local boards shall adopt these provisions or, instead, adopt the provisions of the local governmental jurisdiction consistent with the federal Hatch Act (5 USC §§ 1501-1509).~~

22 VAC 40-675-460. Outside employment of local department employees.

~~A. Employees in local departments shall not engage in any other employment, any private business, or in the conduct of a profession:~~

~~1. During the hours that they are employed to work; or~~

~~2. Outside their work hours if such employment is deemed by employing agencies to affect employees' work performance, or to be in violation of the Statement of Economic Interests (§§ 2.2-3112 through 2.2-3117 of the Code of Virginia).~~

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~~B. Employees seeking approval for employment outside their work hours in local departments must ensure that such employment will not affect their usefulness as an employee during normal working hours.~~

~~C. If an employee desires to seek or be engaged in additional outside employment or in part time employment in another local or state agency, the employee must first obtain approval from the local director.~~

~~1. The local director is responsible for determining if additional employment is likely to affect the employee's usefulness to the local agency in his regular job, or if a potential conflict of interest may exist in the second job.~~

~~2. If the employee receives approval to accept the additional employment and job performance begins to deteriorate, the local director may ask the employee to give up the additional employment.~~

~~3. No property belonging to, or under contract by, the agencies may be used for outside employment activities.~~

~~D. Unauthorized outside employment.~~

~~1. If an employee accepts employment outside the agency without receiving prior approval, the employee will be subject to disciplinary action under the Standards of Conduct (see Part VII).~~

~~2. If the employee is injured or becomes ill as a result of unauthorized additional employment, the employee cannot charge the resulting absence from employment with the local agency to accumulated sick leave.~~

22 VAC 40-675-70. Commissioner's responsibilities.

A. The commissioner shall establish the State Classification Plan and shall submit the plan to the board for approval.

B. The commissioner shall maintain the State Classification Plan to ensure that it has the appropriate numbers and types of classifications to meet the needs of local departments.

22 VAC 40-675-80. State Compensation Plan.

A. The board shall approve a State Compensation Plan to ensure that it has the appropriate numbers and types of classifications to meet the needs of local departments.

B. The board shall review the State Compensation Plan as needed.

C. Amendments to the State Compensation Plan shall be presented to the board for approval.

D. The department shall advise local departments of all changes to the State Compensation Plan and any mandates that require local department action.

22 VAC 40-675-90. Local compensation plans.

A. A local department, upon approval by the local board, shall have flexibility in developing the local compensation plan to select salary ranges within the approved State Compensation Plan that are suitable to local situations. The range for each class shall provide local minimum and maximum rates and intervening steps. The local plan shall ensure that local

minimum salary rates do not fall below the State Compensation Plan minimum salary for that classification.

B. A local compensation plan shall include policies and procedures for awarding salary increments, conversion, merit increases, special compensation for child and adult protective service work, employee or position status changes, and any other type of approved increases. Salary determinations shall be rendered in a fair and consistent manner to ensure equal pay for equal work.

C. All requested position actions by local departments must be reviewed and approved by the department prior to implementation.

D. Midyear changes to the local compensation plan must be submitted to the department for review and approval.

E. Local compensation policies and practices shall comply with federal and state laws including the federal Fair Labor Standards Act (29 USC §§ 201-219), the Administrative Manual and procedures provided by the department.

22 VAC 40-675-100. Other local compensation issues.

A. In localities where the governing body has elected to have a director of social services serve as the local board, reimbursement for governing body assigned expenses shall be in accordance with § 63.2-310 of the Code of Virginia.

B. Provisions shall be made for overtime worked in accordance with the Fair Labor Standards Act (29 USC §§ 201-219). The reimbursement shall be up to the reimbursable maximum of the applicable position classification. Local departments with approved deviating compensation plans will also be reimbursed up to the maximum of the applicable position classification. When the local deviating maximum exceeds the state reimbursable maximum, local-only funds shall be used to compensate for overtime.

C. Reimbursements shall be made for absences that result from the closing of local departments' operations because of inclement weather conditions or other authorized closing.

D. Bonuses for employees of local departments of social services shall be consistent with §15.2-1508 of the Code of Virginia and with procedures provided by the department.

22 VAC 40-675-110. Deviations from State Classification or Compensation Plans.

A. The board may approve local department's request for deviation from the State Classification and Compensation Plan.

B. Deviation requests may be either for classification, classification and compensation or compensation only.

C. Local departments shall submit required forms as specified in the Administrative Manual when requesting deviation from the State Classification Plan or State Compensation Plan.

22 VAC 40-675-120. Sanctions.

A. Policies and practices by the local departments are subject to review or audit by the department.

B. Reviews may include but not be limited to the assessment and analysis of personnel data, records, reports, systems and feedback from local department employees.

C. When the department finds that a local department has not complied with or has violated the provisions of this regulation, the department may impose financial sanctions or require reimbursement of funds. Funds may be withheld until such time as deemed necessary for the proper administration of the local compensation plan.

PART III.
RECRUITMENT AND SELECTION OF LOCAL
DEPARTMENT EMPLOYEES.

22 VAC 40-675-130. General hiring provision.

A. Recruitment, selecting and advancing employees shall be on the basis of their relative ability, knowledge and skills, including open consideration of qualified applicants for original appointment assuring fair treatment of applicants and employees in all aspects of personnel administration and with proper regard to their privacy and constitutional rights as citizens. This fair treatment principle includes compliance with the federal equal employment opportunity and nondiscrimination laws.

B. The department shall determine the application process and employment forms to be used by all applicants for original appointment, promotion, demotion, transfer and reemployment.

C. In accordance with § 63.2-325 of the Code of Virginia, the commissioner shall provide a list of eligible candidates for the position of local director to the local board or other appropriate appointing authority.

D. The board shall place the responsibility of the final selection process of employees with the local director and local board.

E. Local departments adopting local jurisdiction personnel plans shall follow the provisions of the city, county or town of which they are a governmental unit.

PART IV.
EMPLOYEE STATUS.

22 VAC 40-675-140. Employee status in the merit system plan.

A. Status defines the employee's permanency in the system as it relates to benefits and the use of grievance policies.

B. The types of employee status included in the merit system plan are probationary, nonprobationary, restricted, temporary and emergency.

C. Local departments shall provide benefits in accordance with the requirements of the Administrative Manual.

22 VAC 40-675-150. Reimbursements to local departments for benefits paid to employees.

All reimbursements shall be made in accordance with policies and procedures provided by the department.

22 VAC 40-675-160. Termination or separation from local service.

The local board or other appointing authority subject to the merit system plan shall ensure that employees are separated in accordance with procedures contained in the Administrative Manual.

PART V.
EMPLOYEE PERFORMANCE.

22 VAC 40-675-170. Performance evaluation of local department employees.

A. The local board shall complete the performance evaluation of the local director using the standards approved by the board and contained in the Administrative Manual.

B. The local directors have responsibility for ensuring the evaluation of local employees in accordance with the Administrative Manual.

PART VI.
EQUAL EMPLOYMENT OPPORTUNITY.

22 VAC 40-675-180. Equal employment opportunity.

A. The board promotes equal employment opportunity in the recruitment and selection process by ensuring that qualification requirements are job-related and that such requirements do not limit or restrict employment opportunities because of race, color, religion, sex, age, disability, national origin or political affiliation (except where sex or age is a bona fide occupational qualification).

B. All local departments shall prepare their own affirmative action plan in accordance with the Administrative Manual, or comply with a written local jurisdiction plan that provides an aggressive, coherent management program for equal employment for all employees and applicants for employment.

C. Employees or applicants for employment who believe that they have been discriminated against may file a complaint with the Virginia Department of Human Resource Management, Office of Equal Employment Services, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

D. All local departments are required to cooperate fully with the Office of Equal Employment Services when they are conducting official investigations of charges of discrimination. Cooperation includes providing papers, notes, documents and any other written material, and responding to questions deemed necessary by that office to investigate the charge.

PART VII.
STANDARDS OF CONDUCT.

22 VAC 40-675-190. Policy, intent and purpose.

A. The intent of the standards of conduct is to protect the well-being of employees, assure safe and efficient operations and establish a fair and objective process for correcting and treating unacceptable conduct.

B. Standards of conduct shall be limited to employee conduct occurring at work or when otherwise representing the local

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department in a work related capacity, unless otherwise specified in department policies and procedures.

PART VIII.
GRIEVANCE PROCEDURE.

22 VAC 40-675-200. Employee grievance procedure.

Local departments not included in their jurisdiction's grievance procedure shall develop their own in accordance with the Administrative Manual. This grievance shall be consistent with the provisions of Chapter 10 (§ 2.2-1000 et seq.) of Title 2.2 of the Code of Virginia.

PART IX.
OTHER EMPLOYEE RELATIONS POLICIES.

22 VAC 40-675-210. Political activity.

A. No local department employee shall make use of his official authority or influence to:

1. Interfere with or affect the result of a nomination or election to office;
2. Directly or indirectly coerce, command or advise a state or local officer or employee to pay, lend or contribute anything of value to a part, committee, organization, agency or person for political purposes; or
3. Be a candidate for public elective office in a partisan primary, general or special election.

B. The local department's provisions on political activity are consistent with the federal Hatch Act (5 USC §§ 1501-1509) and facilitate effective control of prohibited political activity by employees.

C. In general, the Hatch Act covers officers or employees of a state or local department if their principle employment is in connection with an activity that is financed in whole or in part by loans or grants made by a federal agency. An employee subject to political activity laws continues to be covered by these laws and regulations while on annual leave, sick leave, leave without pay, administrative leave or furlough.

D. Local boards shall adopt these provisions or, instead, adopt the provisions of the local governmental jurisdiction consistent with the federal Hatch Act.

22 VAC 40-675-220. Outside employment of local department employees.

A. Employees in local departments shall not engage in any other employment, any private business, or in the conduct of a profession that interferes with their usefulness as an employee during normal working hours and their work performance, or shall not be in violation of Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia.

B. If an employee desires to seek or be engaged in outside employment, the employee must first obtain approval from the local director.

C. If an employee accepts employment outside the agency without receiving prior approval, the employee will be subject to disciplinary action under the standards of conduct.]

NOTICE: The forms used in administering 22 VAC 40-675, Personnel Policies for Local Departments of Social Services, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Social Services, Division of Human Resources Management, 730 East Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Local Policy Request Form (eff. 9/00).

Self-Analysis Audit for Deviations (eff. 9/00).

[~~Service Rating of Local Director/Superintendent by Local Board and Regional Director (eff. 10/00).~~

~~Local Employee Performance Evaluation Form (eff. 10/00).~~

~~Sample Written Notice Form (eff. 4/00).~~

Human Resource Policy Record.]

DOCUMENTS INCORPORATED BY REFERENCE

Local Agency Compensation Plan, Virginia Department of Human Resource Management, revised December 1, 2000.

[Administrative Manual for Local Departments of Social Services, Virginia Department of Social Services, revised September 2000.]

VA.R. Doc. No. R01-196; Filed April 29, 2003, 2:32 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 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF MINES, MINERALS AND ENERGY

REGISTRAR'S NOTICE: The Department of Mines, Minerals, and Energy is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 1 of the Code of Virginia, which excludes agency orders or regulations fixing rates or prices. The Department of Mines, Minerals, and Energy will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 4 VAC 25-150. Virginia Gas and Oil Regulation (amending 4 VAC 25-150-120).

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

Effective Date: July 1, 2003.

Summary:

The amendment increases fees for filing an application to transfer gas or oil permit rights from \$50 to \$65 as authorized by Chapters 542 and 550 of the 2003 Acts of Assembly.

Agency Contact: Stephen A. Walz, Regulatory Coordinator, Department of Mines, Minerals and Energy, 202 North 9th Street, 8th Floor, Richmond, VA 23219-3402, telephone (804) 692-3211, FAX (804) 692-3237, or e-mail saw@mme.state.va.us.

4 VAC 25-150-120. Transfer of permit rights.

A. Applicability.

1. No transfer of rights granted by a permit shall be made without prior approval from the director.
2. Any approval granted by the director of a transfer of permit rights shall be conditioned upon the proposed new operator complying with all requirements of the Act, this chapter and the permit.

B. Application. Any person requesting a transfer of rights granted by a permit shall submit a written application on a form prescribed by the director. The application shall be accompanied by a fee of ~~\$50~~ \$65 and bond, in the name of the person requesting the transfer, in accordance with § 45.1-361.31 of the Code of Virginia. The application shall contain, but is not limited to:

1. The name and address of the current permittee, the current permit number and the name of the current operation;

2. The name and address of the proposed new operator and the proposed new operations name;

3. Documentation of approval of the transfer by the current permittee;

4. If the permit was issued on or before September 25, 1991, an updated operations plan, in accordance with 4 VAC 25-150-100, showing how all permitted activities to be conducted by the proposed new permittee will comply with the standards of this chapter;

5. If the permit was issued on or before September 25, 1991, for a well, a plat meeting the requirements of 4 VAC 25-150-90 updated to reflect any changes on the site, newly discovered data or additional data required since the last plat was submitted, including the change in ownership of the well; and

6. If the permit was issued on or before September 25, 1991, if applicable, the docket number and date of recordation of any order issued by the board for a pooled unit, pertaining to the current permit.

C. Standards for approval. The director shall not approve the transfer of permit rights unless the proposed new permittee:

1. Has registered with the department in accordance with § 45.1-361.37 of the Code of Virginia;
2. Has posted acceptable bond in accordance with § 45.1-361.31 of the Code of Virginia; and
3. Has no outstanding debt pursuant to § 45.1-361.32 of the Code of Virginia.

D. The new permittee shall be responsible for any violations of or penalties under the Act, this chapter, or conditions of the permit after the director has approved the transfer of permit rights.

VA.R. Doc. No. R03-194; Filed April 30, 2003, 11:24 a.m.

* * * * *

Title of Regulation: 4 VAC 25-160. Virginia Gas and Oil Board Regulations (amending 4 VAC 25-160-30).

Statutory Authority: § 45.1-361.15 of the Code of Virginia.

Effective Date: July 1, 2003.

Summary:

The amendment increases the fee for filing an application for the establishment of units, spacing, or pooling orders from \$100 to \$130, as authorized in Chapters 542 and 550 of the 2003 Acts of Assembly.

Agency Contact: Stephen A. Walz, Regulatory Coordinator, Department of Mines, Minerals and Energy, 202 North 9th Street, 8th Floor, Richmond, VA 23219-3402, telephone (804)

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692-3211, FAX (804) 692-3237, or e-mail saw@mme.state.va.us.

4 VAC 25-160-30. Administrative provisions.

A. The Virginia Gas and Oil Board shall meet on the third Tuesday of each calendar month unless no action is required by the board or unless otherwise scheduled by the board. All hearings shall be scheduled in accordance with the requirements for notice by publication in § 45.1-361.19 of the Code of Virginia. Except where otherwise established by the Act, the board may establish deadlines for filing materials for meetings or hearings scheduled on other than the third Tuesday of each month.

B. Applications to the board must be filed by the following deadlines:

1. All applications, petitions, appeals or other requests for board action must be received by the division at least 30 calendar days prior to the regularly scheduled meeting of the board. If the 30th day falls on a weekend or a legal holiday, the deadline shall be the prior business day.

2. When required, two copies of the following material must be filed with the division at least seven calendar days prior to the regularly scheduled meeting of the board in order for the application to be considered a complete application:

a. The affidavit demonstrating that due diligence was used to locate and serve persons in accordance with § 45.1-361.19 of the Code of Virginia and 4 VAC 25-160-40 of this chapter; and

b. Proof of notice by publication in accordance with 4 VAC 25-160-40 D of this chapter.

C. A complete application that is not filed by the deadlines of this subsection shall be carried over to the next scheduled meeting of the board. A submission that does not contain a complete application shall not be considered by the board until the application is complete.

D. The division shall assign a docket number to each application or petition at the time of filing, and shall notify the applicant of the docket number. The docket number shall be referenced when submitting material regarding the application or petition.

E. In addition to the other requirements of this chapter, applications to the board shall meet the following standards:

1. Each application for a hearing before the board shall be headed by a caption which shall contain a heading including:

- a. "Before the Virginia Gas and Oil board";
- b. The name of the applicant;
- c. The relief sought; and
- d. The docket number assigned by the division.

2. Each application shall be signed by the applicant, an authorized agent of the applicant, or an attorney for the applicant, certifying that, "The foregoing application to the

best of my knowledge, information, and belief is true and correct."

3. Exhibits shall be identified by the docket number and an exhibit number and may be introduced as part of a person's presentation.

4. Persons shall submit 10 sets of each application and exhibit. Each person offering exhibits into evidence shall also have available a reasonably sufficient number of exhibits for other persons who are subject to the provisions of §§ 45.1-361.19 and 45.1-361.23 of the Code of Virginia and are expected to be in attendance at the hearing.

F. Applications for the establishment of units, spacing or pooling shall be accompanied by a ~~\$400~~ \$130 nonrefundable fee, payable to the Treasurer of Virginia.

G. All parties in any proceeding before the board are entitled to appear in person or be represented by counsel or other qualified representative, as provided for in the Administrative Process Act, § ~~9-6-14-4~~ 2.2-4000 et seq. of the Code of Virginia.

VA.R. Doc. No. R03-193; Filed April 30, 2003, 11:24 a.m.

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Title of Regulation: **9 VAC 20-60. Virginia Hazardous Waste Management Regulations (amending 9 VAC 20-60-17, 9 VAC 20-60-40, 9 VAC 20-60-70, 9 VAC 20-60-124, 9 VAC 20-60-261, 9 VAC 20-60-262, 9 VAC 20-60-264, 9 VAC 20-60-265, 9 VAC 20-60-270, 9 VAC 20-60-305, 9 VAC 20-60-315, 9 VAC 20-60-328, 9 VAC 20-60-420, 9 VAC 20-60-440, 9 VAC 20-60-450, 9 VAC 20-60-490, [9 VAC 20-60-1260,] 9 VAC 20-60-1280, 9 VAC 20-60-1285, 9 VAC 20-60-1370, 9 VAC 20-60-1380, 9 VAC 20-60-1390, and 9 VAC 20-60-1420).**

Statutory Authority: § 10.1-1402 of the Code of Virginia; 42 USC § 6921 et seq.; 40 CFR Parts 260 through 272.

Effective Date: July 1, 2003.

Agency Contact: Robert G. Wickline, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4213 or e-mail rgwickline@deq.state.va.us.

Summary:

The amendments:

1. Remove a requirement that all permits be the subject of a hearing. Hearings will be held upon request representing a significant degree of public interest or if the permit is contested as required by incorporated federal rules (40 CFR 124.12).

2. Transfer the responsibility and cost of publishing and broadcasting notices related to the processing of draft

permits and petitions for variances to the applicant or petitioner. The department will provide the content of text and acceptable publication/broadcast venues. The department may issue the notice and require the applicant to remit the costs incurred.

3. Clarify the nonapplicability of transporter requirements to universal wastes. Procedures and terms for extending permits inadvertently left out in Amendment 15A have been reinstated.

4. Increase the fee schedule as authorized by Chapter 822 of the 2002 Acts of Assembly. This action will replace emergency regulations currently in place.

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.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:10 VA.R. 1408-1430 January 27, 2003, with the changes identified below. Pursuant to § 2.2-4031 A of the Code of Virginia, the adopted regulation is not published at length; however, the sections that have changed since publication of the proposed are set out.

9 VAC 20-60-17 through 9 VAC 20-60-262. [No change from proposed.]

9 VAC 20-60-264. Adoption of 40 CFR Part 264 by reference.

A. Except as otherwise provided, the regulations of the United States Environmental Protection Agency set forth in 40 CFR Part 264 are hereby incorporated as part of the Virginia Hazardous Waste Management Regulations. Except as otherwise provided, all material definitions, reference materials and other ancillaries that are a part of 40 CFR Part 264 are also hereby incorporated as part of the Virginia Hazardous Waste Management Regulations.

B. In all locations in these regulations where 40 CFR Part 264 is incorporated by reference, the following additions, modifications and exceptions shall amend the incorporated text for the purpose of its incorporation into these regulations:

1. Sections 40 CFR 264.1(d), 40 CFR 264.1(f), 40 CFR 264.149, 40 CFR 264.150, 40 CFR 264.301(l), and Appendix VI are not included in the incorporation of 40 CFR Part 264 by reference and are not a part of the Virginia Hazardous Waste Management Regulations.

2. In 40 CFR 264.1(g)(11) and wherever elsewhere in Title 40 of the Code of Federal Regulations there is a listing of universal wastes or a listing of hazardous wastes that are the subject of provisions set out in 40 CFR Part 273 as universal wastes, it shall be amended by addition of the following sentence: "In addition to the hazardous wastes listed herein, the term "universal waste" and all lists of universal waste or waste subject to provisions of 40 CFR Part 273 shall include those hazardous wastes listed in Part XVI (9 VAC 20-60-1495 et seq.) of the Virginia Hazardous Waste Management Regulations as universal wastes, under such terms and requirements as shall therein be ascribed."

3. In 40 CFR 264.12(a), the term "Regional Administrator" shall mean the regional administrator of Region III of the United States Environmental Protection Agency or his designee.

4. In 40 CFR 264.33, the following sentence shall be added to the end of the paragraph: "A record of tests or inspections will be maintained on a log at that facility or other reasonably accessible and convenient location."

5. In addition to the notifications required by 40 CFR 264.56(d)(2), notification shall be made to the on-scene coordinator, the National Response Center and the Virginia Department of Emergency Management, Emergency Operations Center. In the associated report filed under 40 CFR 264.56(j), the owner or operator shall include such other information specifically requested by the director, which is reasonably necessary and relevant to the purpose of an operating record.

~~6. In 40 CFR 264.143(h), 40 CFR 264.145(h), and 40 CFR 264.151, an owner or operator may use the same financial mechanism for multiple facilities. If the facilities covered by the mechanism are located in more than one state, identical evidence of financial assurance must be submitted to and maintained with all RCRA authorized state agencies where facilities covered by the financial mechanism are located or with the regional administrators where facilities are located in states without RCRA authorization.~~

6. In 40 CFR 264.93, "hazardous constituents" shall include constituents identified in 40 CFR Part 264 Appendix IX in addition to those in 40 CFR Part 261 Appendix VIII.

7. The federal text at 40 CFR 264.94(a)(2) is not incorporated by reference. The following text shall be substituted for 40 CFR 264.94(a)(2): "For any of the constituents for which the USEPA has established a Maximum Contaminant Level (MCL) under the National Primary Drinking Water Regulation, 40 CFR Part 141 (regulations under the Safe Drinking Water Act), the concentration must not exceed the value of the MCL; or if the background level of the constituent is below the MCL; or."

8. The owner or operator must submit the detailed, written closure cost estimate described in 40 CFR 264.142 upon the written request of the director.

9. In 40 CFR 264.143 (b)(1), 40 CFR 264.143(c)(1), 40 CFR 264.145(b)(1), and 40 CFR 264.145(c)(1), any surety issuing surety bonds to guarantee payment or performance must be licensed pursuant to Chapter 10 (§ 38.2-1000 et seq.) of Title 38.2 of the Code of Virginia.

10. In 40 CFR 264.143(b), 40 CFR 264.143(c), 40 CFR 264.145(b) and 40 CFR 264.145(c), any owner or operator demonstrating financial assurance for closure or post-closure care using a surety bond shall submit with the surety bond a copy of the deed book page documenting that the power of attorney of the attorney-in-fact executing the bond has been recorded pursuant to § 38.2-2416 of the Code of Virginia.

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11. ~~The following text shall be substituted for 40 CFR 264.143(c)(5): "Following a final administrative determination pursuant to Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia that the owner or operator has failed to perform final closure in accordance with the approved closure plan, the applicable regulations or other permit requirements when required to do so, under the terms of the bond, the surety will perform final closure as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund."~~ Where 40 CFR 264.143(c)(5) the phrase "final administrative determination pursuant to section 3008 of RCRA" appears, it shall be replaced with "final determination pursuant to Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia."]

12. The following text shall be substituted for 40 CFR 264.143(d)(8): "Following a final administrative determination pursuant to Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia that the owner or operator has failed to perform final closure in accordance with the approved closure plan, the applicable regulations or other permit requirements when required to do so, the director may draw on the letter of credit."

13. The following text shall be substituted for 40 CFR 264.143(e)(1): "An owner or operator may satisfy the requirements of this section by obtaining closure insurance which conforms to the requirements of this paragraph and submitting a certificate of such insurance, along with a complete copy of the insurance policy, to the department. An owner or operator of a new facility must submit the certificate of insurance along with a complete copy of the insurance policy to the department at least 60 days before the date on which the hazardous waste is first received for treatment, storage or disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed pursuant to Chapter 10 (§ 38.2-1000 et seq.) of Title 38.2 of the Code of Virginia."

14. The following text shall be substituted for 40 CFR 264.143(f)(3)(ii), 40 CFR 264.145(f)(3)(ii) and 40 CFR 264.147(f)(3)(ii): "A copy of the owner's or operator's audited financial statements for the latest completed fiscal year; including a copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and"

15. In addition to the other requirements in 40 CFR 264.143(f)(3), 40 CFR 264.145(f)(3) and 40 CFR 264.147(f)(3), an owner or operator must submit confirmation from the rating service that the owner or operator has a current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's if the owner or operator passes the financial test with a bond rating as provided in subsection 1(ii)(A).

16. The following text shall be substituted for 40 CFR 264.143(h) and 40 CFR 264.145(h): "An owner or operator may use a financial assurance mechanism specified in this section to meet the requirements of this section for more

than one facility in Virginia. Evidence of financial assurance submitted to the department must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for closure [or post-closure] assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for closure or post-closure care of any of the facilities covered by the mechanism, the director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism."

17. In 40 CFR 264.144, "the owner or operator must submit a detailed, written post-closure cost estimate upon the written request of the director."

18. The following text shall be substituted for 40 CFR 264.144(b): "During the active life of the facility and the post-closure period, the owner or operator must adjust the post-closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with [~~40 CFR 265.145~~ 40 CFR 264.145]. For owners or operators using the financial test or corporate guarantee, the post-closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before the submission of updated information to the department as specified in [~~40 CFR 265.145(f)(5)~~ 40 CFR 264.145(f)(5). The adjustment may be made by recalculating the post-closure cost estimate in current dollars or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its Survey of Current Business as specified in 40 CFR 264.142(b)(1) and (2). The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

a. The first adjustment is made by multiplying the post-closure cost estimate by the inflation factor. The result is the adjusted post-closure cost estimate.

b. Subsequent adjustments are made by multiplying the latest adjusted post-closure cost estimate by the latest inflation factor."

19. The following text shall be substituted for 40 CFR 264.144(c): "During the active life of the facility and the post-closure period, the owner or operator must revise the post-closure cost estimate within 30 days after the director has approved the request to modify the post-closure plan, if the change in the post-closure plan increases the cost of post-closure care. The revised post-closure cost estimate must be adjusted for inflation as specified in 264.144(b)."

20. ~~[The following text shall be substituted for 40 CFR 264.145(c)(5): "Following a final administrative determination pursuant to Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia that the owner or operator has failed to perform post closure care in accordance with the approved post closure plan, the applicable regulations or other permit requirements, under the terms of the bond~~

~~the surety will perform post-closure care in accordance with the post-closure plan and other permit requirements or will deposit the amount of the penal sum into the standby trust fund." Where in 40 CFR 264.145(c)(5) the phrase "final administrative determination pursuant to section 3008 of RCRA" appears, it shall be replaced with "final determination pursuant to Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia."]~~

21. The following text shall be substituted for 40 CFR 264.145(d)(9): "Following a final administrative determination pursuant to Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia that the owner or operator has failed to perform post-closure in accordance with the approved post-closure plan, the applicable regulations, or other permit requirements when required to do so, the director may draw on the letter of credit."

22. The following text shall be substituted for 40 CFR 264.145(e)(1): "An owner or operator may satisfy the requirements of this section by obtaining post-closure insurance which confirms to the requirements of this paragraph and submitting a certificate of such insurance to the department. An owner or operator of a new facility must submit the certificate of insurance along with a complete copy of the insurance policy to the department at least 60 days before the date on which the hazardous waste is first received for treatment, storage or disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed pursuant to Chapter 10 (§ 38.2-1000 et seq.) of Title 38.2 of the Code of Virginia."

7- 23. In 40 CFR 264.147(a)(1)(ii), 40 CFR 264.147(b)(1)(ii), 40 CFR 264.147(g)(2), and 40 CFR 264.147(i)(4), the term "Virginia" shall not be substituted for the term "State" or "States."

8- 24. In 40 CFR 264.191(a), the compliance date of January 12, 1988, applies only for HSWA tanks. For non-HSWA tanks, the compliance date is November 2, 1997, instead of January 12, 1997.

9- 25. In 40 CFR 264.191(c), the reference to July 14, 1986, applies only to HSWA tanks. For non-HSWA tanks, the applicable date is November 2, 1987, instead of July 14, 1986.

40- 26. In 40 CFR 264.193, the federal effective dates apply only to HSWA tanks. For non-HSWA tanks, the applicable date is November 2, 1997, instead of January 12, 1997.

41- 27. A copy of all reports made in accordance with 40 CFR 264.196(d) shall be sent to the director and to the chief administrative officer of the local government of the jurisdiction in which the event occurs. The sentence in 40 CFR 264.196(d)(1), "If the release has been reported pursuant to 40 CFR Part 302, that report will satisfy this requirement." is not incorporated by reference into these regulations and is not a part of the Virginia Hazardous Waste Management Regulations.

42- 28. The following text shall be substituted for 40 CFR 264.570(a): "The requirements of this subpart apply to owners and operators of facilities that use new or existing

drip pads to convey wood drippage, precipitation and/or surface water run-off to an associated collection system. Existing HSWA drip pads are those constructed before December 6, 1990, and those for which the owner or operator has a design and has entered into a binding financial or other agreement for construction prior to December 6, 1990. Existing non-HSWA drip pads are those constructed before January 14, 1993, and those for which the owner or operator has a design and has entered into a binding financial or other agreement for construction prior to January 14, 1993. All other drip pads are new drip pads. The requirement at 40 CFR 264.573(b)(3) to install a leak collection system applies only to those HSWA drip pads that are constructed after December 24, 1992, except for those constructed after December 24, 1992, for which the owner or operator has a design and has entered into a binding financial or other agreement for construction prior to December 24, 1992. For non-HSWA drip pads, the requirement at 40 CFR 264.573(b)(3) to install a leak collection system applies only to those non-HSWA drip pads that are constructed after September 8, 1993, except for those constructed after September 8, 1993, for which the owner or operator has a design and has entered into a binding financial or other agreement for construction prior to September 8, 1993."

43- 29. In 40 CFR 264.1030(c), the reference to 40 CFR 124.15 shall be replaced by a reference to 40 CFR 124.5.

44- 30. The underground injection of hazardous waste for treatment, storage or disposal shall be prohibited throughout the Commonwealth of Virginia.

45- 31. In addition to the notices required in Subpart B and others parts of 40 CFR Part 264, the following notices are also required:

a. The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source (a source located outside of the United States of America) shall notify the ~~director~~ department and administrator in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

b. The owner or operator of a facility that receives hazardous waste from an off-site source (except where the owner or operator of the facility is also the generator of this waste) shall inform the generator in writing that he has appropriate permits for, and will accept, the waste that the generator is shipping. The owner or operator shall keep a copy of this written notice as part of the operating record.

c. Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the post-closure care period, the owner or operator shall notify the new owner or operator in writing of the requirements contained in 9 VAC 20-60-264 and 9 VAC 20-60-270. An owner or operator's failure to notify the new owner or operator of the above requirements in no way relieves the new owner or operator of his obligation to comply with all applicable requirements.

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d. Any person responsible for the release of a hazardous substance from the facility which poses an immediate or imminent threat to public health and who is required by law to notify the National Response Center shall notify the ~~director~~ *department* and the chief administrative officer of the local government of the jurisdiction in which the release occurs or their designees. In cases when the released hazardous substances are hazardous wastes or hazardous waste constituents additional requirements are prescribed by Subpart D of 40 CFR Part 264.

~~16. In 40 CFR 264.93, "hazardous constituents" shall include constituents identified in 40 CFR Part 264 Appendix IX in addition to those in 40 CFR Part 264 Appendix VIII.~~

~~17. The federal text at 40 CFR 264.94(a)(2) is not incorporated by reference. The following text shall be substituted for 40 CFR 264.94(a)(2): "For any of the constituents for which the USEPA has established a Maximum Contaminant Level (MCL) under the National Primary Drinking Water Regulation, 40 CFR Part 141 (regulations under the Safe Drinking Water Act), the concentration must not exceed the value of the MCL; or if the background level of the constituent is below the MCL; or."~~

9 VAC 20-60-265. Adoption of 40 CFR Part 265 by reference.

A. Except as otherwise provided, the regulations of the United States Environmental Protection Agency set forth in 40 CFR Part 265 are hereby incorporated as part of the Virginia Hazardous Waste Management Regulations. Except as otherwise provided, all material definitions, reference materials and other ancillaries that are a part of 40 CFR Part 265 are also hereby incorporated as part of the Virginia Hazardous Waste Management Regulations.

B. In all locations in these regulations where 40 CFR Part 265 is incorporated by reference, the following additions, modifications and exceptions shall amend the incorporated text for the purpose of its incorporation into these regulations:

1. Sections 40 CFR 265.1(c)(4), 40 CFR 265.149 and 40 CFR 265.150 and Subpart R of 40 CFR Part 265 are not included in the incorporation of 40 CFR Part 265 by reference and are not a part of the Virginia Hazardous Waste Management Regulations.

2. In 40 CFR 265.1(c)(14) and wherever elsewhere in Title 40 of the Code of Federal Regulations there is a listing of universal wastes or a listing of hazardous wastes that are the subject of provisions set out in 40 CFR Part 273 as universal wastes, it shall be amended by addition of the following sentence: "In addition to the hazardous wastes listed herein, the term "universal waste" and all lists of universal waste or waste subject to provision of 40 CFR Part 273 shall include those hazardous wastes listed in Part XVI (9 VAC 20-60-1495 et seq.) of the Virginia Hazardous Waste Management Regulations as universal wastes, under such terms and requirements as shall therein be ascribed."

3. A copy of all reports and notices made in accordance with 40 CFR 265.12 shall be sent to the ~~director~~ *department*, the administrator and to chief administrative

officer of the local government of the jurisdiction in which the event occurs.

4. In 40 CFR 265.12(a), the term "Regional Administrator" shall mean the regional administrator of Region III of the United States Environmental Protection Agency or his designee.

5. In 40 CFR 265.33, the following sentence shall be added to the end of the paragraph: "A record of tests or inspections will be maintained on a log at that facility or other reasonably accessible and convenient location."

6. In addition to the notifications required by 40 CFR 265.56(d)(2), notification shall be made to the on-scene coordinator, the National Response Center and the Virginia Department of Emergency Management, Emergency Operations Center. In the associated report filed under 40 CFR 265.56(j), the owner or operator shall include such other information specifically requested by the director, which is reasonably necessary and relevant to the purpose of an operating record.

7. In addition to the requirements of 40 CFR 265.91, a log shall be made of each ground water monitoring well describing the soils or rock encountered, the permeability of formations, and the cation exchange capacity of soils encountered. A copy of the logs with appropriate maps shall be sent to the ~~director or his designee~~ *department*.

~~8. [In 40 CFR 265.143(g) and 40 CFR 265.145(g), an owner or operator may use the same financial mechanism for multiple facilities. If the facilities covered by the mechanism are located in more than one state, identical evidence of financial assurance must be submitted to and maintained with all RCRA authorized state agencies where facilities covered by the financial mechanism are located or with the regional administrators where facilities are located in states without RCRA authorization. The following text shall be substituted for 40 CFR 265.143(g) and 40 CFR 265.145(g): "An owner or operator may use a financial assurance mechanism specified in this section to meet the requirements of this section for more than one facility in Virginia. Evidence of financial assurance submitted to the department must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for closure or post-closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for closure or post-closure care of any of the facilities covered by the mechanism, the director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.]~~

9. In 40 CFR 265.147(a)(1)(ii), 40 CFR 265.147(g)(2), and 40 CFR 265.147(i)(4), the term "Virginia" shall not be substituted for the term "State" or "States."

10. In 40 CFR 265.191(a), the compliance date of January 12, 1988, applies only for HSWA tanks. For non-HSWA tanks, the compliance date is November 2, 1986.

11. In 40 CFR 265.191(c), the reference to July 14, 1986, applies only to HSWA tanks. For non-HSWA tanks, the applicable date is November 2, 1987.

12. In 40 CFR 265.193, the federal effective dates apply only to HSWA tanks. For non-HSWA tanks, the applicable date is January 12, 1987 is replaced with November 2, 1997.

13. The following text shall be substituted for 40 CFR 265.440(a): "The requirements of this subpart apply to owners and operators of facilities that use new or existing drip pads to convey wood drippage, precipitation and/or surface water run-off to an associated collection system. Existing HSWA drip pads are those constructed before December 6, 1990, and those for which the owner or operator has a design and has entered into a binding financial or other agreement for construction prior to December 6, 1990. Existing non-HSWA drip pads are those constructed before January 14, 1993, and those for which the owner or operator has a design and has entered into a binding financial or other agreement for construction prior to January 14, 1993. All other drip pads are new drip pads. The requirement at 40 CFR 265.443(b)(3) to install a leak collection system applies only to those HSWA drip pads that are constructed after December 24, 1992, except for those constructed after December 24, 1992, for which the owner or operator has a design and has entered into a binding financial or other agreement for construction prior to December 24, 1992. For non-HSWA drip pads, the requirement at 40 CFR 264.573(b)(3) to install a leak collection system applies only to those non-HSWA drip pads that are constructed after September 8, 1993, except for those constructed after September 8, 1993, for which the owner or operator has a design and has entered into a binding financial or other agreement for construction prior to September 8, 1993."

14. In 40 CFR 265.1083(c)(4)(ii), the second occurrence of the term "EPA" shall mean the United States Environmental Protection Agency.

15. In addition to the requirements of 40 CFR 265.310, the owner or operator shall consider at least the following factors in addressing the closure and post-closure care objectives of this part:

- a. Type and amount of hazardous waste and hazardous waste constituents in the landfill;
- b. The mobility and the expected rate of migration of the hazardous waste and hazardous waste constituents;
- c. Site location, topography, and surrounding land use, with respect to the potential effects of pollutant migration;
- d. Climate, including amount, frequency and pH of precipitation;
- e. Characteristics of the cover, including material, final surface contours, thickness, porosity and permeability,

slope, length of run of slope, and type of vegetation on the cover; and

f. Geological and soil profiles and surface and subsurface hydrology of the site.

16. Additionally, during the post-closure care period, the owner or operator of a hazardous waste landfill shall comply with the requirements of 40 CFR 265.116 and the following items:

- a. Maintain the function and integrity of the final cover as specified in the approved closure plan;
- b. Maintain and monitor the leachate collection, removal, and treatment system, if present, to prevent excess accumulation of the leachate in the system;
- c. Maintain and monitor the landfill gas collection and control system, if present, to control the vertical and horizontal escape of gases;
- d. Protect and maintain, if present, surveyed benchmarks; and
- e. Restrict access to the landfill as appropriate for its post-closure use.

17. The underground injection of hazardous waste for treatment, storage or disposal shall be prohibited throughout the Commonwealth of Virginia.

18. Regulated units of the facility are those units used for storage treatment or disposal of hazardous waste in surface impoundments, waste piles, land treatment units, or landfills that received hazardous waste after July 26, 1982. In addition to the requirements of Subpart G of 40 CFR Part 265, owners or operators of regulated units who manage hazardous wastes in regulated units shall comply with the closure and post-closure requirements contained in Subpart G of 40 CFR Part 264, Subpart H of 40 CFR Part 264, and Subpart K of 40 CFR Part 264 through Subpart N of 40 CFR Part 264, as applicable, and shall comply with the requirements in Subpart F of 40 CFR Part 264 during any post-closure care period and for the extended ground water monitoring period, rather than the equivalent requirements contained in 40 CFR Part 265. The following provisions shall also apply:

a. For owners or operators of surface impoundments or waste piles included above who intend to remove all hazardous wastes at closure in accordance with 40 CFR 264.228(a)(1) or 40 CFR 264.258(a), as applicable, submittal of contingent closure and contingent post-closure plans is not required. However, if the facility is subsequently required to close as a landfill in accordance with Subpart N of 40 CFR Part 264, a modified closure plan shall be submitted no more than 30 days after such determination. These plans will be processed as closure plan amendments. For such facilities, the corresponding post-closure plan shall be submitted within 90 days of the determination that the unit shall be closed as a landfill.

b. A permit application as required under 9 VAC 20-60-270 to address the post-closure care requirements

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of 40 CFR 264.117 and for ground water monitoring requirements of 40 CFR 264.98, 40 CFR 264.99, or 40 CFR 264.100, as applicable, shall be submitted for all regulated units which fail to satisfy the requirements of closure by removal or decontamination in 40 CFR 264.228(a)(1), 40 CFR 264.258(a), or 40 CFR 264.280(d) and 40 CFR 264.280(e), as applicable. The permit application shall be submitted at the same time as the closure plan for those units closing with wastes in place and six months following the determination that closure by removal or decontamination is unachievable for those units attempting such closure. The permit application shall address the post-closure care maintenance of both the final cover and the ground water monitoring wells as well as the implementation of the applicable ground water monitoring program whenever contaminated soils, subsoils, liners, etc., are left in place. When all contaminated soils, subsoils, liners, etc., have been removed yet ground water contamination remains, the permit application shall address the post-closure care maintenance of the ground water monitoring wells as well as the implementation of the applicable ground water monitoring program.

c. In addition to the requirements of 40 CFR 264.112(d)(2)(i) for requesting an extension to the one year limit, the owner or operator shall demonstrate that he will continue to take all steps to prevent threats to human health and the environment.

d. In addition to the requirements of 40 CFR 264.119(c), the owner or operator shall also request a modification to the post-closure permit if he wishes to remove contaminated structures and equipment.

9 VAC 20-60-270 through 9 VAC 20-60-490. [No change from proposed.]

[9 VAC 20-60-1260. Purpose, scope, and applicability.

A. The purpose of this part is to establish a schedule of fees collected by the department in the support of its permit issuance programs required by Parts III (9 VAC 20-60-270 et seq.) and VII (9 VAC 20-60-420 et seq.) of this chapter.

B. Part XII (9 VAC 20-60-1260 et seq.) of this chapter applies to all persons required to submit a permit application ("applicants") under 9 VAC 20-60-270 and 9 VAC 20-60-420 E unless specifically exempt under 9 VAC 20-60-1260 G. The fees shall be assessed in accordance with 9 VAC 20-60-1270.

C. When the director finds it necessary to modify any permit under 9 VAC 20-60-270, the holder of that permit shall be considered an applicant and shall be assessed a fee in accordance with 9 VAC 20-60-1270 D even if the director shall have initiated the modification action.

A. TRANSPORTER FEES:

Transporters with terminals or other facilities within the Commonwealth.

\$80

Other transporters.

\$120

B. NEW TSD FACILITY FEES:

Base fee for all facilities, including corrective action for solid waste management units.

\$9,720

Supplementary fee for one or more land-based TSD units, including corrective action for solid waste management units.

\$22,590

Supplementary fee for one or more incineration, boiler, or industrial furnace units (BIF).

\$14,490

D. When the director finds it necessary to revoke and reissue any permit in accordance with 9 VAC 20-60-270, the holder of that permit shall be considered an applicant for a new permit and shall be assessed a fee in accordance with 9 VAC 20-60-1270 C.

E. If the director finds it necessary either to revoke and reissue a permit or to perform a minor modification of a permit in accordance with 9 VAC 20-60-270, the holder of that permit shall be considered an applicant and shall be assessed a fee in accordance with 9 VAC 20-60-1270 E.

F. When the director finds it necessary to issue an emergency treatment, storage, or disposal permit in accordance with 9 VAC 20-60-270, the holder of that permit shall be considered an applicant and shall be assessed a fee in accordance with 9 VAC 20-60-1270 F. No permit application fee will be assessed to the holders of the emergency transportation permits issued in accordance with 9 VAC 20-60-450 H.

G. Exemptions.

1. The owners and operators of HWM treatment, storage, and disposal facilities who have submitted Part A of their application and who have qualified for interim status in accordance with 9 VAC 20-60-270 are exempt from the requirements of Part XII of this chapter until a Part B application for the entire facility or a portion of the facility has been requested or voluntarily submitted. The owner and operator of a HWM facility submitting a Part B application will be considered an applicant for a new permit.

2. The owners and operators of HWM facilities that are deemed to possess a permit by rule in accordance with 9 VAC 20-60-270 are exempt from the requirements of Part XII of this chapter.

3. Hazardous waste generators that accumulate wastes on-site in accordance with 40 CFR 262.34 are not subject to regulations contained in Part XII of this chapter since HWM permits are not required for such accumulations.

~~H. The effective date of Part XII of this chapter is October 1, 1984. Permit fees shall be assessed based on the date of approval of the permit and the application of 9 VAC 20-60-1270, 9 VAC 20-60-1280, and 9 VAC 20-60-1285.]~~

9 VAC 20-60-1280. [No change from proposed.]

9 VAC 20-60-1285. Permit application fee schedule.

(The effective date of this fee schedule is ~~October 1, 1984~~ July 1, 2003.)

C. MAJOR (CLASS 3) PERMIT MODIFICATION FEES:

Base fee for all major (Class 3) modifications, including major changes related to corrective action for solid waste management unit.	\$50
Addition of new wastes.	\$1,330
Addition of or major (Class 3) change to one or more land-based TSD units, including major change related to corrective action for land-based solid waste management units.	\$25,920
Addition of or major (Class 3) change to one or more incineration, boiler, or industrial furnace units.	\$19,430
Addition of or major (Class 3) change to other treatment, storage or disposal units, processes or areas and major change related to corrective action for solid waste management units that are not land-based.	\$8,080
Substantive changes (Class 2).	\$1,330

D. MINOR (CLASS 1) PERMIT MODIFICATION FEES:

Minor (Class 1) permit modification fee.	\$50
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E. EMERGENCY PERMIT FEES:

Emergency permit fee.	\$1,330
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A. Transporter fees

	Column 2	Column 3
Type of application	July 1, 2003 through June 30, 2004	July 1, 2004 and thereafter
Transporters with terminals or other facilities within the Commonwealth.	\$240	\$140
Other transporters.	\$360	\$210

B. New TSD facility fees.

	July 1, 2003 through June 30, 2004	July 1, 2004 and thereafter
Elements of applications		
Base fee for all facilities, including corrective action for solid waste management units.	\$29,160	[\$16,620 \$16,900]
Supplementary fee for one or more land-based TSD units, including corrective action for solid waste management units.	\$67,770	[\$38,640 \$39,280]
Supplementary fee for one or more incineration, boiler, or industrial furnace units (BIF).	\$43,470	[\$24,780 \$25,200]

C. Major (Class 3) Permit modification fees.

	July 1, 2003 through June 30, 2004	July 1, 2004 and thereafter
Elements of Applications for Major Permit Modifications		
Base fee for all major (Class 3) modifications, including major changes related to corrective action for solid waste management unit.	\$150	\$90
Addition of new wastes.	\$3,990	[\$2,270 \$2,310]
Addition of or major (Class 3) change to one or more land-based TSD units, including major change related to corrective action for land-based solid waste management units.	\$77,760	[\$44,330 \$45,070]
Addition of or major (Class 3) change to one or more incineration, boiler, or industrial furnace units.	\$58,290	[\$33,230 \$33,790]
Addition of or major (Class 3) change to other treatment, storage or disposal units, processes or areas and major change related to corrective action for solid waste management units that are not land based.	\$24,240	[\$13,820 \$14,050]
Substantive changes (Class 2).	\$3,990	[\$2,270 \$2,310]

D. Minor (Class 1) permit modification fees.

	July 1, 2003 through June 30, 2004	July 1, 2004 and thereafter
Type of application		
Minor (Class 1) permit modification fee.	\$150	\$90

E. Emergency Permit fee

	July 1, 2003 through June 30, 2004	July 1, 2004 and thereafter
Type of application		
Emergency Permit fee	\$3,990	[\$2,270 \$2,310]

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Illustrative Examples

Example 1.

The applicant is submitting a Part B application for a HWM permit for a facility consisting of several surface impoundments, a land treatment process and an ancillary tank and container storage facility. The required fee is calculated as follows:

Base Fee.	\$0,720 +
Supplementary fee for land-based TSD units.	\$22,590 +
Tank storage facility (see 9 VAC 20-60-1270 C 4).	\$0 =
Total fee.	\$32,310

Example 2.

After a HWM facility permit has been issued to the facility described in Example 1, the owner and the operator of the facility propose to change the manufacturing process and apply for a modification to allow for an addition of several new hazardous streams to be treated in two new incinerators. The required modification fee is calculated from subsection C of this section as follows:

Base fee.	\$50 +
Addition of new wastes.	\$1,330 +
Addition of new incineration units.	\$19,430 =
Total modification fee.	\$20,810

The fee for a comparable new permit calculated on the basis of subsection B of this section is as follows:

Base fee.	\$0,720 +
Supplementary fee for land-based units.	\$22,590 +
Supplementary fee for incineration units.	\$14,490 +
Storage facility.	\$0 =
Total fee.	\$46,800

~~which is larger than the required modification fee, so that the provisions of 9 VAC 20-60-1270 D 7 do not apply and the proper fee is \$20,810.~~

Example 3.

After a HWM facility permit has been issued to the facility described in Example 1, the owner and the operator of the facility propose to expand their container storage facility for a storage of additional new waste streams, and apply for a permit modification. The required modification fee is calculated from subsection C of this section as follows:

Base fee.	\$50 +
Addition of a new waste.	\$1,330 +
Fee for nonsubstantive change.	\$1,330 =
Total modification fee.	\$2,710

9 VAC 20-60-1370 through 9 VAC 20-60-1420. [No change from proposed.]

VA.R. Doc. No. R02-206; Filed April 30, 2003, 11:05 a.m.

* * * * *

Title of Regulation: 9 VAC 20-90. Solid Waste Management Permit Action Fees (amending 9 VAC 20-90-10 and 9 VAC 20-90-30 through 9 VAC 20-90-100; adding 9 VAC 20-90-110 and 9 VAC 20-90-120; repealing 9 VAC 20-90-20).

Statutory Authority: §§ 10.1-1402 and 10.1-1402.1 of the Code of Virginia.

Effective Date: July 1, 2003.

Agency Contact: Melissa Porterfield, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4238 or e-mail mporterfi@deq.state.va.us.

Summary:

The amendments replace emergency regulations and adjust fees to account for inflation and program changes since original adoption. This includes requiring the applicant or petitioner to arrange for and bear the costs of publishing and broadcasting notices relating to the processing of permit actions. The department will retain the option of issuing the notices and requiring the applicant to remit the costs incurred with providing the notices.

The changes made since the proposed stage are primarily editorial. Fee tables are updated using the February 2003 inflation factor. Composting fees are reduced for facilities composting Category I through III feedstock to encourage composting. Text is added to clarify when the corrective action module fee is to be submitted. Also the fees for amending permits to include Module X and XI are clarified.

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.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:10 VA.R. 1430-1449 January 27, 2003, 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.

CHAPTER 90. SOLID WASTE MANAGEMENT FACILITY PERMIT APPLICATION ACTION FEES.

9 VAC 20-90-10 through 9 VAC 20-90-50. [No change from proposed.]

9 VAC 20-90-60. Payment, deposit, and use of fees.

A. Due date.

1. Except as specified in ~~9 VAC 20-90-60 A subdivisions 2 [and ,] 9 VAC 20-90-60 A 3 [, and 4] of this subsection~~, all permit application action fees are due on the day of application and must accompany the application.

2. Applicants for solid waste management permits shall submit the appropriate fee along with the certification from the local governing body and the disclosure statements at the time of the submittal of the notice of intent. *An applicant for a new facility shall submit appropriate Part A fees with the notice of intent, and submit the Part B action fee when the Part B application is submitted.*

3. All applicants for a solid or infectious waste management facility permit or for a modification or amendment of an existing permit, not otherwise exempt under ~~9 VAC 20-90-50 E 3~~, who have submitted their application prior to the effective date of this chapter and who have not been issued such a permit or a modification or amendment to a permit by that date, shall submit the appropriate application fee within 60 days of the effective date of the regulation or by the effective date of the permit or the modification or amendment to the permit, whichever is sooner. Applicants who have received from the department an approval or a conditional approval of the Part A of their application prior to the effective date of this chapter need to submit only the fee for Part B of the application. *Applicants for an emergency permit shall submit the permit action fee to the department within 60 days of submitting an application.*

[4. For facilities entering the corrective action program, the fee for Corrective Action, Module XIV, is due upon submission of the proposal for presumptive remedy or assessment of corrective measures. If during the course of the corrective action program, modifications to the corrective action program are required, no additional fee will be assessed.]

B. Method of payment. Acceptable payment is cash or check made payable to the Commonwealth of Virginia, Department of Waste Management Environmental Quality.

C. Incomplete payments. All incomplete payments will be deemed nonpayments.

D. ~~Late Payment required.~~ No applications will be deemed to be complete (see ~~9 VAC 20-80-500 C and D of the Virginia Solid Waste Management Regulations or § 9.2 C of the Infectious Waste Management Regulations~~) until proper payment is received by the department. *The department shall not begin a review of an incomplete application unless the application is for an emergency permit. Nonpayment of fees will result in a processing delay. If the director is amending or revoking and re-issuing a permit for cause, nonpayment of fees may lead to termination of the permit.*

E. Deposit and use of fees. The department shall collect all fees pursuant to this chapter and deposit them into a special fund. ~~All moneys so collected by the department shall be used solely to defray the direct costs of processing solid waste management facility permit applications. No such moneys shall be used to defray indirect costs or otherwise be used except for the processing of solid waste management facility~~

~~permit applications for use as described in § 10.1-1402.1 of the Code of Virginia.~~

~~(NOTE: With the exception of emergency permits and permits-by-rule under the Infectious Waste Management Regulations, the department cannot act on an incomplete application (see 9 VAC 20-80-500 C 2 and D 2 of the Virginia Solid Waste Management Regulations or § 9.2 C of the Infectious Waste Management Regulations). Nonpayment of fees will result in the processing delay and may lead to termination procedures in the case of permits being amended or revoked and reissued for cause.)~~

9 VAC 20-90-70. General.

A. Each application for a new permit, each application for a modification or amendment to a permit, and each revocation and issuance of a permit is a separate action and shall be assessed a separate fee. The amount of such fees is determined on the basis of this Part III (9 VAC 20-90-70 through 9 VAC 20-90-120).

B. The amount of the permit application action fee is based on the costs directly associated with the permitting program required by Part VII of the Virginia Solid Waste Management Regulations or Part ~~IX~~ X of the *Infectious Regulated Medical Waste Management Regulations* and includes costs for personnel and directly related public participation costs. The fee schedules are shown in APPENDIX 3.1. ~~These schedules will be reevaluated annually and the results of such reevaluations will be used to recommend to the Virginia Waste Management Board the necessary adjustments, if any 9 VAC 20-90-120 as Tables 3.1-1, 3.1-2, 3.1-3, and 3.1-4.~~

C. Fees in Column 3 of the tables in 9 VAC 20-90-120 have been adjusted to the Consumer Price Index for All Urban Consumers (CPI-U, 1982-84 = 100) for [~~August 2002 February 2003~~] (published monthly by the U.S. Bureau of Labor Statistics, Washington, D.C. 20212, <http://www.bls.gov>), rounded to the nearest \$10 increment.

D. *In addition to permit action fees listed in Tables 3.1-1, 3.1-2, 3.1-3 and 3.1-4 of 9 VAC 20-90-120, the applicant for a permit action shall arrange for the newspaper publication and radio broadcast and bear the cost of the publication and broadcast if required. The department shall send notification to the applicant that the publication and broadcast are required, and the notification shall include the text of the notice, dates of publication and broadcast, and the acceptable newspapers and radio stations wherein the notice may be published. The department shall also require the petitioner for a variance from any regulation to arrange for any newspaper publication and radio broadcast required under the Virginia Solid Waste Management Regulations (9 VAC 20-80) or the Regulated Medical Waste Management Regulations (9 VAC 20-110) and to bear the cost of such publication and broadcast. The department may arrange for the newspaper publication and radio broadcast listed in this subsection and require the applicant to remit the cost of such publication and broadcast.*

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9 VAC 20-90-80. [No change from proposed.]

9 VAC 20-90-90. Applications for permit actions, amendment or modification.

A. General. Facility permits issued by the ~~department~~ director are typically based on the modular concept to assure completeness and consistency of the documents. Each facility permit may consist of several modules dealing with the requirements addressing separate topics pertinent to the specific facility. The modules used in the ~~nonhazardous solid and infectious~~ regulated medical waste program are:

1. ~~The~~ general permit conditions module (Module I) that contains the general conditions required for all solid or ~~infectious~~ regulated medical waste facility permits and includes documents to be submitted prior to operation, documents that must be maintained at the facility, and a compliance schedule, if any.

2. ~~The~~ general facility requirements module (Module II) that contains the listing of wastes that the facility may accept or a list of wastes prohibited from acceptance, ~~an~~ analysis plan, security and site access ~~information~~, inspection requirements, personnel training requirements, special standards based on particular location, a preparedness and prevention plan, a contingency plan, closure and post-closure cost estimates, and facility-specific financial assurance requirements.

3. ~~The~~ separate facility modules, one for each of the different type of facility provided for in Parts V and VI of the Virginia Solid Waste Management Regulations, ~~that contain~~ containing design requirements (e.g., liners, leachate management systems, aeration systems, wastewater collection systems), specific operating requirements (e.g., compaction and cover requirements, equipment, monitoring), and recordkeeping requirements. The following modules have been developed:

- a. Module III - Sanitary landfills;
- b. Module IV - Construction/demolition/debris landfill;
- c. Module V - Industrial landfill;
- d. Module VI - Compost facility;
- e. Module VII - Transfer station;
- f. Module VIII - Materials recovery facility; and
- g. Module IX - Energy recovery and incineration facility.

4. ~~All~~ gas management plans submitted for review (Module III, ~~[or IV],~~ or V) will be assessed a fee as listed in Table 3.1-2 or 3.1-3 of 9 VAC 20-90-120.

~~4.~~ 5. ~~The~~ groundwater monitoring modules ~~that~~ contain requirements for well location, installation, and construction, listing of monitoring parameters and constituents, sampling and analysis procedures, statistical procedures, data evaluation, recordkeeping and reporting, and special requirements when significant increases occur in monitoring parameters. Module X is designed specifically for Phase I [or detection] monitoring and Module XI for Phase II [~~or III~~ or assessment] monitoring. [*If groundwater protection*

standards are being established for facilities without Modules X and XI, then both Modules X and XI will be issued for the major modification fee. However, for facilities with Module X already included in their permit, the major modification fee will be assessed to add Module XI.]

~~5.~~ 6. ~~The~~ closure module (Module XII), included in all permits ~~that~~, contains requirements for actions during the active life of the facility (updating plan), during the closure process, and after the closure has been performed. *Facilities required to submit a closure plan in accordance with §§ 10.1-1410.1 and 10.1-1410.2 A 1 of the Code of Virginia will be assessed a fee for Module XII as listed in Table 3.1-2 of 9 VAC 20-90-120.*

~~6.~~ 7. ~~The~~ post-closure module (Module XIII), included in solid waste disposal facility permits ~~that~~, contains requirements during the post-closure period and for periodic updating of the post-closure plan. *Facilities required to submit a post-closure plan in accordance with § 10.1-1410.2 of the Code of Virginia will be assessed a fee for Module XIII as listed in Table 3.1-2 of 9 VAC 20-90-120.*

~~7.~~ 8. ~~The~~ schedule for compliance for corrective action (Module XIV) is used when facility groundwater monitoring results indicate ~~contamination~~ groundwater protection standards have been statistically exceeded.

~~8.~~ 9. ~~The~~ leachate handling module (Module XV), included in solid waste disposal facility permits ~~that~~, contains requirements for storage, treatment and disposal of leachate generated by the facility.

~~(NOTE: Appropriate modules for infectious waste storage and treatment facilities (other than incineration) have not been developed as yet.)~~

10. ~~The~~ regulated medical waste storage module (Module XVI) and regulated medical waste treatment module (Module XVII) have been developed for facilities storing and/or treating regulated medical waste.

B. Applicants for a modification or amendment of an existing permit will be assessed a fee associated with only those modules that will require changes. In situations where the modular concept is not employed (for example, changes ~~have been~~ incorporated directly into an ~~older~~ [a] nonmodular permit), fees will be assessed as appropriate for the requirements stipulated for modules in ~~9 VAC 20-90-90 subsection A of this section~~ had they been used.

C. Applicants for a modification or amendment or subject to revocation and reissuance of an existing permit will be assessed a separate public participation fee whenever the modification or amendment requires a public hearing.

~~D. The fee schedules for [the modification or amendment or subject to revocation and reissuance of an existing permit major permit actions, amendments, or modifications] are shown in Table 3.1- 2, APPENDIX 3.1 of 9 VAC 20-90-120.~~

E. In no case will the fee for a modification ~~or~~, amendment or revocation and reissuance of a permit be higher than that for a new facility of the same type.

9 VAC 20-90-100. [No change from proposed.]

9 VAC 20-90-110. [No change from proposed.]

APPENDIX 3.1 9 VAC 20-90-120. Permit application fee schedules.

The effective date of this Appendix is June 8, 1992.

TABLE 3.1-1. NEW FACILITIES OR INITIAL ISSUANCE OR ACTION

TYPE OF FACILITY	FEE
All landfills	
Part A application	\$3,200
Part B application	\$14,300
Incineration/Energy Recovery Facility	\$4,500
Transfer Station, Materials Recovery Facility, Infectious Waste Storage Facility, Infectious Waste Treatment Facility	\$3,300
Compost Facility	
Part A application	\$1,600
Part B application	\$8,100
Experimental Solid Waste Facility	(Reserved) ¹

TYPE OF FACILITY	Column 2	Column 3
	FEE	
	July 1, 2003, through June 30, 2004	July 1, 2004, and thereafter
All landfills:		
Part A application	\$9,600	[\$4,120 \$4,180]
Part B application	\$42,900	[\$18,430 \$18,680]
Incineration/Energy Recovery Facility	\$13,500	[\$5,800 \$5,880]
Transfer Station, Materials Recovery Facility, Regulated Medical Waste Storage Facility, or Regulated Medical Waste Treatment Facility	\$9,900	[\$4,250 \$4,310]
Compost Facility		
[Part A application Facilities Processing Category I Waste]	[\$4,800 \$29,100]	[\$2,060 \$6,850]
[Part B application Facilities Processing Waste Categories I or II, or Categories II and Lower]	[\$24,300 \$29,100]	[\$10,440 \$8,440]
[Facilities Processing Waste Categories I, II, or III, or Categories III and Lower]	[\$29,100]	[\$10,550]
[Facilities Processing Waste Categories I, II, III, or IV, or Categories IV and Lower]	[\$29,100]	[\$12,670]
Experimental Solid Waste Facility	Reserved ¹	[\$2,060 \$2,090]
Permit-by-rule Initial Review and Confirmation		\$390
Emergency Permit		[\$2,280 \$2,310]

¹ Indicates insufficient experience at the present time to determine proper fee. Should an application for such a facility be received, the lowest fee in the table will be assessed.

TABLE 3.1-2. MAJOR PERMIT ACTIONS, AMENDMENTS OR MODIFICATIONS

TYPE OF PERMIT MODULE	FEE
General - Module I	\$300
Facility - Module II	\$1,000
Landfill - Module III, IV, or V	\$5,400
Design plan review	\$700
Liner design review	\$1,500
Leachate system review	\$1,000
Gas management plan review	---
Drainage plan review	\$700
Cover design review	\$1,400
Equipment	---
Compost facility - Module VI	\$2,800

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Design plan review	\$500
Liner design review	\$1,000
Leachate system review	\$700
Air supply system review	---
Drainage plan review	\$500
Equipment	---
Transfer station - Module VII	\$900
Material recovery facility - Module VIII	\$1,200
Waste supply analysis	\$500
Waste management areas	\$400
Wastewater management areas	\$300
Incinerator/Energy recovery facility - Module IX	\$2,300
Waste and residue storage	\$700
Operational requirements	\$1,200
Waste control procedures	\$400
Groundwater monitoring - Module X or XI	\$2,500
Well placement	\$1,000
Materials and specifications	\$300
Sampling plan	\$1,200
Well abandonment	---
Closure - Module XII	\$300
Post-closure - Module XIII	\$300
Corrective action - Module XIV	(Reserved)
Leachate handling - Module XV	(Reserved)
Infectious waste storage facility - Module XVI	(Reserved)
Infectious waste treatment facility - Module XVII	(Reserved)
Public participation	\$800

TYPE OF PERMIT MODULE	Column 2	Column 3
	FEE	
	July 1, 2003, through June 30, 2004	July 1, 2004, and thereafter
Landfill Part A	\$9,600	[\$4,120 \$4,180]
General - Module I	\$900	\$390
Facility - Module II	\$3,000	[\$1,290 \$1,310]
Landfill - Module III, IV, or V	\$16,200	[\$6,960 \$7,050]
Design plan review	\$2,100	[\$900 \$910]
Liner design review	\$4,500	[\$1,930 \$1,960]
Leachate system review	\$3,000	[\$1,290 \$1,310]
Gas management plan review		[\$1,680 \$1,700]
Drainage plan review	\$2,100	[\$900 \$910]
Cover design review	\$4,200	[\$1,800 \$1,830]
Equipment		\$390
Compost facility - Module VI	\$8,400	[\$3,610 \$3,660]
Design plan review	\$1,500	[\$640 \$650]
Liner design review	\$3,000	[\$1,290 \$1,310]
Leachate system review	\$2,100	[\$900 \$910]
Drainage plan review	\$1,500	[\$640 \$650]
Equipment		\$390
Transfer station - Module VII	\$2,700	[\$1,160 \$1,180]
Material recovery facility - Module VIII	\$3,600	[\$1,550 \$1,570]
Waste supply analysis	\$1,500	[\$640 \$650]
Waste management areas	\$1,200	\$520
Wastewater management areas	\$900	\$390
Incinerator/Energy recovery facility - Module IX	\$6,900	[\$2,960 \$3,000]
Waste and residue storage	\$2,100	[\$900 \$910]
Operational requirements	\$3,600	[\$1,550 \$1,570]
Waste control procedures	\$1,200	\$520

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Groundwater monitoring - Module X or XI	\$7,500	[\$3,220 \$3,260]
Well placement	\$3,000	[\$1,290 \$1,310]
Materials and specifications	\$900	\$390
Sampling plan	\$3,600	[\$1,550 \$1,570],
Closure - Module XII	\$900	\$390
Post-closure - Module XIII	\$900	\$390
Corrective action - Module XIV	Reserved	[\$22,560 \$22,860]
Leachate handling Module XV	Reserved	[\$1,290 \$1,310]
Regulated medical waste storage facility - Module XVI	Reserved	\$390
Regulated medical waste treatment facility - Module XVII	Reserved	\$390
Permit-by-rule Modification Review and Confirmation		\$390
Public participation (does not include costs of newspaper advertisements or radio broadcasts)	\$2,400	[\$1,030 \$1,040]

TABLE 3.1-3. MINOR PERMIT ACTIONS, AMENDMENT OR MODIFICATION

TYPE OF PERMIT MODULE	FEE	
Minor amendment or modification	\$300	

TYPE OF PERMIT MODULE	Column 2	Column 3
	FEE	
	July 1, 2003, through June 30, 2004	July 1, 2004, and thereafter
Minor amendment or modification (excluding Gas Management Plans)	\$900	\$390
Gas Management Plans		[\$1,680 \$1,700]

TABLE 3.1-4. VARIANCE REQUESTS

Type of Variance	Column 2	Column 3
	FEE	
	July 1, 2003, through June 30, 2004	July 1, 2004, and thereafter
Base fee for all variances		\$390
Supplemental fees based on variance type		
Exemption from classification as a solid waste		\$520
Variance to permitting requirements		
Siting requirements		\$520
Facility design (other than alternate liner design)		\$520
Operational requirements		---
Groundwater monitoring (other than groundwater protection [levels standards] and location of monitoring system)		[\$900 \$920]
Closure requirements		---
Post-closure requirements		---
Groundwater Protection Standards		---
Alternate liner system design		[\$1,540 \$1,570]
Location of groundwater monitoring system		[\$900 \$920]

VA.R. Doc. No. R02-207; Filed April 30, 2003, 11:08 a.m.

Final Regulations

Title of Regulation: 9 VAC 20-170. Transportation of Solid and Medical Wastes on State Waters (adding 9 VAC 20-170-70 and 9 VAC 20-170-195).

Statutory Authority: § 10.1-1454.1 of the Code of Virginia.

Effective Date: Suspended (see suspension notice following the regulation).

Agency Contact: Robert G. Wickline, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219, telephone (804) 698-4213, FAX (804) 698-4327, or e-mail rgwickline@deq.state.va.us.

Summary:

On March 28, 2003, the Virginia Waste Management Board adopted final regulations governing transportation of solid and medical wastes on state waters and suspended the implementation of two provisions of the regulation in order to receive further public comment. The two provisions are 9 VAC 20-170-70, which contains specific requirements for containers including a performance standard, testing requirements, a manifest system, and stacking restrictions in the loading and off-loading areas, and 9 VAC 20-170-195, which establishes a fee system to be paid by vessel owners or operators and collected by off-loading facility owners or operators and remitted to the department.

[PART II.

STANDARDS FOR CONTAINERS.

9 VAC 20-170-70. Design, operation and maintenance of containers.

A. All transportation of solid waste or regulated medical waste on state waters shall be in containers meeting the specifications and standards specified in this section.

B. Each container must meet the following:

1. Each container shall be watertight and shall be designed, constructed, loaded, operated, secured and maintained so as to prevent the escape of wastes, liquids, and odors and to prevent the loss or spillage of wastes in the event of an accident.
2. Each container shall be stacked no higher on barges than allowable under federal law, and shall be secured to the barges to prevent accidents during transportation, loading and unloading.
3. Each container shall be completely enclosed, rigid, and constructed of nonpermeable material.
4. Each container shall meet all applicable U.S. Department of Transportation specifications.
5. Construction and demolition debris waste may be contained in covered barges without other containerization and the barge itself shall be considered the container if the following requirements are met:

a. The barge shall fully comply with all other requirements of this section, 9 VAC 20-170-70, except subdivisions C 1, C 2 and C 3 a, and subsection D of this section.

b. The waste shall be only construction demolition debris waste and free of municipal waste, sludge, hazardous waste, regulated medical waste, radiological waste, putrescible waste, ash, waste that gives off gases or objectionable odors, petroleum products, industrial chemicals, industrial waste, or any waste that causes a nuisance.

C. Each container shall be identified on a manifest in accordance with 9 VAC 20-170-100 and be accompanied by a current certificate from the owner of the container that it has been tested and found to be watertight in accordance with the requirements of this part.

D. Each container shall be tested and certified by the American Bureau of Shipping (ABS) to be in compliance with the requirements of this subsection. The ABS certification shall include, at least, the following items.

1. Each container shall be certified and bear a plate (CSC plate) showing certification of compliance with the International Convention for Safe Containers standards for ocean shipping containers (December 2, 1972; amended November 4, 1993).

2. Each container shall be certified as meeting the ABS's general specifications (see Section 6 of the Rules for Certification of Cargo Containers, 1987, American Bureau of Shipping), including weathertightness for general service. Each container shall have affixed to it in a visible and accessible location a decal including the ABS general service emblem, a notice and date of certification, and the names, addresses and telephone numbers of the person performing the test and the owner of the container.

3. Once each six months, each container shall be certified as having passed the following test:

a. Each container shall have a minimum head of water of 24 inches applied for at least fifteen minutes during which the container shall remain free from the penetration of water. All wastewater and contaminated water resulting from this test procedure shall be disposed of in compliance with the applicable regulations of the State Water Control Board.

b. Each container shall be visually inspected for damage on all sides, plus the top and bottom and must have no visible holes, gaps or structural damage.

E. Each container shall have affixed to it in a visible and accessible location: (i) a decal including the ABS general service emblem, a notice and date of certification, and the name and address and telephone numbers of the person performing the test and the owner of the container, (ii) a CSC plate showing compliance with the International Convention for Safe Container Standards as prescribed in this section, (iii) ABS certification for compliance with the provisions set forth in subsection D, including a notice and date of certification and the names, addresses and telephone numbers of the persons performing the task and the owner of the container.

F. Owners of all containers shall keep a record of testing of each container for, at least, the preceding three years and provide copies of the log and certification to persons who lease or handle the container. Such records shall be available to the department for inspection at the receiving facility.

G. Notwithstanding the foregoing, during normal operation or in the event of an accident, the (i) entry of liquids into a container; (ii) escape, loss or spillage of wastes or liquids from a container; or (iii) escape of odors from a container shall be a violation of this chapter.

**PART V.
OFF-LOADING FEES COLLECTED BY RECEIVING
FACILITIES.**

9 VAC 20-175-195. Off-loading fee requirements.

A. Purpose and application.

1. The purpose of this section is to establish schedules and procedures pertaining to the payment and collection of waste off-loading fees from any owner or operator of any ship, barge or other vessel by the receiving facility.

2. The fees shall be based on the accurate weight of waste received at the receiving facility. If scales are unavailable, the maximum volumetric capacity of the container multiplied by 0.50 tons per cubic yard may be used as an alternative to accurate weighing of the waste. If the volumetric alternative is used, accurate and complete records of the volume of each container of such waste must be maintained in addition to the calculated weight records describe in this part.

3. If a ship, barge or other vessel that off-loads no more than 50 tons of waste per month in total at all facilities, then the owner or operator of the ship, barge, or other vessel is exempt from the assessment and payment of operating fees and related requirements set out in this section, except for the maintenance of records.

B. Payment, deposit and use of fees.

1. Due date. The owner or operator of the ship, barge, or other vessel shall pay, and the receiving facility shall collect, the correct fees for all waste off-loading at the facility at or before the time it is off-loaded. The owner or operator of the receiving facility shall be the responsible steward for the funds collected and shall forward to the department the total amounts due from all ships, barges or other vessels off-loading at the facility on a monthly basis. All payments for waste received at a facility during the month shall be received by the department no later than the fifteenth of the succeeding month.

2. Method of payment.

a. The owner or operator of the receiving facility shall send a payment transmittal letter to the Department of Environmental Quality regional office for the area in which the receiving facility is located. The letter shall contain the name of the facility, the period that the payment covers, and a summary of weights of wastes received at the facility for the period, including those calculated in accordance with subdivision A 2 of this section. Attached

to the letter shall be a log of the waste received showing the date; time of weighing or measurement; weight or volume and calculated weight of each container received; the name, address, and telephone number of the owner or operator of the ship, barge, or other vessel off-loading the container; the name, address and telephone number of the person actually weighing the waste container or verifying the volume; a certification of the accuracy of the scales based on a calibration, including the name, address and telephone number of the person certifying the accuracy of the scale. A facsimile of the check, draft, or money order submitted under subdivision B 2 b of this section shall also be attached. The owner or operator of the receiving facilities shall keep accurate accounts of all payments of off-loading fees by ship, barge or vessel owners and make them available to the department for audit; however, he need not send this information with the aforementioned payment unless requested to do so by the department.

b. Fees shall be paid by check, draft or postal money order made payable to "Treasurer of Virginia/DEQ", and shall be sent to the Department of Environmental Quality, Receipts Control, P. O. Box 10150, Richmond, VA 23240. A copy of the transmittal letter required in subdivision B 2 a of this section, not to include the attachments, shall be included with the check.

c. Scales shall be accurate to measurements of plus or minus 10 pounds and shall be calibrated at least every 30 days. Scales for weighing containers must be located at the receiving facility, unless the off-loading fee is determined by the maximum volumetric capacity of the container. Any failure to provide immediate access by Department of Environmental Quality personnel or agents to records or scale equipment during business hours shall be a violation of these regulations.

3. Late payment and incomplete payments. A late fee of 18.0% per annum, compounded daily, shall accrue immediately after a payment is due but not received by VDEQ. A facility shall be in arrears when a payment has not been received by the Department of Environmental Quality by the date it is due. A facility in arrears shall cease receiving waste immediately and shall not receive waste until notified by the Department of Environmental Quality that waste receiving operations may resume. All incomplete payments will be deemed nonpayments.

4. Fee schedules. The fee for each ton or partial ton of waste off-loaded at the facility shall be \$1.00.

C. Right of entry, inspection and audit.

Upon presentation of appropriate credentials and upon the consent of the owner or custodian, the director of the Department of Environmental Quality or his designee, in addition to the routine inspection of the facility, shall have the right to enter, inspect and audit the records of the receiving facility. The owner or operator of the facility shall provide complete and timely access, during business hours, to all associated equipment, records and facility personnel.]

VA.R. Doc. No. R98-255; Filed April 30, 2003, 11:02 a.m.

Final Regulations

Notice of Suspension of Regulatory Process

Title of Regulation: 9 VAC 20-170. Transportation of Solid and Regulated Medical Wastes on State Waters (adding 9 VAC 20-170-70 and 9 VAC 20-170-195).

The Virginia Waste Management Board has adopted 9 VAC 20-170, Transportation of Solid and Regulated Medical Wastes on State Waters and, in accordance with § 2.2-4015 A 4 of the Administrative Process Act, has suspended the effective date of two sections of the regulation, 9 VAC 20-170-70 (Design, operation and maintenance of containers) and 9 VAC 20-170-195 (Off-loading fee requirements). The remaining sections of the regulation adopted by the board will be published in the Virginia Register at a later time prior to becoming effective. Persons interested in the full text of the regulation can view a copy at www.deq.state.va.us.

The full regulation was previously published as a final regulation in the Virginia Register of Regulations in 17:9 VA.R.1297-1327 January 15, 2001. In response to a petition from 25 citizens, notice of the suspension of the effective date and an additional public comment period appeared in the Virginia Register of Regulations in 17:13 VA.R. 2076 March 12, 2001. In the final published in 2001, 9 VAC 20-170-70 was shown as "Delegation of authority." As a result of the renumbering of some sections, the "Delegation of authority" section will be 9 VAC 20-170-60, and suspended 9 VAC 20-170-70 is now "Design, operation and maintenance of containers."

The Virginia Waste Management Board will receive comments on 9 VAC 20-170-70, Design, operation and maintenance of containers, and 9 VAC 20-170-195, Off-loading fee requirements, until 5 p.m. on June 18, 2003. Comments may be submitted by mail, facsimile, e-mail or by personal appearance at the public meetings. The public meetings will be held at 7:30 p.m. on June 10, 2003, at the Charles City Government and School Board Administrative Building, Auditorium, 10900 Courthouse Road, Charles City, Virginia, and at 7 p.m. on June 11, 2003, at the Rappahannock Community College Warsaw Campus, Lecture Hall, 52 Campus Drive, Warsaw, Virginia. All comments must include the name, address and telephone number of the commenter.

Submit comments to John E. Ely, Office of Waste Programs, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, FAX (804) 698-4327 or e-mail jeely@deq.state.va.us.

VA.R. Doc. No. R98-255; Filed April 30, 2003, 11:02 a.m.

STATE WATER CONTROL BOARD

Title of Regulation: 9 VAC 25-20. Fees for Permits and Certificates (amending 9 VAC 25-20-10, 9 VAC 25-20-110, 9 VAC 25-20-120, and 9 VAC 25-20-130).

Statutory Authority: § 62.1-44.15:6 of the Code of Virginia.

Effective Date: July 1, 2003.

Agency Contact: Jon G. Van Soestbergen, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4117 or e-mail jvansoest@deq.state.va.us.

Summary:

The amendments increase by a factor of three the maximum fees for processing applications for permits and certificates. The amendments to the regulation include (i) changes to the definitions for Virginia Water Protection (VWP) Permit Project categories to reflect the current definitions for such projects; (ii) recognition that there is no permit fee for VWP Permits for projects impacting less than one tenth of an acre; and (iii) addition of fee schedules that will become effective after the provisions of Chapter 822 of the 2002 Acts of Assembly expire on July 1, 2004.

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.

<p>REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:10 VA.R. 1442-1449 January 27, 2003, 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.</p>

9 VAC 25-20-10. Definitions.

Unless otherwise defined in this chapter or unless the context clearly indicates otherwise, the terms used in this regulation shall have the meanings ascribed to them by the State Water Control Law, § 62.1-44.3; the board's Permit Regulation, 9 VAC 25-30-10; the board's Virginia Water Protection Permit Regulation, 9 VAC 25-210-10; the board's Surface Water Management Area Regulation, 9 VAC 25-220-10; and the Ground Water Management Act of 1992, § 62.1-255 of the Code of Virginia, including any general permits issued thereunder.

"Applicant" means for the purposes of this chapter any person filing an application for issuance, reissuance, or modification, except as exempted by 9 VAC 25-20-50, of a permit, certificate or special exception or filing a registration statement for coverage under a general permit issued in response to Chapters 3.1 (§ 62.1-44.2 et seq.), 24 (§ 62.1-242 et seq.), and 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia.

"Application" means for the purposes of this chapter the forms approved by the State Water Control Board for applying for issuance or reissuance of a permit, certificate or special exception or for filing a registration statement for coverage under a general permit issued in response to Chapters 3.1, 24, and 25 of Title 62.1 of the Code of Virginia. In the case of modifications to an existing permit, certificate or special exception requested by the permit, certificate or special exception holder and not exempted by 9 VAC 25-20-50, the application shall consist of the formal written request and any accompanying documentation submitted by the permit,

certificate or special exception holder to initiate the modification.

"*Existing permit*" means for the purposes of this chapter a permit, certificate or special exception issued by the board and currently held by an applicant.

"*Major modification*" means for the purposes of this chapter modification or amendment of an existing permit or, certificate or special exception before its expiration which is not a minor modification as defined in this regulation.

"*Minor modification*" means for the purposes of this chapter minor modification or amendment of an existing permit, certificate or special exception before its expiration as specified in 9 VAC 25-30-40 ~~et seq.~~, 9 VAC 25-210-210, 9 VAC 25-220-230, or in regulations promulgated in response to Chapter 25 of Title 62.1 of the Code of Virginia. Minor modification for the purposes of this chapter also means other modifications and amendments not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules.

"*New permit*" means for the purposes of this chapter a permit, certificate or special exception issued by the board to an applicant that does not currently hold and has never held a permit, certificate or special exception at that location.

"*Revoked permit*" means for the purposes of this chapter an existing permit, certificate or special exception which is terminated before its expiration.

"*VWP Category I Project*" means for the purposes of this chapter a project requiring complex staff review including, but not limited to, those ~~which~~ *that* affect instream flows such as reservoirs, hydropower impoundments, and surface water withdrawals; major subdivisions, industrial parks, commercial developments, and regional stormwater facilities ~~which~~ *that* cumulatively impact [~~more than~~] ~~40~~ *five* acres [~~or more~~] of *surface waters, including* wetlands; projects in waters containing wild trout or threatened or endangered species; *and* new marinas, navigational dredging projects, and instream sand and gravel mining operations.

"*VWP Category II Project*" means for the purposes of this chapter a project requiring moderately complex staff review including, but not limited to, those impacting between ~~one and~~ ~~40~~ *two and five* acres of ~~isolated or headwaters~~ *surface waters, including* wetlands, ~~stream channel modifications or relocations of perennial streams; rip rap and bank stabilization of 500 feet or more;~~ expansion of existing marinas and dredging of navigation channels.

"*VWP Category III Project*" means for the purposes of this chapter a project requiring routine staff review including, but not limited to, those ~~which~~ *that* impact ~~one acre or less of adjacent nontidal wetlands; dredging for single residence boat slip and access channels; perpendicular or linear sub bed crossings of pipelines for sewer and other utilities in waters which do not contain wild trout or threatened or endangered species; impoundments in nonperennial streams, for the purpose of stormwater management which do not require a VPDDES permit, including piping, filling, relocations and~~

~~channel modifications of such streams, provided that wetland impacts do not exceed one acre, and the stream does not contain threatened or endangered species two acres or less of surface waters, including wetlands.~~

9 VAC 25-20-110. [No change from proposed.]

9 VAC 25-20-120. [No change from proposed.]

9 VAC 25-20-130. [No change from proposed.]

VA.R. Doc. No. R02-208; Filed April 30, 2003, 11:07 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **2003 Omnibus Amendments.**

12 VAC 30-20. Administration of Medical Assistance Services (amending 12 VAC 30-20-80, 12 VAC 30-20-150, and 12 VAC 30-20-160).

12 VAC 30-50. Amount, Duration, and Scope of Medical and Remedial Care Services (amending 12 VAC 30-50-140, 12 VAC 30-50-150, and 12 VAC 30-50-160; repealing 12 VAC 30-50-460).

12 VAC 30-60. Standards Established and Methods Used to Assure High Quality Care (amending 12 VAC 30-60-70).

12 VAC 30-110. Eligibility and Appeals (repealing 12 VAC 30-110-1210).

12 VAC 30-120. Waivered Services (amending 12 VAC 30-120-50, 12 VAC 30-120-490, 12 VAC 30-120-500, and 12 VAC 30-120-520 through 12 VAC 30-120-550).

12 VAC 30-130. Amount, Duration and Scope of Selected Services (amending 12 VAC 30-130-50).

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

Effective Date: July 1, 2003.

Agency Contact: Victoria P. Simmons, Regulatory Coordinator, Division of Policy, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680, or e-mail vsimmons@dmas.state.va.us.

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Summary:

The amendments eliminate the Qualifying Individuals-2 benefit; increase recipient co-payments for brand name drugs; revise service limits for home health services, outpatient psychiatric services, outpatient rehabilitation services; repeal Elderly Case Management; terminate transitional Medicaid benefits; change the nurse supervision visit of the personal care aide to every 30-90 days for recipients who do not have a cognitive impairment in the E&D waiver program; change the provision in the Consumer Directed Personal Assistance waiver program for certain family members to supervise and direct the caregiver for the recipient and for certain family members to be reimbursed for personal assistance services provided to the recipient.

Additionally, an amendment is made to licensing standards required for home health agencies to conform DMAS regulations with the standards in the Code of Virginia.

12 VAC 30-20-80. Coordination of Title XIX with Part A and Part B of Title XVIII.

The following method is used to provide benefits under Part A and Part B of Title XVIII to the groups of Medicare-eligible individuals indicated:

A. Part B buy-in agreements with the Secretary of HHS. This agreement covers:

1. All individuals eligible under the state's approved Title XIX plan except qualified disabled working individuals.
2. Qualified Medicare beneficiaries provided by § 301 of P.L. 100-360 as amended by § 8434 of P.L. 100-647.

3. Specified low-income Medicare beneficiary (SLMB) provided by § 1905(p) of the Act.

4. Qualifying Individuals-1: The Medicaid agency pays Medicare Part B premiums under the State buy-in process for individuals described in § 1902(a)(10)(E)(iv)(I) and subject to § 1933 of the Act.

~~5. Qualifying Individuals-2: The Medicaid agency pays the portion of the amount of increase to the Medicare Part B premium attributable to the home health provision to the individuals described in § 1902(a)(10)(E)(iv)(II) and subject to § 1933 of the Act.~~

B. Part A group premium payment arrangement entered into with the Social Security Administration. This arrangement covers the following groups: Qualified Disabled & Working Individuals provided by § 6408 of OBRA 1989 and Qualified Medicare beneficiaries provided by § 301 of P.L. 100-360 as amended by § 8434 of P.L. 100-647.

C. Payment of Part A and Part B deductible and coinsurance cost. Such payments are made in behalf of the following groups:

1. All individuals eligible for Title XVIII covered services.
2. Qualified Medicare beneficiaries provided by § 301 of P.L. 100-360 as amended by § 8434 of P.L. 100-647.

12 VAC 30-20-150. Copayments and deductibles for categorically needy and QMBs for services other than under 42 CFR 447.53.

A. The following charges are imposed on the categorically needy and Qualified Medicare Beneficiaries for services other than those provided under 42 CFR 447.53.

Service*	Type Charge			Amount and Basis for Determination
	Deduct.	Coins.	Copay	
Inpatient Hospital	\$100.00	-0-	-0-	State's average daily payment of \$594 is used as basis.
Outpatient Hospital Clinic	-0-	-0-	\$3.00	State's average payment of \$136 is used as basis.
Clinic Visit	-0-	-0-	\$1.00	State's average payment of \$29 is used as basis.
Physician Office Visit	-0-	-0-	\$1.00	State's average payment of \$23 is used as basis.
Eye Examination	-0-	-0-	\$1.00	State's payment of \$30 is used as basis.
Prescriptions:				
<i>Generic</i>	-0-	-0-	\$1.00	State's average per <i>generic</i> script of \$48 \$25 is used as payment basis.
<i>Brand Name</i>	-0-	-0-	\$3.00	State's average per <i>brand-name</i> script of \$97 is used as payment basis.
Home Health Visit	-0-	-0-	\$3.00	State's average payment of \$56 is used as basis.
Other Physician Services	-0-	-0-	\$3.00	State's average payment of \$56 is used as basis.
Rehab Therapy Services (PT, OT, Sp/Lang.)	-0-	-0-	\$3.00	State's average payment \$78 is used as basis.

*NOTE: The applicability of copays to emergency services is discussed further in this section.

B. The method used to collect cost sharing charges for categorically needy individuals requires that providers be responsible for collecting the cost sharing charges from individuals.

C. The basis for determining whether an individual is unable to pay the charge, and the means by which such an individual is identified to providers, is described below:

Providers will, based on information available to them, make a determination of the recipient's ability to pay the copayment. In the absence of knowledge or indications to the contrary, providers may accept the recipient's assertion that he or she is unable to pay the required copayment.

Recipients have been notified that inability to meet a copayment at a particular time does not relieve them of that responsibility.

D. The procedures for implementing and enforcing the exclusions from cost sharing contained in 42 CFR 447.53(b) are described below:

The application and exclusion of cost sharing is administered through the program's MMIS. Documentation of the certified computer system delineates, for each type of provider invoice used, protected eligible groups, protected services and applicable eligible groups and services.

Providers have been informed about: copay exclusions; applicable services and amounts; prohibition of service denial if recipient is unable to meet cost-sharing charges.

E. State policy does not provide for cumulative maximums on charges.

F. Emergency Services. No recipient copayment shall be collected for the following services:

1. Services provided in a hospital, clinic, office, or other facility that is equipped to furnish the required care, after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in:
 - a. Placing the patient's health in serious jeopardy;
 - b. Serious impairment to bodily functions; or
 - c. Serious dysfunction of any bodily organ or part; and
2. All services delivered in emergency rooms.

12 VAC 30-20-160. Copayments and deductibles for medically needy and QMBs for services other than under 42 CFR 447.53.

A. The following charges are imposed on the medically needy and Qualified Medicare Beneficiaries for services other than those provided under 42 CFR 447.53.

Service*	Type Charge			Amount and Basis for Determination
	Deduct.	Coins.	Copay	
Inpatient Hospital	\$100.00	-0-	-0-	State's average daily payment of \$594 is used as basis.
Outpatient Hospital Clinic	-0-	-0-	\$3.00	State's average payment of \$136 is used as basis.
Clinic Visit	-0-	-0-	\$1.00	State's average payment of \$29 is used as basis.
Physician Office Visit	-0-	-0-	\$1.00	State's average payment of \$23 is used as basis.
Eye Examination	-0-	-0-	\$1.00	State's payment of \$30 is used as basis.
Prescriptions:				
<i>Generic</i>	-0-	-0-	\$1.00	State's average per <i>generic</i> script of \$48 \$25 is used as payment basis.
<i>Brand Name</i>	-0-	-0-	\$3.00	State's average per <i>brand-name</i> script of \$97 is used as payment basis.
Home Health Visit	-0-	-0-	\$3.00	State's average payment of \$56 is used as basis.
Other Physician Services	-0-	-0-	\$3.00	State's average payment of \$56 is used as basis.
Rehab Therapy Services (PT, OT, Sp/Lang.)	-0-	-0-	\$3.00	State's average payment \$78 is used as basis.

*NOTE: The applicability of copays to emergency services is discussed further in this section.

B. The method used to collect cost sharing charges for medically needy individuals requires that providers be

responsible for collecting the cost sharing charges from individuals.

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C. The basis for determining whether an individual is unable to pay the charge, and the means by which such an individual is identified to providers, is described below:

Providers will, based on information available to them, make a determination of the recipient's ability to pay the copayment. In the absence of knowledge or indications to the contrary, providers may accept the recipient's assertion that he or she is unable to pay the required copayment.

Recipients have been notified that inability to meet a copayment at a particular time does not relieve them of that responsibility.

D. The procedures for implementing and enforcing the exclusions from cost sharing contained in 42 CFR 447.53(b) are described below:

The application and exclusion of cost sharing is administered through the program's MMIS. Documentation of the certified computer system delineates, for each type of provider invoice used, protected eligible groups, protected services and applicable eligible groups and services.

Providers have been informed about: copay exclusions; applicable services and amounts; prohibition of service denial if recipient is unable to meet cost-sharing changes.

E. State policy does not provide for cumulative maximums.

F. Emergency Services. No recipient copayment shall be collected for the following services:

1. Services provided in a hospital, clinic, office, or other facility that is equipped to furnish the required care, after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in:

- a. Placing the patient's health in serious jeopardy;
- b. Serious impairment to bodily functions; or
- c. Serious dysfunction of any bodily organ or part; and

2. All services delivered in emergency rooms.

12 VAC 30-50-140. Physician's services whether furnished in the office, the patient's home, a hospital, a skilled nursing facility or elsewhere.

A. Elective surgery as defined by the Program is surgery that is not medically necessary to restore or materially improve a body function.

B. Cosmetic surgical procedures are not covered unless performed for physiological reasons and require Program prior approval.

C. Routine physicals and immunizations are not covered except when the services are provided under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and when a well-child examination is performed in a private physician's office for a foster child of the local social services department on specific referral from those departments.

D. Outpatient psychiatric services.

1. Psychiatric services are limited to an initial availability of ~~26~~ 5 sessions, ~~with one possible~~ *without prior authorization during the first treatment year. An additional extension (subject to DMAS' approval) of 26 sessions during the first treatment year of treatment must be prior authorized by DMAS.* The availability is further restricted to no more than 26 sessions each succeeding year when approved by DMAS. Psychiatric services are further restricted to no more than three sessions in any given seven-day period. Consistent with § 6403 of the Omnibus Budget Reconciliation Act of 1989, medically necessary psychiatric services shall be covered when prior authorized by DMAS for individuals younger than 21 years of age when the need for such services has been identified in an EPSDT screening.

2. Psychiatric services can be provided by psychiatrists or by a licensed clinical social worker, licensed professional counselor, or licensed clinical nurse specialist-psychiatric under the direct supervision of a psychiatrist.*

3. Psychological and psychiatric services shall be medically prescribed treatment which is directly and specifically related to an active written plan designed and signature-dated by either a psychiatrist or by a licensed clinical social worker, licensed professional counselor, or licensed clinical nurse specialist-psychiatric under the direct supervision of a psychiatrist.*

4. Psychological or psychiatric services shall be considered appropriate when an individual meets the following criteria:

- a. Requires treatment in order to sustain behavioral or emotional gains or to restore cognitive functional levels which have been impaired;
- b. Exhibits deficits in peer relations, dealing with authority; is hyperactive; has poor impulse control; is clinically depressed or demonstrates other dysfunctional clinical symptoms having an adverse impact on attention and concentration, ability to learn, or ability to participate in employment, educational, or social activities;
- c. Is at risk for developing or requires treatment for maladaptive coping strategies; and
- d. Presents a reduction in individual adaptive and coping mechanisms or demonstrates extreme increase in personal distress.

5. Psychological or psychiatric services may be provided in an office or a mental health clinic.

E. Any procedure considered experimental is not covered.

F. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus was carried to term.

G. Physician visits to inpatient hospital patients over the age of 21 are limited to a maximum of 21 days per admission within 60 days for the same or similar diagnoses or treatment plan and is further restricted to medically necessary authorized (for enrolled providers)/approved (for nonenrolled

providers) inpatient hospital days as determined by the Program.

EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in general hospitals and freestanding psychiatric facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Payments for physician visits for inpatient days shall be limited to medically necessary inpatient hospital days.

H. (Reserved.)

I. Reimbursement shall not be provided for physician services provided to recipients in the inpatient setting whenever the facility is denied reimbursement.

J. (Reserved.)

K. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Transplant services for kidneys, corneas, hearts, lungs, and livers shall be covered for all eligible persons. High dose chemotherapy and bone marrow/stem cell transplantation shall be covered for all eligible persons with a diagnosis of lymphoma, breast cancer, leukemia, or myeloma. Transplant services for any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be limited to children (under 21 years of age). Kidney, liver, heart, and bone marrow/stem cell transplants and any other medically necessary transplantation procedures that are determined to not be experimental or investigational require preauthorization by DMAS. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. Standards for coverage of organ transplant services are in 12 VAC 30-50-540 through 12 VAC 30-50-580.

L. Breast reconstruction/prostheses following mastectomy and breast reduction.

1. If prior authorized, breast reconstruction surgery and prostheses may be covered following the medically necessary complete or partial removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorized, for all medically necessary indications. Such procedures shall be considered noncosmetic.

2. Breast reconstruction or enhancements for cosmetic reasons shall not be covered. Cosmetic reasons shall be defined as those which are not medically indicated or are intended solely to preserve, restore, confer, or enhance the aesthetic appearance of the breast.

M. Admitting physicians shall comply with the requirements for coverage of out-of-state inpatient hospital services. Inpatient hospital services provided out of state to a Medicaid recipient who is a resident of the Commonwealth of Virginia shall only be reimbursed under at least one the following conditions. It shall be the responsibility of the hospital, when requesting

prior authorization for the admission, to demonstrate that one of the following conditions exists in order to obtain authorization. Services provided out of state for circumstances other than these specified reasons shall not be covered.

1. The medical services must be needed because of a medical emergency;
2. Medical services must be needed and the recipient's health would be endangered if he were required to travel to his state of residence;
3. The state determines, on the basis of medical advice, that the needed medical services, or necessary supplementary resources, are more readily available in the other state;
4. It is general practice for recipients in a particular locality to use medical resources in another state.

L. In compliance with 42 CFR 441.200, Subparts E and F, claims for hospitalization in which sterilization, hysterectomy or abortion procedures were performed shall be subject to review of the required DMAS forms corresponding to the procedures. The claims shall suspend for manual review by DMAS. If the forms are not properly completed or not attached to the bill, the claim will be denied or reduced according to DMAS policy.

*Licensed clinical social workers, licensed professional counselors, and licensed clinical nurse specialists-psychiatric may also directly enroll or be supervised by psychologists as provided for in 12 VAC 30-50-150.

12 VAC 30-50-150. Medical care by other licensed practitioners within the scope of their practice as defined by state law.

A. Podiatrists' services.

1. Covered podiatry services are defined as reasonable and necessary diagnostic, medical, or surgical treatment of disease, injury, or defects of the human foot. These services must be within the scope of the license of the podiatrists' profession and defined by state law.
2. The following services are not covered: preventive health care, including routine foot care; treatment of structural misalignment not requiring surgery; cutting or removal of corns, warts, or calluses; experimental procedures; acupuncture.
3. The Program may place appropriate limits on a service based on medical necessity or for utilization control, or both.

B. Optometrists' services. Diagnostic examination and optometric treatment procedures and services by ophthalmologists, optometrists, and opticians, as allowed by the Code of Virginia and by regulations of the Boards of Medicine and Optometry, are covered for all recipients. Routine refractions are limited to once in 24 months except as may be authorized by the agency.

C. Chiropractors' services are not provided.

D. Other practitioners' services; psychological services, psychotherapy. Limits and requirements for covered services

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are found under Outpatient Psychiatric Services (see 12 VAC 30-50-140 D).

1. These limitations apply to psychotherapy sessions provided, within the scope of their licenses, by licensed clinical psychologists or licensed clinical social workers/licensed professional counselors/licensed clinical nurse specialists-psychiatric who are either independently enrolled or under the direct supervision of a licensed clinical psychologist. Psychiatric services are limited to an initial availability of ~~26 five sessions, with one possible extension of 26 sessions during the first year of treatment without prior authorization.~~ *An additional extension of 26 sessions during the first treatment year must be prior authorized by DMAS.* The availability is further restricted to no more than 26 sessions each succeeding *treatment year* when ~~approved by the Psychiatric Review Board authorized by DMAS.~~ Psychiatric services are further restricted to no more than three sessions in any given seven-day period.

2. Psychological testing is covered when provided, within the scope of their licenses, by licensed clinical psychologists or licensed clinical social workers/licensed professional counselors/licensed clinical nurse specialists-psychiatric who are either independently enrolled or under the direct supervision of a licensed clinical psychologist.

12 VAC 30-50-160. Home health services.

A. Service must be ordered or prescribed and directed or performed within the scope of a license of a practitioner of the healing arts. Home health services shall be provided in accordance with guidelines found in the Virginia Medicaid Home Health Manual.

B. Nursing services provided by a home health agency.

1. Intermittent or part-time nursing service provided by a home health agency or by a registered nurse when no home health agency exists in the area.

2. Patients may receive up to ~~32~~ *five* visits by a licensed nurse annually. Limits are per recipient, regardless of the number of providers rendering services. Annually shall be defined as July 1 through June 30 for each recipient. If services beyond these limitations are determined by the physician to be required, then the provider shall request prior authorization from DMAS for additional services. Payment shall not be made for additional service unless authorized by DMAS.

C. Home health aide services provided by a home health agency.

1. Home health aides must function under the supervision of a registered nurse.

2. Home health aides must meet the certification requirements specified in 42 CFR 484.36.

3. For home health aide services, patients may receive up to 32 visits annually. Limits shall be per recipient, regardless of the number of providers rendering services. Annually shall be defined as July 1 through June 30 for each recipient.

D. Physical therapy, occupational therapy, or speech pathology services and audiology services provided by a home health agency or medical rehabilitation facility.

1. Service covered only as part of a physician's plan of care.

2. Patients may receive up to ~~24~~ *five* visits for each rehabilitative therapy service ordered annually without authorization. Limits shall apply per recipient regardless of the number of providers rendering services. Annually shall be defined as July 1 through June 30 for each recipient. If services beyond these limitations are determined by the physician to be required, then the provider shall request prior authorization from DMAS for additional services.

E. The following services are not covered under the home health services program:

1. Medical social services;

2. Services or items which would not be paid for if provided to an inpatient of a hospital, such as private-duty nursing services, or items of comfort which have no medical necessity, such as television;

3. Community food service delivery arrangements;

4. Domestic or housekeeping services which are unrelated to patient care and which materially increase the time spent on a visit;

5. Custodial care which is patient care that primarily requires protective services rather than definitive medical and skilled nursing care; and

6. Services related to cosmetic surgery.

12 VAC 30-50-460. ~~Case management services for the elderly.~~ *(Repealed.)*

~~A. Target Group: Persons age 60 and over who have been screened through a Case Management Pilot Project approved by the Long Term Care Council and found to be dependent in 2 or more of the following activities of daily living: (a) bathing, (b) dressing, (c) toileting, (d) transferring, (e) continence, or (f) eating.~~

~~B. Services will be provided only in the following geographic areas (authority of section 1915(g)(1) of the Act is invoked to provide services less than Statewide:~~

~~a. Fairfax County, and the cities of Falls Church and Fairfax;~~

~~b. Planning Districts 1, 2, 3 (except for Washington County and the City of Bristol), 4, 17, 18, 22, 23.~~

~~C. Comparability of Services. Services are not comparable in amount, duration, and scope. Authority of section 1915(g)(1) of the Act is invoked to provide services without regard to the requirements of section 1902(a)(10)(B) of the Act.~~

~~D. Definition of Services:~~

~~1. Assessment: Determining client's service needs, which include psychosocial, nutritional and medical.~~

~~2. Service Planning: Developing an individualized description of what services and resources are needed to~~

meet the service needs of the client and help access those resources.

3. ~~Coordination & Referral: Assisting the client in arranging for appropriate services and ensuring continuity of care.~~

4. ~~Follow up & Monitoring: Assessing ongoing progress, ensuring services are delivered, and periodically reassessing need to determine appropriate revisions to the case management plan of care.~~

~~E. Qualifications of Providers. To qualify as a provider of case management for the elderly, the provider of services must ensure that claims are submitted for payment only when the services were performed by case managers meeting these qualifications. The case manager must possess a combination of work experience or relevant education which indicates that the individual possesses the following knowledge, skills, and abilities. The case manager must have these knowledge, skills, and abilities at the entry level which must be documented or observable in the application form or supporting documentation or in the interview (with appropriate documentation).~~

~~1. Knowledge of:~~

- ~~a. Aging and the impact of disabilities and illnesses on aging;~~
- ~~b. Conducting client assessments (including psychosocial, health and functional factors) and their uses in care planning;~~
- ~~c. Interviewing techniques;~~
- ~~d. Consumers' rights;~~
- ~~e. Local human and health service delivery systems, including support services and public benefits eligibility requirements;~~
- ~~f. The principles of human behavior and interpersonal relationships;~~
- ~~g. Effective oral, written, and interpersonal communication principles and techniques;~~
- ~~h. General principles of record documentation;~~
- ~~i. Service planning process and the major components of a service plan.~~

~~2. Skills in:~~

- ~~a. Negotiating with consumers and service providers;~~
- ~~b. Observing, recording and reporting behaviors;~~
- ~~c. Identifying and documenting a consumer's needs for resources, services and other assistance;~~
- ~~d. Identifying services within the established services system to meet the consumer's needs;~~
- ~~e. Coordinating the provision of services by diverse public and private providers;~~
- ~~f. Analyzing and planning for the service needs of elderly persons;~~

~~3. Abilities to:~~

- ~~a. Demonstrate a positive regard for consumers and their families;~~
- ~~b. Be persistent and remain objective;~~
- ~~c. Work as a team member, maintaining effective inter- and intra-agency working relationships;~~
- ~~d. Work independently, performing position duties under general supervision;~~
- ~~e. Communicate effectively, verbally and in writing.~~
- ~~f. Develop a rapport and to communicate with different types of persons from diverse cultural backgrounds;~~
- ~~g. Interview.~~

~~4. Individuals meeting all the above qualifications shall be considered a qualified case manager; however, it is preferred that the case manager possess a minimum of an undergraduate degree in a human services field, or be a licensed nurse. In addition, it is preferable that the case manager have two years of satisfactory experience in the human services field working with the elderly.~~

~~F. The State assures that the provision of case management services will not restrict an individual's free choice of providers in violation of § 1902(a)(23) of the Act.~~

- ~~1. Eligible recipients will have free choice of the providers of case management services.~~
- ~~2. Eligible recipients will have free choice of the providers of other medical care under the plan.~~

~~G. Payment for case management services under the plan does not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.~~

~~H. Case Management services to the elderly shall be limited to no more than 6 months without authorization from the Department of Medical Assistance Services.~~

12 VAC 30-60-70. Utilization control: Home health services.

A. Home health services which meet the standards prescribed for participation under Title XVIII, excluding any homebound standard, will be supplied.

B. Home health services shall be provided by a licensed home health agency that is licensed by the Virginia Department of Health (VDH); or that is certified by the VDH under provisions of Title XVIII (Medicare) or Title XIX (Medicaid) of the Social Security Act; or that is accredited either by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or by the Community Health Accreditation Program (CHAP) established by the National League of Nursing. Services shall be provided on a part-time or intermittent basis to a recipient in his place of residence. The place of residence shall not include a hospital or nursing facility. Home health services must be prescribed by a physician and be part of a written plan of care which the physician shall review, sign, and date at least every 60 days.

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C. Covered services. Any one of the following services may be offered as the sole home health service and shall not be contingent upon the provision of another service.

1. Nursing services;
2. Home health aide services;
3. Physical therapy services;
4. Occupational therapy services; or
5. Speech-language pathology services.

D. General conditions. The following general conditions apply to skilled nursing, home health aide, physical therapy, occupational therapy, and speech-language pathology services provided by home health agencies.

1. The patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his license. The physician may be the patient's private physician or a physician on the staff of the home health agency or a physician working under an arrangement with the institution which is the patient's residence or, if the agency is hospital-based, a physician on the hospital or agency staff.

2. Services shall be furnished under a written plan of care and must be established and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of care and must be related to the patient's condition. The initial plan of care must be reviewed, signed, and dated by the attending physician, or physician designee, no later than 21 days after the implementation of the plan of care.

3. A physician recertification shall be required at intervals of at least once every 60 days, must be signed and dated by the physician who reviews the plan of care, and should be obtained when the plan of care is reviewed. The physician recertification statement must indicate the continuing need for services and should estimate how long home health services will be needed.

4. The physician-orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the plan of care, and indicate the frequency and duration for services.

5. A written physician's statement located in the medical record must certify that:

a. The patient needs licensed nursing care, home health aide services, physical or occupational therapy, or speech-language pathology services;

b. A plan for furnishing such services to the individual has been established and is periodically reviewed by a physician; and

c. These services were furnished while the individual was under the care of a physician.

6. The plan of care shall contain at least the following information:

a. Diagnosis and prognosis;

b. Functional limitations;

c. Orders for nursing or other therapeutic services;

d. Orders for home health aide services, when applicable;

e. Orders for medications and treatments, when applicable;

f. Orders for special dietary or nutritional needs, when applicable; and

g. Orders for medical tests, when applicable, including laboratory tests and x-rays.

E. Utilization review shall be performed by DMAS to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Such post payment review audits may be unannounced. Services not specifically documented in patients' medical records as having been rendered shall be deemed not to have been rendered and no reimbursement shall be provided.

F. All services furnished by a home health agency, whether provided directly by the agency or under arrangements with others, must be performed by appropriately qualified personnel. The following criteria shall apply to the provision of home health services:

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

2. Home health aide services. Home health aides must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aide services may include assisting with personal hygiene, meal preparation and feeding, walking, and taking and recording blood pressure, pulse, and respiration. Home health aide services must be provided under the general supervision of a registered nurse. A recipient may not receive duplicative home health aide and personal care aide services.

3. Rehabilitation services. Services shall be specific and provide effective treatment for patients' conditions in accordance with accepted standards of medical practice. The amount, frequency, and duration of the services shall be reasonable. Rehabilitative services shall be provided with the expectation, based on the assessment made by physicians of patients' rehabilitation potential, that the condition of patients will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with the specific diagnosis.

a. Physical therapy services shall be directly and specifically related to an active written plan of care designed and personally signed and dated by a physician after any needed consultation with a physical therapist licensed by the Board of Physical Therapy. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the

services can only be performed by a physical therapist licensed by the Board of Physical Therapy, or a physical therapy assistant who is licensed by the Board of Physical Therapy and is under the direct supervision of a physical therapist licensed by the Board of Physical Therapy. When physical therapy services are provided by a qualified physical therapy assistant, such services shall be provided under the supervision of a qualified physical therapist who makes an onsite supervisory visit at least once every 30 days. This supervisory visit shall not be reimbursable.

b. Occupational therapy services shall be directly and specifically related to an active written plan of care designed by a physician after any needed consultation with an occupational therapist registered and certified licensed by the American Occupational Therapy National Board for Certification Board in Occupational Therapy and licensed by the Virginia Board of Medicine. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by an occupational therapist registered and certified licensed by the American Occupational Therapy National Board for Certification Board in Occupational Therapy and licensed by the Virginia Board of Medicine, or an occupational therapy assistant who is certified by the American Occupational Therapy Certification National Board for Certification in Occupational Therapy under the direct supervision of an occupational therapist as defined above. When occupational therapy services are provided by a qualified occupational therapy assistant, such services shall be provided under the supervision of a qualified occupational therapist, as defined above, who makes an onsite supervisory visit at least once every 30 days. This supervisory visit shall not be reimbursable.

c. Speech-language pathology services shall be directly and specifically related to an active written plan of care designed and personally signed and dated by a physician after any needed consultation with a speech-language pathologist licensed by the Virginia Department of Health Professions, Virginia Board of Audiology and Speech-Language Pathology. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Virginia Department of Health Professions, Virginia Board of Audiology and Speech-Language Pathology.

4. A visit shall be defined as the duration of time that a nurse, home health aide, or rehabilitation therapist is with a client to provide services prescribed by a physician and that are covered home health services. Visits shall not be defined in measurements or increments of time.

12 VAC 30-110-1210. Twelve-month extension of eligibility for medical assistance. (Repealed.)

~~A. Requirements. Notwithstanding any provision of the State Plan for Medical Assistance, each family which was receiving AFDC as a participant in VIEW immediately preceding the month in which such family becomes ineligible for AFDC shall, subject to these provisions and without any reapplication for~~

~~benefits, remain eligible for medical assistance for up to 12 consecutive months immediately succeeding AFDC termination. Individuals who have been eligible for the entire first six months may be eligible for continuation of transitional medical assistance for the second six months if they meet the additional eligibility requirements listed in subdivision C 2 of this section.~~

~~B. Notice of benefits. In the notice of termination of AFDC benefits sent to a family meeting the requirements of subsection A of this section, the local department of social services shall notify the family of its right to transitional medical assistance and include in such notice a description of the reporting requirements of 12 VAC 30-110-1230 B and the circumstances described in this section under which such transitional assistance may be terminated.~~

~~C. Eligibility for medical assistance under VIEW.~~

~~1. First six-month period. A participant of VIEW whose AFDC is terminated, either voluntarily or involuntarily, shall receive medical assistance, including transitional medical assistance for families with a working parent who becomes ineligible for AFDC financial assistance because of increased earnings, unless:~~

~~a. The family ceases to include a child, or~~

~~b. The caretaker relative refuses to apply for health coverage offered by an employer as provided in 12 VAC 30-110-1220 B.~~

~~2. Second six-month period. For families who received medical assistance during the entire first six-month period under subdivision C 1 of this section, the following applies:~~

~~a. Subject to subdivisions 2 b and c of this subsection, assistance to a family during the second six-month period shall terminate at the close of the first month in which:~~

~~(1) No child resides with the family, whether or not the child is (or would, if needy, be) a dependent child under AFDC;~~

~~(2) The family income exceeds 185% of the federal poverty level during the immediately preceding three-month period;~~

~~(3) The caretaker relative fails to meet the reporting requirements specified in 12 VAC 30-110-1230 B. Medical assistance under this provision shall terminate at the close of the sixth, eighth or eleventh month of the 12-month period if the family fails to make the required report to the local department of social services, by the deadline specified in 12 VAC 30-110-1230 B, unless the family has established good cause for the failure to report on a timely basis.~~

~~b. Written notice before termination. No termination of assistance under these provisions shall become effective until the local department of social services provides the family with notice of the grounds for the termination.~~

~~c. Continuation in certain cases until redetermination.~~

~~(1) If a child is ineligible to receive transitional medical assistance under this section, but may be eligible for~~

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~~assistance under the State Plan for Medical Assistance because the child is described in clause (i) of § 1905(a) of the Social Security Act (42 USC § 1396d(a)) or clause (i)(IV), (i)(VI), (i)(VII), or (ii)(IX) of § 1902(a)(10)(A) of the Social Security Act (42 USC § 1396a(a)(10)(A)), the local department of social services shall not discontinue transitional medical assistance until that department has determined that the child is ineligible for medical assistance under the State Plan for Medical Assistance.~~

~~(2) If an individual ceases to receive transitional medical assistance under this section, but may be eligible for medical assistance under the State Plan for Medical Assistance because the individual is within a category of person for which medical assistance under the State Plan for Medical Assistance is available under § 1902(a)(10)(A) or (C) of the Social Security Act (42 USC § 1396a(a)(10)(A) or (C)), the local department of social services shall not discontinue transitional assistance until that department determines that the individual is ineligible for medical assistance under the State Plan for Medical Assistance.~~

12 VAC 30-120-50. Personal care services.

The following requirements govern the provision of personal care services.

A. General. Personal care services may be offered to individuals as an alternative to institutional care. Personal care may be offered either as the sole home and community-based care service that avoids institutionalization or in conjunction with adult day health care, respite care, or PERS.

Recipients may continue to work or attend post-secondary school, or both, while they receive services under this waiver. The personal care attendant who assists the recipient may accompany that person to work or school or both and may assist the person with personal needs while the individual is at work or school or both. DMAS will also pay for any personal care services that the attendant gives to the enrolled recipient to assist him in getting ready for work or school or both or when he returns home.

DMAS will review the recipient's needs and the complexity of the disability when determining the services that will be provided to the recipient in the workplace or school or both.

DMAS will not duplicate services that are required as a reasonable accommodation as a part of the Americans with Disabilities Act (ADA) (42 USC §§ 12131 through 12165) or the Rehabilitation Act of 1973. For example, if the recipient's only need is for assistance during lunch, DMAS would not pay for the attendant to be with the recipient for any hours extending beyond lunch. For a recipient whose speech is such that they cannot be understood without an interpreter (not translation of a foreign language), or the recipient is physically unable to speak or make himself understood even with a communication device, the attendant's services may be necessary for the length of time the recipient is at work or school or both. DMAS will reimburse for the attendant's services unless the attendant is required to assist the recipient for the length of time the recipient is at work or school or both as a part of the ADA or the Rehabilitation Act.

The provider agency must develop an individualized plan of care that addresses the recipient's needs at home and work and in the community.

DMAS will not pay for the attendant to assist the enrolled recipient with any functions related to the recipient completing his job or school functions or for supervision time during work or school or both.

B. Special provider participation conditions. The personal care provider shall:

1. Operate from a business office;
2. Employ (or subcontract with) and directly supervise a registered nurse who will provide ongoing supervision of all personal care aides.
 - a. The registered nurse shall be currently licensed to practice in the Commonwealth of Virginia and have at least two years of related clinical nursing experience (which may include work in an acute care hospital, public health clinic, home health agency, rehabilitation hospital, nursing facility, or as a licensed practical nurse (LPN)).
 - b. The registered nurse shall have a satisfactory work record, as evidenced by two references from prior job experience, including no evidence of abuse, neglect, or exploitation of incapacitated or older adults and children. Providers are responsible for complying with § 32.1-162.9:1 of the Code of Virginia regarding criminal record checks. The criminal record check shall be available for review by DMAS staff who are authorized by the agency to review these files.
 - c. The registered nurse supervisor shall make an initial home assessment visit on or before the start of care for all new recipients admitted to personal care, when a recipient is readmitted after being discharged from services, or if he is transferred to another provider or ADHC.
 - d. The registered nurse supervisor shall make supervisory visits as often as needed, but no fewer visits than provided as follows, to ensure both quality and appropriateness of services.
 - (1) A minimum frequency of these visits is every 30 days for recipients with a cognitive impairment and every 60 90 days for recipients who do not have a cognitive impairment.
 - (2) The initial home assessment visit by the registered nurse shall be conducted to create the plan of care and assess the recipient's needs. The registered nurse shall return for a follow-up visit within 30 days after the initial visit to assess the recipient's needs and make a final determination that there is no cognitive impairment. This determination must be documented in the recipient's record by the registered nurse. Recipients who are determined to have a cognitive impairment will continue to have supervisory visits every 30 days.
 - (3) If there is no cognitive impairment, the registered nurse may give the recipient or caregiver or both the

option of having the supervisory visit every ~~60~~ 90 days or any increment in between, not to exceed ~~60~~ 90 days. The registered nurse must document in the recipient's record this conversation and the option that was chosen.

(4) The provider agency has the responsibility of determining if 30-day registered nurse supervisory visits are appropriate for the recipient. The provider agency may offer the extended registered nurse visits, or the agency may choose to continue the 30-day supervisory visits based on the needs of the individual. The decision must be documented in the recipient's record.

(5) If a recipient's personal care aide is supervised by the provider's registered nurse less often than every 30 days and DMAS or the designated preauthorization contractor determines that the recipient's health, safety or welfare is in jeopardy, DMAS, or the designated preauthorization contractor, may require the provider's registered nurse to supervise the personal care aide every 30 days or more frequently than what has been determined by the registered nurse. This will be documented and entered in the recipient's record.

e. During visits to the recipient's home, a registered nurse shall observe, evaluate, and document the adequacy and appropriateness of personal care services with regard to the recipient's current functioning status, medical, and social needs. The personal care aide's record shall be reviewed and the recipient's (or family's) satisfaction with the type and amount of service discussed. The registered nurse summary shall note:

- (1) Whether personal care services continue to be appropriate;
- (2) Whether the plan is adequate to meet the recipient's needs or if changes need to be made in the plan of care;
- (3) Any special tasks performed by the aide and the aide's qualifications to perform these tasks;
- (4) Recipient's satisfaction with the service;
- (5) Hospitalization or change in the medical condition or functioning status of the recipient;
- (6) Other services received by the recipient and the amount; and
- (7) The presence or absence of the aide in the home during the registered nurse's visit.

f. A registered nurse shall be available to the personal care aide for conference pertaining to individuals being served by the aide and shall be available to aides by telephone at all times that the aide is providing services to personal care recipients.

g. The registered nurse supervisor shall evaluate the aides' performance and the recipient's needs to identify any insufficiencies in the aides' abilities to function competently and shall provide training as indicated. This shall be documented in the recipient's record.

h. If there is a delay in the registered nurses' supervisory visits, because the recipient was unavailable, the reason for the delay must be documented in the recipient's record.

3. Employ and directly supervise personal care aides who provide direct care to personal care recipients. Each aide hired by the provider agency shall be evaluated by the provider agency to ensure compliance with qualifications required by DMAS. Each aide shall:

- a. Be able to read and write in English to the degree necessary to perform the expected tasks;
- b. Complete a minimum of 40 hours of training consistent with DMAS standards. Prior to assigning an aide to a recipient, the provider agency shall ensure that the aide has satisfactorily completed a training program consistent with DMAS standards;
- c. Be physically able to do the work;
- d. Have a satisfactory work record, as evidenced by references from prior job experience, including no evidence of abuse, neglect, or exploitation of incapacitated or older adults and children. Providers are responsible for complying with § 32.1-162.9:1 of the Code of Virginia regarding criminal record checks. The criminal record check shall be available for review by DMAS staff who are authorized by the agency to review these files;
- e. Not be: (i) the parents of minor children who are receiving waiver services or (ii) spouses of individuals who are receiving waiver services; and
- f. Payment may be made for services furnished by other family members when there is objective written documentation as to why there are no other providers available to provide the care. These family members must meet the same requirements as aides who are not family members.

C. Required documentation for recipients' records. The provider agency shall maintain all records of each personal care recipient. These records shall be separate from those of nonhome and community-based care services, such as companion or home health services. These records shall be reviewed periodically by the DMAS staff who are authorized by the agency to review these files. At a minimum the record shall contain:

1. The most recently updated Long-Term Care Uniform Assessment Instrument, the Medicaid-Funded Long-Term Care Service Authorization form (DMAS-96), the Screening Team Service Plan for Medicaid-Funded Long-Term Care (DMAS-97), all provider agency plans of care, and all Patient Information forms (DMAS-122);
2. The initial assessment by a registered nurse completed prior to or on the date that services are initiated;
3. Registered nurses' notes recorded and dated during significant contacts with the personal care aide and during supervisory visits to the recipient's home;
4. All correspondence to the recipient, DMAS, and the designated preauthorization contractor;

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5. Reassessments made during the provision of services;
6. Significant contacts made with family, physicians, DMAS, the designated preauthorization contractor, formal, informal service providers and all professionals related to the recipient's Medicaid services or medical care;
7. All personal care aide records. The personal care aide record shall contain:
 - a. The specific services delivered to the recipient by the aide and the recipient's responses to this service;
 - b. The aide's daily arrival and departure times;
 - c. The aide's weekly comments or observations about the recipient, including observations of the recipient's physical and emotional condition, daily activities, and responses to services rendered; and
 - d. The aide's and recipient's or responsible caregiver's weekly signatures, including the date, to verify that personal care services have been rendered during that week as documented in the record. An employee of the provider cannot sign for the recipient unless he is a family member of the recipient;

Signatures, times and dates shall not be placed on the aide record prior to the last date of the week that the services are delivered; and

8. All recipient progress reports.

12 VAC 30-120-490. Definitions.

"Activities of daily living" or "ADL" means personal care tasks, i.e., bathing, dressing, toileting, transferring, and eating/feeding. A person's degree of independence in performing these activities is a part of determining appropriate level of care and services.

"Committee for recipient" means a person who has been legally invested with the authority, and charged with the duty of managing the estate or making decisions to promote the well-being of a person who has been determined by the circuit court to be totally incapable of taking care of his person or handling and managing his estate because of mental illness or mental retardation. A committee shall be appointed only if the court finds that the person's inability to care for himself or handle and manage his affairs is total.

"Current functional status" means the individual's degree of dependency in performing activities of daily living (ADL).

"DMAS" means the Department of Medical Assistance Services.

"DRS" means the Department of Rehabilitative Services. DRS currently operates the Personal Assistance Services Program, which is a state-funded program that provides a limited amount of personal care services to Virginians.

"DSS" means the Department of Social Services.

"Family or caregiver" means a spouse, parent, adult child, or guardian. A family or caregiver may direct the care on behalf of the recipient if a recipient is incapable of directing his own care.

"Fiscal agent" means an agency or organization that may be contracted by DMAS to handle employment, payroll, and tax responsibilities on behalf of the recipient who is receiving consumer-directed personal attendant services (PAS).

"Guardian" means a person who has been legally invested with the authority and charged with the duty of taking care of the recipient and managing his property and protecting the rights of the recipient who has been declared by the circuit court to be incapacitated and incapable of administering his own affairs. The powers and duties of the guardian are defined by the court and are limited to matters within the areas where the recipient in need of a guardian has been determined to be incapacitated.

"Home and community-based care" means a variety of in-home and community-based services reimbursed by DMAS (personal care, adult day health care, respite care, and assisted living,) authorized under a Social Security Act § 1915(c) waiver designed to offer individuals an alternative to institutionalization. Individuals may be preauthorized to receive one or more of these services either solely or in combination, based on the documented need for the service or services in order to avoid nursing facility placement. The Nursing Home Preadmission Screening Team or DMAS shall give prior authorization for any Medicaid-funded home and community-based care.

"Instrumental activities of daily living" or "IADL" means social tasks, i.e., meal preparation, shopping, housekeeping, laundry, money management. A person's degree of independence in performing these activities is part of determining appropriate level of care and services. Meal preparation is planning, preparing, cooking and serving food. Shopping is getting to and from the store, obtaining/paying for groceries and carrying them home. Housekeeping is dusting, washing dishes, making beds, vacuuming, cleaning floors, and cleaning bathroom/kitchen. Laundry is washing/drying clothes. Money management is paying bills, writing checks, handling cash transactions, and making change.

"Nursing Home Preadmission Screening (NHPAS)" means the process to (i) evaluate the medical, nursing, and social needs of individuals referred for preadmission screening, (ii) analyze what specific services the individuals need, (iii) evaluate whether a service or a combination of existing community services are available to meet the individuals' needs, and (iv) authorize Medicaid funded nursing facility or community-based care for those individuals who meet nursing facility level of care and require that level of care.

"Nursing Home Preadmission Screening Team" means the entity contracted with DMAS which is responsible for performing nursing home preadmission screening. For individuals in the community, this entity is a committee comprised of staff from the local health department and local DSS. For individuals in an acute care facility who require screening, the entity is a team of nursing and social work staff. A physician shall be a member of both the local committee or acute care team.

"Participating provider" means an institution, facility, agency, partnership, corporation, or association that meets the

standards and requirements set forth by DMAS, and has a current, signed contract with DMAS.

"*Personal attendant*" means, for purposes of this part and exemption from Worker's Compensation, a domestic servant. Consumers shall be restricted from employing more than two personal attendants simultaneously at any given time.

"*Personal attendant services*" or "*PAS*" means long-term maintenance or support services necessary to enable the mentally alert and competent individual to remain at or return home rather than enter a nursing care facility. Personal attendant services include hands-on care specific to the needs of a medically stable, physically disabled individual. Personal attendant services include assistance with ADLs, bowel/bladder programs, range of motion exercises, routine wound care which does not include sterile technique, and external catheter care as further defined in the Consumer-Directed PAS Manual. Supportive services are those which substitute for the absence, loss, diminution, or impairment of a physical function. When specified, supportive services may include assistance with IADLs which are incidental to the care furnished, or which are essential to the health and welfare of the recipient. Personal attendant services shall not include either practical or professional nursing services as defined in Chapters 30 and 34 of Title 54.1 of the Code of Virginia, as appropriate.

"*Plan of care*" or "*POC*" means the written plan of services certified by the screening team physician and approved by DMAS as needed by the individual to ensure optimal health and safety for the delivery of home and community-based care.

"*Providers*" means those individuals, agencies or facilities registered, licensed, or certified, as appropriate, and enrolled by DMAS to render services to Medicaid recipients eligible for services.

"*Service coordination provider*" means the provider contracted by DMAS that is responsible for ensuring that the assessment, development and monitoring of the plan of care, management training, and review activities as required by DMAS are accomplished. Individuals employed by the service coordination provider shall meet the knowledge, skills, and abilities as further defined in this part.

"*State Plan for Medical Assistance*" or "*the Plan*" means the document describing the covered groups, covered services and their limitations, and provider reimbursement methodologies as provided for under Title XIX of the Social Security Act.

"*Uniform Assessment Instrument*" or "*UAI*" means the standardized multidimensional questionnaire which assesses an individual's social, physical health, mental health, and functional abilities. The UAI is used to gather information for the determination of an individual's care needs and service eligibility, and for planning and monitoring an individual's care across various agencies for long-term care services.

12 VAC 30-120-500. General coverage and requirements for consumer-directed PAS as a home and community-based care waiver service.

A. Coverage statement. Coverage of consumer-directed PAS shall be provided under the administration of the DMAS to disabled and elderly individuals who must be mentally alert and have no cognitive impairments who would otherwise require the level of care provided in a nursing facility. Individuals must be able to manage their own affairs without help from another individual ~~and not have a guardian or committee. If disabled, individuals receiving services must be at least 18 years of age.~~ Individuals eligible for consumer-directed PAS must have the capability to hire and train their own personal attendants and supervise the attendant's performance. *If a recipient is incapable of directing his own care, a spouse, parent, adult child, or guardian may direct the care on behalf of the recipient.*

B. Individuals receiving services under this waiver must meet the following requirements:

1. Individuals receiving services under this waiver must be eligible under one of the following eligibility groups: aged, blind or disabled recipients eligible under 42 CFR 435.121, and the special home and community-based waiver group at 42 CFR 435.217 which includes individuals who would be eligible under the State Plan if they were institutionalized.

2. Under this waived service, the coverage groups authorized under § 1902(a)(10)(C)(i)(III) of the Social Security Act will be considered as if they were institutionalized for the purpose of applying institutional deeming rules.

3. Virginia shall reduce its payment for home and community-based care services provided for an individual by that amount of the individual's total income (including amounts disregarded in determining eligibility) that remains after allowable deductions for personal maintenance needs, deductions for other dependents, and medical needs have been made according to the guidelines in 42 CFR 435.735. DMAS will reduce its payment for home and community-based waiver services by the amount that remains after deducting the amounts as specified in 42 CFR 435.726, listed below:

- a. For individuals to whom § 1924(d) applies and for whom Virginia waives the requirement for comparability pursuant to § 1902(a)(10)(B), deduct the following in the respective order:

- (1) An amount for the maintenance needs of the individual which is equal to the categorically needy income standard for a non-institutionalized individual. Working individuals have a greater need due to expenses of employment; therefore, an additional amount of income shall be deducted. Earned income shall be deducted within the following limits: (i) for individuals employed 20 hours or more, earned income shall be disregarded up to a maximum of 300% of SSI and (ii) for individuals employed at least eight but less than 20 hours, earned income shall be disregarded up to a maximum of 200% of SSI. However, in no case, shall the total amount of income (both earned and

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unearned) disregarded for maintenance exceed 300% of SSI.

(2) For an individual with only a spouse at home, the community spousal income allowance determined in accordance with § 1924(d) of the Social Security Act.

(3) For an individual with a family at home, an additional amount for the maintenance needs of the family determined in accordance with § 1924(d) of the Social Security Act.

(4) Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party including Medicare and other health insurance premiums, deductibles, or coinsurance charges and necessary medical or remedial care recognized under state law but covered under the Plan.

b. For individuals to whom § 1924(d) does not apply, deduct the following in the respective order:

(1) An amount for the maintenance needs of the individual which is equal to the categorically needy income standard for a non-institutionalized individual. Working individuals have a greater need due to expenses of employment; therefore, an additional amount of income shall be deducted. Earned income shall be deducted within the following limits: (i) for individuals employed 20 hours or more, earned income shall be disregarded up to a maximum of 300% of SSI and (ii) for individuals employed at least eight but less than 20 hours, earned income shall be disregarded up to a maximum of 200% of SSI. However, in no case, shall the total amount of income (both earned and unearned) disregarded for maintenance exceed 300% of SSI.

(2) For an individual with a family at home, an additional amount for the maintenance needs of the family which shall be equal to the medically needy income standard for a family of the same size.

(3) Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party including Medicare and other health insurance premiums, deductibles, or coinsurance charges and necessary medical or remedial care recognized under state law but covered under the state Medical Assistance Plan.

C. Assessment and authorization of home and community-based care services.

1. To ensure that Virginia's home and community-based care waiver programs serve only individuals who would otherwise be placed in a nursing facility, home and community-based care services shall be considered only for individuals who are seeking nursing facility admission or for individuals who are at imminent risk of nursing facility admission in the near future. "Imminent risk" is defined as within one month. Home and community-based care services shall be the critical service that enables the individual to remain at home rather than being placed in a nursing facility.

2. The individual's status as an individual in need of home and community-based care services shall be determined by the NHPAS Team after completion of a thorough assessment of the individual's needs and available support. Screening and preauthorization of home and community-based care services by the NHPAS Team or DMAS staff is mandatory before Medicaid will assume payment responsibility of home and community-based care services.

3. An essential part of the NHPAS Team's assessment process is determining the level of care required by applying existing criteria for nursing facility care according to established nursing home preadmission screening processes.

4. The team shall explore alternative settings or services to provide the care needed by the individual. If nursing facility placement or a combination of other services are determined to be appropriate, the screening team shall initiate referrals for service. If Medicaid-funded home and community-based care services are determined to be the critical service to delay or avoid nursing facility placement, the screening team shall develop an appropriate plan of care and initiate referrals for service.

5. The annual cost of care for home and community-based care services for a recipient shall not exceed the average annual cost of nursing facility care. For purposes of this subdivision, the annual cost of care for home and community-based care services for a recipient shall include all costs of all Medicaid covered services which would actually be received by the recipient. The average annual cost of nursing facility care shall be determined by DMAS and shall be updated annually.

6. Home and community-based care services shall not be provided to any individual who resides in a board-and-care facility or adult care residences (ACRs) nor who is an inpatient in general acute care hospitals, skilled or intermediate nursing facilities, or intermediate care facilities for the mentally retarded. Additionally, home and community-based care services shall not be provided to any individual who resides outside of the physical boundaries of the Commonwealth, with the exception of brief periods of time as approved by DMAS. Brief periods of time may include, but are not necessarily restricted to, vacation or illness.

7. Medicaid will not pay for any home and community-based care services delivered prior to the authorization date approved by the NHPAS Team.

8. Any authorization and POC for home and community-based care services will be subject to the approval of DMAS prior to Medicaid reimbursement for waiver services.

12 VAC 30-120-520. Personal attendant services (PAS).

A. Consumer-directed PAS may be offered to individuals in their homes as an alternative to more costly institutional nursing facility care. When the individual referred for consumer-directed PAS is already receiving another home and community-based care service, the DMAS utilization

review staff shall assess the individual to determine the eligibility for consumer-directed PAS and authorize it if necessary to avoid more costly nursing facility care. In no event shall the services exceed cost effectiveness for this individual.

B. In addition to the general requirements above, to be enrolled as a Medicaid service coordination provider and maintain provider status, the following requirements shall be met:

1. The service coordination provider shall operate from a business office.
2. The service coordination provider must have sufficient qualified staff who will function as service coordinators to perform the needed POC development and monitoring, reassessments, service coordination, and support activities as required by the Consumer-Directed Personal Attendant Services Program.
3. It is preferred that the individual employed by the service coordination provider possess a minimum of an undergraduate degree in a human services field or be a registered nurse currently licensed to practice in the Commonwealth of Virginia. In addition, it is preferable that the individual have two years of satisfactory experience in the human services field working with persons with severe physical disabilities or the elderly. The individual shall possess a combination of work experience and relevant education which indicates possession of the following knowledge, skills, and abilities. Such knowledge, skills and abilities must be documented on the application form, found in supporting documentation, or observed during the interview. Observations during the interview must be documented. The knowledge, skills, and abilities shall include, but not necessarily be limited to:

a. Knowledge of:

- (1) Types of functional limitations and health problems that are common to different disability types and the aging process, as well as strategies to reduce limitations and health problems;
- (2) Physical assistance typically required by people with severe physical disabilities or elderly persons, such as transferring, bathing techniques, bowel and bladder care, and the approximate time those activities normally take;
- (3) Equipment and environmental modifications commonly used and required by people with physical disabilities or elderly persons which reduces the need for human help and improves safety;
- (4) Various long-term care program requirements, including nursing home and adult care residence placement criteria, Medicaid waiver services, and other federal, state, and local resources that provide personal assistance services;
- (5) DMAS consumer directed personal attendant services program requirements, as well as the administrative duties for which the recipient will be responsible;

(6) Conducting assessments (including environmental, psychosocial, health, and functional factors) and their uses in care planning;

(7) Interviewing techniques;

(8) The recipient's right to make decisions about, direct the provisions of, and control his attendant care services, including hiring, training, managing, approving time sheets, and firing an attendant;

(9) The principles of human behavior and interpersonal relationships; and

(10) General principles of record documentation.

b. Skills in:

- (1) Negotiating with recipients and service providers;
- (2) Observing, recording, and reporting behaviors;
- (3) Identifying, developing, or providing services to persons with severe disabilities or elderly persons; and
- (4) Identifying services within the established services system to meet the recipient's needs;

c. Abilities to:

- (1) Report findings of the assessment or onsite visit, either in writing or an alternative format for persons who have visual impairments;
- (2) Demonstrate a positive regard for recipients and their families;
- (3) Be persistent and remain objective;
- (4) Work independently, performing position duties under general supervision;
- (5) Communicate effectively, verbally and in writing; and
- (6) Develop a rapport and communicate with different types of persons from diverse cultural backgrounds.

4. If the service coordinator staff employed by the service coordination provider is not a registered nurse, the service coordination provider must have registered nurse (RN) consulting services available, either by a staffing arrangement or through a contracted consulting arrangement. The RN consultant is to be available as needed to consult with recipients/service coordination providers on issues related to the health needs of the recipient.

5. Service coordination provider duties.

a. The service coordination provider must make an initial, comprehensive home visit to develop the POC with the recipient *or family or caregiver* and provide management training. Recipients *or family or caregivers* who cannot receive management training at the time of the initial visit must receive management training within seven days of the initial visit. After the initial visit, two routine onsite visits must occur in the recipient's home within 60 days of the initiation of care or the initial visit to monitor the POC. The service coordination provider will continue to monitor

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the POC on an as needed basis, not to exceed a maximum of one routine onsite visit every 30 days but no less than the minimum of one routine onsite visit every 90 days per recipient. The initial comprehensive visit is done only once upon the recipient's entry into the program. If a waiver recipient changes service coordination provider agencies the new service coordination provider shall bill for a reassessment in lieu of a comprehensive visit.

b. A reevaluation of the recipient's level of care will occur six months after initial entry into the program, and subsequent reevaluations will occur at a minimum of every six months. During visits to the recipient's home, the service coordination provider shall observe, evaluate and document the adequacy and appropriateness of personal attendant services with regard to the recipient's current functioning and cognitive status, medical and social needs. The service coordination provider shall discuss the recipient's satisfaction with the type and amount of service. The service coordination provider's summary shall include, but not necessarily be limited to:

- (1) Whether personal attendant services continue to be appropriate and medically necessary to prevent institutionalization;
- (2) Whether the POC is adequate to meet the needs of the recipient;
- (3) Any special tasks performed by the attendant and the attendant's qualifications to perform these tasks;
- (4) Recipient's *or family or caregiver's* satisfaction with the service;
- (5) Hospitalization or change in medical condition, functioning or cognitive status;
- (6) Other services received and their amount; and
- (7) The presence or absence of the attendant in the home during the service coordinator's visit.

5. The service coordination provider shall be available to the recipient by telephone.

6. The service coordination provider will submit a criminal record check pertaining to the personal attendant on behalf of the recipient and report findings of the criminal record check to the recipient *or family or caregiver*. Personal attendants will not be reimbursed for services provided to the recipient effective with the date the criminal record check confirms a personal attendant has been found to have been convicted of a crime as described in 12 VAC 30-90-180.

7. The service coordination provider shall verify biweekly timesheets signed by the recipient *or family or caregiver* and the personal attendant to ensure the number of approved hours on the POC are not exceeded. If discrepancies are identified, the service coordination provider will contact the recipient *or family or caregiver* to resolve discrepancies and will notify the fiscal agent. If a recipient *or family or caregiver* is consistently being identified as having discrepancies in his timesheets, the service coordination provider will contact DMAS to resolve

the situation. Service coordination providers shall not verify timesheets for personal attendants who have been convicted of crimes described in 12 VAC 30-90-180 and will notify the fiscal agent.

C. The service coordination provider shall maintain a personal attendant registry. The registry shall contain names of persons who have experience with providing personal attendant services or who are interested in providing personal attendant services. The registry shall be maintained as a supportive source for the recipient who may use the registry to obtain names of potential personal attendants.

D. The service coordination provider shall maintain all records of each consumer-directed PAS recipient. At a minimum these records shall contain:

1. All copies of the completed UAIs, the Long-Term Care Preadmission Screening Authorization (DMAS-96), all plans of care, and all DMAS-122's.
2. All DMAS utilization review forms.
3. Service coordination provider's notes contemporaneously recorded and dated during any contacts with the recipient and during visits to the recipient's home.
4. All correspondence to the recipient and to DMAS.
5. Reassessments made during the provision of services.
6. Records of contacts made with family, physicians, DMAS, formal, informal service providers and all professionals concerning the recipient.
7. All training provided to the personal attendant or attendants on behalf of the recipient.
8. All recipient progress reports, as specified in subsection E of this section.
9. All management training provided to the recipients *or family or caregivers*, including the recipient's *or family or caregiver's* responsibility for the accuracy of the timesheets.

E. The service coordination provider is required to submit to DMAS biannually, for every recipient, a recipient progress report, an updated UAI, and any monthly visit/progress reports. This information is used to assess the recipient's ongoing need for Medicaid-funded long-term care and appropriateness and adequacy of services rendered.

F. Recipients *or family or caregivers* will hire their own personal attendants and manage and supervise the attendants' performance.

1. Attendant qualifications include, but shall not be necessarily limited to the following requirements. The attendant must:
 - a. Be 18 years of age or older;
 - b. Have the required skills to perform attendant care services as specified in the recipient's POC;
 - c. Possess basic math, reading, and writing skills;
 - d. Possess a valid social security number;

e. Submit to a criminal records check. The personal attendant will not be compensated for services provided to the recipient if the records check verifies the personal attendant has been convicted of crimes described in 12 VAC 30-90-180;

f. Be willing to attend training at the recipient's *or family or caregiver's* request;

g. Understand and agree to comply with the DMAS Consumer-Directed PAS Program requirements; and

h. Be willing to register in a personal attendant registry, which will be maintained by the provider agency chosen by the recipient.

2. Restrictions. Attendants shall not be ~~members of the recipients' family. Family is defined as a parent or stepparent, spouse, children or stepchildren, siblings or stepsiblings, grandparents or stepgrandparents, grandchildren, or stepgrandchildren of a minor child or a recipient's spouse.~~ In addition, anyone who has legal guardianship or is a committee for the recipient shall also be prohibited from being an attendant under this program.

G. The recipient's inability to obtain personal attendant services and substitution of attendants. The service coordination provider shall note on the Plan of Care what constitutes the recipient's backup plan in case the personal attendant does not report for work as expected or terminates employment without prior notice. Upon the recipient's request, the service coordination provider shall provide the recipient with a list of persons on the personal attendant registry who can provide temporary assistance until the attendant returns or the recipient is able to select and hire a new personal attendant. If a recipient is consistently unable to hire and retain the employment of an attendant to provide personal attendant services, the service coordination provider must:

1. Contact DMAS to transfer the recipient to a provider which provides Medicaid-funded agency-directed personal care services. The service coordination provider will make arrangements to have the recipient transferred, or

2. Contact the local health department and request a Nursing Home Preadmission Screening to determine if another long-term care option is appropriate.

12 VAC 30-120-530. Fiscal services.

A. DMAS shall be permitted to contract for the services of a fiscal agent. The fiscal agent will be reimbursed by the DMAS to perform certain tasks as an agent for the recipient/employer who is receiving consumer-directed PAS. The fiscal agent will handle responsibilities for the recipient for employment taxes. The fiscal agent will seek and obtain all necessary authorizations and approvals of the Internal Revenue Services in order to fulfill all these duties.

B. A fiscal agent may be a state agency or other organization, and will sign a contract with the DMAS that clearly defines the roles and tasks expected of the fiscal agent and the DMAS and enroll as a provider of consumer-directed PAS. Roles and tasks which will be defined for the fiscal agent in the contract will consist of but not necessarily be limited to the following:

1. The fiscal agent will file for and obtain employer agent status with the federal and state tax authorities;

2. Once the recipient has been authorized to receive consumer-directed PAS, the fiscal agent will register the recipient *or family or caregiver* as an employer, including providing assistance to the recipient *or family or caregiver* in completing forms required to obtain employer identification numbers from federal agencies, state agencies, and unemployment insurance agencies;

3. The fiscal agent will prepare and maintain original and file copies of all forms needed to comply with federal, state, and local tax payment, payment of unemployment compensation insurance premiums, and all other reporting requirements of employers;

4. Upon receipt of the required completed forms from the recipient, the fiscal agent will remit the required forms to the appropriate agency and maintain copies of the forms in the recipient's file. The fiscal agent will return copies of all forms to the recipient *or family or caregiver* for the recipient's *or family or caregiver's* permanent personnel records;

5. The fiscal agent will prepare all unemployment tax filings on behalf of the recipient as employer, and make all deposits of unemployment taxes withheld according to the appropriate schedule;

6. The fiscal agent will receive and verify the attendant biweekly timesheets do not exceed the maximum hours approved for the recipient and will process the timesheets.

7. The fiscal agent will prepare and process the payroll for the recipient's attendants, performing appropriate income tax, FICA and other withholdings according to federal and state regulations. Withholdings include, but are not limited to, all judgments, garnishments, tax levies or any related holds on the funds of the attendants as may be required by local, state, or federal law;

8. The fiscal agent will prepare payrolls for the recipient's personal attendant according to approved time sheets and after making appropriate deductions;

9. The fiscal agent will make payments on behalf of the recipient for FICA (employer and employee shares), unemployment compensation taxes, and other payments required and as appropriate;

10. The fiscal agent will distribute biweekly payroll checks to the recipient's attendants on behalf of the recipient;

11. The fiscal agent will maintain accurate payroll records by preparing and submitting to DMAS, at the time the fiscal agent bills DMAS for personal attendant services, an accurate accounting of all payments on personal attendants to whom payments for services were made, including a report of FICA payments for each covered attendant;

12. The fiscal agent will maintain such other records and information as DMAS may require, in the form and manner prescribed by DMAS;

13. The fiscal agent will generate W-2 forms for all personal attendants who meet statutory threshold amounts during the tax year;

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14. The fiscal agent will establish a customer service mechanism in order to respond to calls from recipients and personal attendants regarding lost or late checks, or other questions regarding payments that are not related to the authorization amounts generated from DMAS;
15. The fiscal agent will keep abreast of all applicable state and federal laws and regulations relevant to the responsibilities it has undertaken with regard to these filings;
16. The fiscal agent will use program-designated billing forms or electronic billing to bill DMAS; and
17. The fiscal agent will be capable of requesting electronic transfer of funds from DMAS.

C. The fiscal agent and all subcontracting bookkeeping firms, as appropriate, will maintain the confidentiality of Medicaid information in accordance with the following:

1. The fiscal agent agrees to ensure that access to Medicaid information will be limited to the fiscal agent. The fiscal agent shall take measures to prudently safeguard and protect unauthorized disclosure of the Medicaid information in its possession. The fiscal agent shall establish internal policies to ensure compliance with federal and state laws and regulations regarding confidentiality including, but not limited to, 42 CFR Part 431, Subpart F, and Chapter 26 (§ 2.1-377 et seq.) of Title 2.1 of the Code of Virginia. In no event shall the fiscal agent provide, grant, allow, or otherwise give, access to Medicaid information to anyone without the express written permission of the DMAS Director. The fiscal agent shall assume all liabilities under both state and federal law in the event that the information is disclosed in any manner.
2. Upon the fiscal agent receiving any requests for Medicaid information from any individual, entity, corporation, partnership or otherwise, the fiscal agent must notify DMAS of such requests within 24 hours. The fiscal agent shall ensure that there will be no disclosure of the data except through DMAS. DMAS will treat such requests in accordance with DMAS policies.
3. In cases where the information requested by outside sources can be released under the Freedom of Information Act (FOIA), as determined by DMAS, the fiscal agent shall provide support for copying and invoicing such documents.

D. A contract between the fiscal agent and the recipient *or family or caregiver* will be used to clearly express those aspects of the employment relationship that are to be handled by the fiscal agent, and which are to be handled by the recipient *or family or caregiver*. The contract will reflect that the fiscal agent is performing these tasks on behalf of the recipient *or family or caregiver* who is the actual employer of the attendant. Before the recipient begins receiving services, the fiscal agent will send the contract to the recipient *or family or caregiver* to review and sign. The fiscal agent must have a signed contract with the recipient *or family or caregiver* prior to the reimbursement of personal attendant services.

12 VAC 30-120-540. Recipient or family or caregiver responsibilities.

A. The recipient *or family or caregiver* must be authorized for consumer-directed PAS and successfully complete management training performed by the service coordinator before the recipient *or family or caregiver* can hire a personal attendant.

B. The recipient *or family or caregiver* is the employer in this program and is responsible for hiring, training, supervising and firing personal attendants. Specific duties include checking references of personal attendants, determining that personal attendants meet basic qualifications, training personal attendants, supervising the personal attendants' performance, and submitting timesheets to the service coordinator and fiscal agent on a consistent and timely basis. The recipient *or family or caregiver* must have an emergency back-up plan in case the personal attendant does not show up for work as expected or terminates employment without prior notice.

C. The recipient *or family or caregiver* shall cooperate with the development of the plan of care with the service coordination provider, who monitors the plan of care and provides supportive services to the recipient. The recipient *or family or caregiver* shall also cooperate with the fiscal agent, who handles fiscal responsibilities on behalf of the recipient. Recipients *or family or caregivers* who do not cooperate with the service coordination provider and fiscal agent will be disenrolled from consumer-directed PAS.

D. Recipients *or family or caregivers* will acknowledge they will not knowingly continue to accept consumer-directed personal attendant services when the services are no longer appropriate or necessary for their care needs and will inform the service coordination provider.

12 VAC 30-120-550. DMAS termination of eligibility to receive home and community-based care services.

A. DMAS shall have the ultimate responsibility for assuring appropriate placement of the recipient in home and community-based care services and the authority to terminate such services to the recipient for any of these reasons, but not necessarily limited to the provisions of this section.

B. Reasons eligibility for consumer-directed PAS may be terminated:

1. The home and community-based care service is not the critical alternative to prevent or delay institutional (nursing facility) placement.

2. The recipient no longer meets the nursing or pre-nursing facility level of care or cognitive criteria for consumer-directed PAS or does not have family or a caregiver to direct his care. ~~An individual who meets this requirement does not have a cognitive impairment while having the ability to independently manage a personal attendant.~~

3. The recipient's environment does not provide for his health, safety, and welfare.

4. An appropriate and cost-effective POC cannot be developed.

C. DMAS shall notify the recipient by letter. The effective date of termination shall be at least 10 days from the date of the termination notification letter. At the same time, DMAS will also advise the recipient in writing of his right to appeal the decision.

12 VAC 30-130-50. Authorization for services.

A. Physical therapy, occupational therapy, and speech-language pathology services provided in outpatient settings of acute and rehabilitation hospitals, rehabilitation agencies, ~~school divisions~~, or home health agencies shall include authorization for up to ~~24~~ *five* visits by each ordered rehabilitative service annually. *School-based rehabilitation services shall not be subject to any prior authorization requirements.* The provider shall maintain documentation to justify the need for services. A visit shall be defined as the treatment session that a rehabilitative therapist is with a client to provide services prescribed by the physician. Visits shall not be defined as modality-specific or in measurements or in increments of time.

B. The provider shall request from DMAS authorization for visits deemed necessary by a physician beyond the number of visits not requiring preauthorization (~~24~~ *five*). Documentation for medical justification must include personally signed and dated (as in 12 VAC 30-130-10 B) physician orders or a plan of care signed and dated by the physician which includes the elements described in 12 VAC 30-130-42. Authorization for extended services shall be based on individual need. Payment shall not be made for additional service unless the extended provision of services has been authorized by DMAS. Care rendered beyond the ~~24~~ *five* visits allowed annually which have not been authorized by DMAS shall not be approved for payment.

C. Payment shall not be made for requests submitted more than 12 months after the termination of services.

VA.R. Doc. No. R03-190; Filed April 30, 2003, 11:08 a.m.

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Title of Regulation: 12 VAC 30-70. Methods and Standards for Establishing Payment Rates; Inpatient Hospital Care (amending 12 VAC 30-70-221, 12 VAC 30-70-281, and 12 VAC 30-70-351).

Title of Regulation: 12 VAC 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12 VAC 30-80-20).

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

Effective Date: July 1, 2003.

Agency Contact: Peterson Epps, Reimbursement Analyst, Division of Reimbursement, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-4591, FAX (804) 786-1680 or e-mail pepps@dmass.state.va.us.

Summary:

The amendments retain the outpatient hospital reimbursement methodology prior to Medicare's conversion

to its current APC methodology and promulgate a graduate medical education methodology to provide an appropriate apportionment of those costs related to interns and residents at the state teaching hospitals.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:10 VA.R. 1455-1464 January 27, 2003, 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.

12 VAC 30-70-221. [No change from proposed.]

12 VAC 30-70-281. [No change from proposed.]

12 VAC 30-70-351. [No change from proposed.]

DOCUMENTS INCORPORATED BY REFERENCE. [No change from proposed.]

12 VAC 30-80-20. Services which are reimbursed on a cost basis.

A. Payments for services listed below shall be on the basis of reasonable cost following the standards and principles applicable to the Title XVIII Program *with the exception provided for in subdivision D 2 c of this section.* The upper limit for reimbursement shall be no higher than payments for Medicare patients on a facility by facility basis in accordance with 42 CFR 447.321 and 42 CFR 447.325. In no instance, however, shall charges for beneficiaries of the program be in excess of charges for private patients receiving services from the provider. The professional component for emergency room physicians shall continue to be uncovered as a component of the payment to the facility.

B. Reasonable costs will be determined from the filing of a uniform cost report by participating providers. The cost reports are due not later than 90 days after the provider's fiscal year end. If a complete cost report is not received within 90 days after the end of the provider's fiscal year, the Program shall take action in accordance with its policies to assure that an overpayment is not being made. The cost report will be judged complete when DMAS has all of the following:

1. Completed cost reporting form(s) provided by DMAS, with signed certification(s);
2. The provider's trial balance showing adjusting journal entries;
3. The provider's financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), and a statement of changes in financial position;
4. Schedules which reconcile financial statements and trial balance to expenses claimed in the cost report;
5. Depreciation schedule or summary;
6. Home office cost report, if applicable; and

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7. Such other analytical information or supporting documents requested by DMAS when the cost reporting forms are sent to the provider.

C. Item 398 D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers.

D. The services that are cost reimbursed are:

1. Inpatient hospital services to persons over 65 years of age in tuberculosis and mental disease hospitals

2. Outpatient hospital services excluding laboratory.

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

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

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

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

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

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

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

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

(3) Services performed by the attending physician which may be emergencies shall be manually reviewed. If such services meet certain criteria, they shall be paid under the methodology for subdivision 2 b (2) of this subsection. Services not meeting certain criteria shall be paid under the methodology of subdivision 2b (1) of this subsection. Such criteria shall include, but not be limited to:

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

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

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

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

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

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

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

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

c. Outpatient reimbursement methodology [prior to July 1, 2003]. DMAS shall continue to reimburse for outpatient hospital services, with the exception of direct graduate medical education for interns and residents, at 100% of reasonable costs less a 10% reduction for capital costs and a 5.8% reduction for operating costs. [This methodology shall continue to be in effect after July 1, 2003, for Type One hospitals.]

d. Payment for direct medical education costs of nursing schools, paramedical programs and graduate medical education for interns and residents.

(1) Direct medical education costs of nursing schools and paramedical programs shall continue to be paid on an allowable cost basis.

(2) Effective with cost reporting periods beginning on or after July 1, 2002, direct graduate medical education (GME) costs for interns and residents shall be reimbursed on a per-resident prospective basis. See 12 VAC 30-70-281 for prospective payment methodology for graduate medical education for interns and residents.

3. Rehabilitation agencies. Reimbursement for physical therapy, occupational therapy, and speech-language therapy services shall not be provided for any sums that the rehabilitation provider collects, or is entitled to collect, from the NF or any other available source, and provided further, that this amendment shall in no way diminish any obligation

of the NF to DMAS to provide its residents such services, as set forth in any applicable provider agreement.

4. Comprehensive outpatient rehabilitation facilities.
5. Rehabilitation hospital outpatient services.

VA.R. Doc. No. R02-229; April 29, 2003, 11:05 a.m.

* * * * *

REGISTRAR'S NOTICE: The amendment to reduce the pharmacy dispensing fee from \$4.25 to \$3.75 is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 12 VAC 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12 VAC 30-80-40).

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia and Item 325yy of Chapter 1042 of the 2003 Acts of Assembly.

Effective Date: July 1, 2003.

Agency Contact: Maryanne McNeil, Pharmacy Manager, Division of Health Care Services, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-2196, FAX (804) 786-1680 or e-mail mmcneil@dmass.state.va.us.

Summary:

This regulatory action changes the reimbursement methodology for pharmaceutical products. The Department of Medical Assistance Services had been using the estimated acquisition cost (EAC) or reference cost of the Average Wholesale Price (AWP) discounted by a factor of 9.0%. The 2002 General Assembly mandated the increase of the percentage deducted from the AWP to be 10.25%. An additional mandate redefined the Virginia Maximum Allowable Cost methodology to include all products that participate in the pharmaceutical manufacturers' rebate program.

Since publication of the proposed regulation, the 2003 General Assembly reduced the pharmacy dispensing fee to \$3.75, effective July 1, 2003. This fee reduction is addressed.

12 VAC 30-80-40. Fee-for-service providers: pharmacy.

Payment for pharmacy services shall be the lowest of items 1 through 5 (except that items 1 and 2 will not apply when prescriptions are certified as brand necessary by the prescribing physician in accordance with the procedures set forth in 42 CFR 447.331 (c) if the brand cost is greater than the HCFA Centers for Medicare and Medicaid Services (CMS) upper limit of VMAC cost) subject to the conditions, where applicable, set forth in subdivisions 6 and 7 of this section:

1. The upper limit established by the ~~Health Care Financing Administration (HCFA)~~ CMS for multiple source drugs pursuant to 42 CFR 447.331 and 447.332, as determined by the [~~HCFA CMS~~] Upper Limit List plus a dispensing fee. If the agency provides payment for any drugs on the HCFA Upper Limit List, the payment shall be subject to the aggregate upper limit payment test.

2. The Virginia Medicaid Maximum Allowable Cost (VMAC) established by the ~~agency~~ Virginia Department of Medical Assistance Services to be inclusive of appropriate multiple source and specific high cost drugs plus a dispensing fee ~~for multiple source drugs listed on the VVF~~. Multiple source drugs may include but are not limited to Food and Drug Administration-rated products such as drugs established by a Virginia Voluntary Formulary (VVF) drugs, Federal Upper Limit Drugs and any other state or federally approved listing. "Multisource drugs" means covered outpatient drugs for which there are two or more drug products that:

- a. Are included in the Centers for Medicare and Medicaid Services' state drug rebate program;
- b. Have been approved by the Federal Food and Drug Administration (FDA);
- c. Are included in the Approved Products with Therapeutic Equivalence Evaluations as generically equivalent; and
- d. Are sold or marketed in Virginia.

3. The Estimated Acquisition Cost (EAC) which shall be based on the published Average Wholesale Price (AWP) minus a percentage discount established by the General Assembly [(as set forth in subdivision 8 of this section)] or [,] in the absence thereof [,] by the following methodology set out in subdivisions a through c below.

- a. Percentage discount shall be determined by a statewide survey of providers' acquisition cost.
- b. The survey shall reflect statistical analysis of actual provider purchase invoices.
- c. The agency will conduct surveys at intervals deemed necessary by DMAS.

4. (Reserved.)

5. The provider's usual and customary charge to the public, as identified by the claim charge.

6. Payment for pharmacy services will be as described above; however, payment for legend drugs will include the allowed cost of the drug plus only one dispensing fee per month for each specific drug. Exceptions to the monthly dispensing fees shall be allowed for drugs determined by the department to have unique dispensing requirements. The dispensing fee of [~~\$4.25~~ \$3.75] (effective July 1, [~~1996~~ 2003]) shall remain in effect.

7. The Program pays additional reimbursement for the 24-hour unit dose delivery system of dispensing drugs. This service is paid only for patients residing in nursing facilities. Reimbursements are based on the allowed payments described above plus the unit dose add-on fee and an

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allowance for the cost of unit dose packaging established by the state agency. The maximum allowed drug cost for specific multiple source drugs will be the lesser of: either the VMAC, based on the 60th percentile *or maximum* cost level, as identified by the state agency or HCFA's CMS' upper limits as *applicable*. All other drugs will be reimbursed at drug costs not to exceed the estimated acquisition cost determined by the state agency.

8. Determination of EAC was the result of ~~an analysis of FY89 paid claims data of ingredient cost used to develop a matrix of cost using 0 to 10% reductions from AWP as well as discussions with pharmacy providers. As a result of this analysis, AWP minus 9.0% was determined to represent prices currently paid by providers effective October 1, 1990~~ a report by the Office of the Inspector General that focused on appropriate Medicaid marketplace pricing of pharmaceuticals based on the documented costs to the pharmacy. An EAC of AWP minus 10.25% shall become effective July 1, 2002.

~~The same methodology used to determine AWP minus 9.0% was utilized to determine a dispensing fee of \$4.40 per prescription as of October 1, 1990. A periodic review of dispensing fee using Employment Cost Index, wages and salaries, professional and technical workers will be done with changes made in dispensing fee when appropriate. As of July 1, 1995, the Estimated Acquisition Cost will be AWP minus 9.0% and dispensing fee will be \$4.25. [The dispensing fee of [\$4.25 \$3.75] (effective July 1, [1995 2003]) shall remain in effect, creating a payment methodology based on the previous algorithm (least of 1 through 5 of this subsection above) plus a dispensing fee where applicable.]~~

9. Home infusion therapy.

a. The following therapy categories shall have a pharmacy service day rate payment allowable: hydration therapy, chemotherapy, pain management therapy, drug therapy, total parenteral nutrition (TPN). The service day rate payment for the pharmacy component shall apply to the basic components and services intrinsic to the therapy category. Submission of claims for the per diem rate shall be accomplished by use of the HCFA 1500 claim form.

b. The cost of the active ingredient or ingredients for chemotherapy, pain management and drug therapies shall be submitted as a separate claim through the pharmacy program, using standard pharmacy format. Payment for this component shall be consistent with the current reimbursement for pharmacy services. Multiple applications of the same therapy shall be reimbursed one service day rate for the pharmacy services. Multiple applications of different therapies shall be reimbursed at 100% of standard pharmacy reimbursement for each active ingredient.

VA.R. Doc. No. R02-230 and R03-189; Filed April 29, 2003, 11:05 a.m.

Title of Regulation: 12 VAC 30-90. Methods and Standards for Establishing Payment Rates for Long-Term Care (amending 12 VAC 30-90-41; adding 12 VAC 30-90-257).

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

Effective Date: July 1, 2003.

Agency Contact: James Branham, Reimbursement Analyst, Division of Reimbursement, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-4587, FAX (804) 786-1680 or e-mail jbranham@dmas.state.va.us.

Summary:

The amendments comply with the legislative mandate of Item 325 HH of Chapter 899 of the 2002 Acts of Assembly to decrease the indirect patient care operating ceiling and eliminate the increase for inflation for indirect patient case rates and peer groups ceilings for indirect costs in SFY 2003. The amendments also institute the requirement that nursing facilities file reports when they have credit balances.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:10 VA.R. 1472-1478 January 27, 2003, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R02-236; Filed April 29, 2003, 11:05 a.m.

Title of Regulation: 12 VAC 30-110. Eligibility and Appeals (adding 12 VAC 30-110-1350 through 12 VAC 30-110-1410).

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia; 42 CFR 435.906 and 435.907.

Effective Date: June 19, 2003.

Agency Contact: Pat Sykes, Manager, Policy Division, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7958, FAX (804) 786-1680 or e-mail psykes@dmas.state.va.us.

Summary:

The regulation establishes which individuals and the circumstances in which those individuals who have been appointed by a Medicaid applicant as an authorized representative may sign applications and otherwise conduct business with Medicaid in the applicant's name.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:7 VA.R. 1066-1070 December 16, 2002, with the changes identified below. Pursuant to § 2.2-4031 A of the Code of Virginia, the adopted regulation is not published at length; however, the section that has changed since publication of the proposed is set out.

minor is not emancipated unless a court has declared the married minor emancipated from his parents.

12 VAC 30-110-1360 through 12 VAC 30-110-1410. [No change from proposed.]

VA.R. Doc. No. R02-165; Filed April 18, 2003, 11:21 a.m.

PART IX.
APPLICATIONS FOR MEDICAID.

12 VAC 30-110-1350. Definitions.

"Applicant" means a person who has directly or through his authorized representative made written application for Medicaid at the Department of Medical Assistance Services' Central Processing Unit or at the local social services department serving the locality in which he is a resident or, if institutionalized, the locality in which he last resided outside an institution.

"Authorized representative" means a person who is authorized to conduct the personal or financial affairs for an individual who is age 18 or older.

"Caretaker relative" means an individual who is age 18 or older [;] who is not [a the] parent [of], but who is related to [a, the] child by blood or marriage and who lives with and assumes responsibility for day-to-day care of the child in a place of residence maintained as his or their own home.

"Competent individual" means a person who has not been judged by a court to be legally incapacitated.

"Conservator" means a person appointed by a court of competent jurisdiction to manage the estate and financial affairs of an incapacitated individual.

"Family substitute representative" means a spouse or designated relative who is willing and able to take responsibility for the individual's personal or financial affairs. The relatives who may be substitute representatives are, in this preferred order, the individual's adult child, parent, adult sibling, adult grandchild, adult niece or nephew, aunt or uncle.

"Guardian" means a person appointed by a court of competent jurisdiction to be responsible for the personal affairs of an incapacitated individual, including responsibility for making decisions regarding the person's support, care, health, safety, habilitation, education, therapeutic treatment, and, if not inconsistent with an order of commitment, residence.

"Incapacitated individual" means a person who, pursuant to an order of a court of competent jurisdiction, has been found to be incapable of receiving and evaluating information effectively or responding to people, events, or environments to such an extent that the individual lacks the capacity to (i) meet the essential requirements of his health, care, safety, or therapeutic needs without the assistance or protection of a guardian or (ii) manage property or financial affairs or provide for his support or for the support of his legal dependents without the assistance or protection of a conservator.

"Legal emancipation" means the minor has been declared emancipated by a court of competent jurisdiction. A married

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TITLE 16. LABOR AND EMPLOYMENT

VIRGINIA WORKERS' COMPENSATION COMMISSION

Title of Regulation: **16 VAC 30-50. Rules of the Virginia Workers' Compensation Commission (amending 16 VAC 30-50-30).**

Statutory Authority: § 65.2-201 of the Code of Virginia.

Effective Date: July 1, 2003.

Agency Contact: Mary Ann Link, Chief Deputy Commissioner, Virginia Workers' Compensation Commission, 1000 DMV Drive, Richmond, VA 23220, telephone (804) 367-8664, FAX (804) 367-9740 or e-mail maryann.link@vwc.state.va.us.

Summary:

The amendments provide injured workers with a procedure through which they may secure an expedited hearing in cases where an employer has denied benefits, and the injured worker is able to establish that a delay in the proceedings will cause him to incur severe economic hardship.

As a result of public comments, the commission made the following substantive changes: (i) added that a Notice of Request for Expedited Hearing be provided to the insurer or employer's designated third-party administrator in addition to the notices provided the employer's counsel of record and the insurer, (ii) added consideration of a spouse's sources of income beyond wages and salary before granting an expedited hearing, (iii) added termination of worker's compensation benefits by prior adjudication as an explicit factor to consider before granting an expedited hearing, and (iv) revised the language of the continuance rule to affect both sides equally. In addition, the commission made some minor changes to the language of the proposed rules for purposes of clarification or to bring the proposed rules into conformity with changes to the Workers' Compensation Act made by the 2003 Acts of Assembly.

16 VAC 30-50-30. Rule 2. Hearing procedures.

At the request of either party, or at the commission's direction, contested issues not resolved informally through prehearing procedures will be referred for decision on the record or evidentiary hearing.

4- 2.1 Decision on the record. When it appears that there is no material fact in dispute as to any contested issue, determination will proceed on the record. After each party has been given the opportunity to file a written statement of the

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evidence supporting a claim or defense, the commission shall enter a decision on the record.

A. Written statements. When the commission determines that decision on the record is appropriate, the parties shall be given 20 days to submit written statements and evidence. Ten additional days shall be given to respond. For good cause shown additional time may be allowed. Copies of all written statements and evidence shall be furnished to the commission and all parties.

B. Review. Request for review of decision on the record shall proceed under § 65.2-705 of the Code of Virginia and Rule 3.

2- 2.2 Evidentiary hearing. An evidentiary hearing by the commission shall be conducted as a judicial proceeding. All witnesses shall testify under oath and a record of the proceeding shall be made. Except for rules which the commission promulgates, it is not bound by statutory or common law rules of pleading or evidence nor by technical rules of practice.

The commission will take evidence at hearing and make inquiry into the questions at issue to determine the substantial rights of the parties, and to this end hearsay evidence may be received. The party having the burden of proof shall have the right to open and close. Each party shall be allowed 20 minutes in which to present evidence unless prior arrangement is made through the commission to extend hearing time.

A. Continuances. The parties should be prepared to present evidence at the time and place scheduled for hearing. A motion to continue will be granted only when it appears that material or irreparable harm may result if not granted.

B. Evidence.

1. Stipulations to agreed facts shall be included in the record. Each exhibit offered shall be marked and identified, and the record shall show whether it was admitted in evidence.

2. Reports and records of physicians and reports of medical care directed by physicians may be admitted in evidence as testimony by physicians or medical care providers. Upon timely motion, any party shall have the right to cross-examine the source of a medical document offered for admission in evidence.

3. The parties shall specifically designate, by author, deponent and date, medical reports, records or depositions to be received in evidence. Those portions of a deposition to be included in the record must be specifically identified by page and line.

4. Medical reports, records or deposition portions designated by the parties or included by the commission will be admitted into evidence.

2.3 Expedited hearing.

A. Scope. An employee may request an expedited hearing before the commission when the employer has submitted an application for hearing pursuant to Rule 1.4 and probable cause has been found to suspend benefits pending a hearing on the matter. An employee may also seek expedited

determination of any disputed claim arising after the initial compensability of the accident has been determined by the commission.

B. Written request. An employee seeking an expedited hearing must file a written request with the clerk's office, and a copy of the request shall be sent to the employer. The request must include, by way of description, attachment or enclosure, evidence sufficient to find that, without an expedited proceeding to determine the merits of the dispute, the employee will be caused to suffer severe economic hardship. What constitutes severe economic hardship will be determined by the commission on a case-by-case basis. A copy of the employee's [accepted] request will be sent to the [~~employer, insurer or counsel of record upon receipt~~ employer's counsel of record, the designated third-party administrator and the carrier], along with a Notice of Request for Expedited Hearing, by [~~registered or certified~~ priority] mail.

C. Loss of income. When the employee alleges that he is not receiving compensation benefits, and is unemployed, unable to work, or only partially employed because of an injury compensable under the Act, the employee must establish that failure to grant an expedited hearing will result in severe, immediate economic hardship. In this regard, the commission will consider, but is not limited in considering the following evidence:

1. Whether, and to what extent, the employee is presently employed, and what other sources of income are available to support the employee;

2. Whether the employee has dependents for whom the employee's wages [or ,] salary [~~was their~~ and/or other income were the] sole or primary source of financial support;

3. Whether the employee has received notices of imminent or threatened foreclosure or eviction actions, or the employee is in a state of homelessness;

4. Whether the employee has received notices of imminent repossession of personal vehicles necessary for employment or medical treatment visits; [~~and~~

5. Whether the employee's financial difficulties were caused by the termination of workers' compensation benefits by prior adjudication, caused by other circumstances, or both; and]

[~~§ 6.~~] Any other evidence demonstrating that the employee's immediate ability to provide food, clothing and shelter will be threatened by failure to grant an expedited hearing.

D. Medical expenses. When the employee seeks an expedited hearing, asserting that authorization of, or payment for recommended medical treatment has been denied by the employer or insurer, the employee must establish that failure to grant an expedited hearing will result in severe economic hardship. In this regard, the commission will consider, but is not limited in considering the following evidence:

1. The general nature of the employee's injuries;

2. Whether, if authorization is being sought for recommended treatment not already obtained, the employee's physician has stated that the procedure must be performed on an emergent basis, and failure to do so will threaten the employee's life or result in immediate and severe deterioration of the employee's physical or mental condition;

3. Whether, if payment or reimbursement for medical expenses already incurred is being sought, [reasonable and] necessary ongoing medical treatment will be withheld for failure to pay for prior medical treatment, and that the withholding of such treatment will threaten the employee's life or result in immediate and severe deterioration of the employee's physical or mental condition;

4. The cost of the medical treatment in dispute, and the employee's ability to pay for it; and

5. Any other evidence demonstrating that failure to grant an expedited hearing on this issue will result in severe economic hardship.

E. Employer response. Upon receipt of the commission's Notice of Request for Expedited Hearing, the employer shall have 14 days to investigate the basis for the employee's expedited hearing request. Prior to, or at the expiration of the fourteenth day, the employer shall file with the commission, by hand-delivery or certified mail, a written statement indicating whether the employer will or will not agree to the employee's request for expedited hearing. If the employer will not agree to proceed on an expedited basis, it must state, with specificity, the basis for its inability to proceed pursuant to an expedited hearing schedule. Filing shall be effective upon receipt by the commission, or by placing the statement in certified mail.

F. Informal conference. Once the commission has received the employer's response statement, or 14 days pass without a filed response from the employer, the commission shall [~~make all reasonable efforts to~~] schedule [, as] expeditiously [as possible,] an informal conference with the parties, whether in person, by teleconference or by other electronic transmission. With regard to expedited claims for payment of medical expenses pursuant to Rule 2.2 (D), no informal conference will be scheduled until the employee submits medical evidence to the employer and the commission supporting both the underlying claim and the necessity of expedited proceedings. During the informal conference, the commission will discuss issues relevant to the grant or denial of an expedited hearing including, but not limited to, discovery between the parties, the timing and scheduling of depositions and the parties' ability to secure other relevant evidence in an expedited manner. The commission will discuss the issues raised by the claim, and try to limit the scope of any matter ultimately referred to the expedited hearing docket by facilitating agreements between the parties. [The commission will confer with the parties about scheduling a hearing date at the informal conference, or by teleconference after the informal conference.]

G. Grant or denial of expedited hearing. During the informal conference, or within seven days of its completion, the commission will determine whether the claim underlying the request for expedited hearing is appropriate for the expedited

hearing docket. If the request for an expedited hearing is granted, the commission will advise the parties of this decision during the informal conference, or in writing within seven days, by [~~registered or certified~~ priority] mail. If the commission determines that the matter is not appropriate for the expedited docket, the parties will be advised of the commission's determination, and the matter will be referred [~~to the claims department~~] for regular processing.

H. Scheduling and continuances. [~~The commission will confer with the parties about scheduling a hearing date at the informal conference, or by teleconference after an expedited hearing has been granted in writing.~~] The matter will be set for a hearing no less than 10 days, and no more than 28 days after the expedited hearing was granted. [Ordinarily,] once the matter is set down for an expedited hearing, [~~the employee will not ordinarily~~ neither party will be] granted a continuance. A continuance will [~~only~~] be granted [~~to the employee~~] for good cause shown, involving exceptional circumstances beyond the control of the [~~employee~~ party], or the [~~employee's~~ party's] attorney. Any claim pending on the expedited docket that is continued or nonsuited at the [~~insistence~~ request] of the employee will be [~~returned to removed from~~] the [~~regular~~ expedited] docket, and shall not be reinstated for expedited proceedings.

I. Closing the record. The record shall close at the end of the expedited hearing unless, for good cause shown, one or both parties are unable to present necessary medical or factual evidence. [~~The parties must make a good faith effort to expedite completion of the record within the time limits imposed by the commission.~~]

J. Decision. The deputy commissioner hearing the case will issue an opinion within 14 days after the record closes in an expedited hearing proceeding. The opinion shall be sent to the parties by [~~registered or certified~~ priority] mail.

K. Expedited review. Either party may seek an expedited review of the decision to grant or deny an expedited hearing. Parties seeking expedited review must file a written request within seven days of receipt of the decision to grant or deny an expedited hearing. The written request must include a statement explaining the grounds for review, and must enclose all information the party believes is necessary for consideration of the request. A copy of the Request for Expedited Review shall be furnished to the opposing party. The commission shall provide notice of the request for expedited review within three days of its receipt. The opposing party shall have seven days from receipt of the commission's notice to file a written statement addressing the merits of the review request, and enclosing all information it believes is necessary for consideration on review. The commission shall review the decision to grant or deny an expedited hearing, and will issue a decision by order within seven days.

L. Review after expedited hearing. Review of a deputy commissioner's decision following an expedited hearing shall proceed according to the provisions of Rule 3.1 and § 65.2-705 of the Code of Virginia.

VA.R. Doc. No. R02-333; Filed April 28, 2003, 3:08 p.m.



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TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

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.

Effective Date: July 1, 2003.

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, (804) 367-9753/TTY, or e-mail asbestos@dpor.state.va.us.

Summary:

The 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 regulations also establish minimum standards for conducting certified home inspections as well as standards of conduct and practice.

1. The time limit for accepting a professional home inspector association membership as having met the board's entry requirements was eliminated since § 54.1-517.2 of the Code of Virginia places no time restraints for this provision.
2. Language was added to allow the certificate holder to perform work that is unrelated to any findings in the inspection report on property on which he performed a home inspection.
3. Language was added to prevent someone from inspecting their own repairs or modifications.
4. Language was added to allow a certificate holder to disclose any result of the inspection if there appears to be any imminent threat to life or health.
5. Language was added to not prevent a certificate holder from performing other tests (i.e., radon) on property on which he has conducted a home inspection.
6. In the listing of required components to be inspected during the certified home inspection, the terms "all" and "every" were replaced with "readily accessible." All or every component may not be accessible and therefore cannot be inspected. However, these situations should be noted in the certified home inspection report.
7. An exception was added to allow the certified home inspector to perform improvements and repairs on a residence which he purchases after conducting a certified home inspection.

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.

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 [noncertified] 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:
 - (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 [approved by the board], as satisfaction of subdivisions 1, 2, and 3 of this section [, provided that the requirements for the applicant's class of membership in such association are equal to or exceed the requirements established by the board for all applicants].

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] guilt, 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. [Subject to the provisions of § 54.1-204 of the Code of Virginia,] 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 [and appropriate conduct] established by [either] the board or [the any] testing service [with regard to conduct at the examination] administering an examination approved by the board or both shall be followed by the applicant. 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.

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~~[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 18 VAC 15-40-40]. 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 18 VAC 15-40-50]. 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 18 VAC 15-40-60]. 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 18 VAC 15-40-70]. 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 15-40-100].~~

~~[18 VAC 15-40-90 18 VAC 15-40-80]. 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 18 VAC 15-40-90]. 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 18 VAC 15-40-100]. Fees for renewal [and ,] reinstatement [and examination].~~

~~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

[C. The examination fee shall consist of the administration expenses of the department ensuing from the board's examination procedures and contract charges. Examination service contracts shall be established through competitive negotiations in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia).]

[~~18 VAC 15-40-120~~ 18 VAC 15-40-110]. **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~~ 18 VAC 15-40-120]. **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 [and exclusions] 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~~ in] 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.

h. Compliance with regulatory requirements (codes, [including the Virginia Uniform Statewide Building Code,] 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 [and mold].

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~~ 18 VAC 15-40-130]. **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 [of the inspection]), 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.

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b. Framing.

c. Stairs.

d. Crawl space, [~~unless restricted by the dimensions of the area~~ the method of inspecting the crawl space shall be noted and explained in the inspection report. If the crawl space cannot be inspected, the certificate holder shall explain in the inspection report why this component was not inspected].

e. Crawl space ventilation and vapor barriers.

[~~f. Sump pump, when present.~~]

[~~g. f.~~] Slab floor, when present.

[~~h. g.~~] Floors, ceilings, and walls.

2. Roof structure, attic, and insulation.

a. Roof covering. [The method of inspecting the roof covering shall be noted and explained in the inspection report. If the roof covering cannot be inspected, the certificate holder shall explain in the inspection report why this component was not inspected.]

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 [, and] sheathing [, ~~and decking~~].

g. Attic, unless area is [~~inaccessible~~ not readily accessible] 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~~ Readily accessible] 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 [readily] 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 [in contact with or immediately adjacent to the dwelling] that may affect the dwelling.

g. Visible exterior portions of chimneys.

4. Interior of dwelling.

a. [~~Every~~ Readily accessible] interior [~~wall~~ walls], [~~ceiling~~ ceilings], and [~~floor~~ floors] of dwelling and any attached garage.

b. Steps, stairways, railings, and balconies.

c. Countertops and installed cabinets, including hardware.

d. [~~All~~ Readily accessible] doors and windows, [~~including hardware~~ but not the operation of associated security locks, devices, or systems].

e. Garage doors and [permanently mounted and installed] 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 [for visible leaks].

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~~ Readily accessible] 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 [system].

d. Vent systems, flues, and chimneys, including dampers.

8. Air conditioning system.

a. Central and [window installed window/wall] air conditioning equipment.

b. Operating controls, access panels, and covers.

c. Energy source.

d. Cooling distribution [system].

PART V.

STANDARDS OF CONDUCT AND PRACTICE.

[18 VAC 15-40-140. 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 as a result of the findings of the certified home inspection within 12 months after the date he performed the certified home inspection, except in cases where the home inspector purchased the residence after he performed the inspection;

2. Perform a certified home inspection of a residential building upon which he has designed or performed repairs or modifications within the preceding 12 months;

3. Refer his client to another party to make repairs or modifications to a residential building on which he has performed a certified home inspection within the preceding 12 months; or

4. Represent the financial interests, either personally or through his employment, of 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. However, the certificate holder may disclose information in situations where there is an imminent endangerment to life and health.

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. Additionally, the certificate holder shall not enter into any financial relationship with any party that may compromise the certificate holder's commitment to the best interest of his client.

E. The certified home inspection shall not be used as a tool by the certificate holder to solicit or obtain work in another field, except for additional diagnostic inspections or testing.]

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 [24 15 business] 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~~ residential building as a result of the findings of the certified home inspection] within 12 months before or after performing a certified home inspection [on it, except in cases where the home inspector purchased the residential building after he performed the inspection].

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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.*

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 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 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

[*Home Inspector Association Membership Form, 3380 AMF (eff. 7/03).*]

[*Home Inspector Certificate Application Instructions, 3380 INS (eff. 7/03).*]

[*Home Inspector Certificate Application, [~~33HICERT~~ (off. 7/02) 3380 CERT (rev. 7/03).*]

[*Home Inspector Experience Verification [Form], [~~33HIEXED~~ (off. 7/02) 3380 EXP (rev. 7/03).*]

[*~~Education Verification, 33HIEXED (off. 7/02).~~*]

VA.R. Doc. No. R01-222; Filed April 29, 2003, 12:28 p.m.

BOARD FOR BARBERS AND COSMETOLOGY

Title of Regulation: 18 VAC 41-20. **Barbering and Cosmetology Regulations (adding 18 VAC 41-20-10 through 18 VAC 41-20-280).**

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

Effective Date: July 1, 2003.

Agency Contact: William H. Ferguson, II, Assistant Director, Board for Barbers and Cosmetology, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295 or e-mail barbercosmo@dpor.state.va.us.

Summary:

This action establishes regulations for the newly combined Board for Barbers and Cosmetology as directed by Chapter 726 of the 2000 Acts of Assembly. The regulations clarify and standardize requirements for licensure; provide standards that ensure that health, sanitation and safety are adequate in facilities where barbering and cosmetology are practiced; and extend the temporary work permit period from 30 to 45 days to allow sufficient time for posting examination scores and to avoid interruption of employment. The regulations also adjust licensing fees for regulants of the Board for Barbers and Cosmetology.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:23 VA.R. 3018-3032 July 29, 2002, with the changes identified below. Pursuant to § 2.2-4031 A of the Code of Virginia, the adopted regulation is not published at length; however, the sections that have changed since publication of the proposed are set out.

CHAPTER 20. BARBERING AND COSMETOLOGY REGULATIONS.

PART I. GENERAL.

18 VAC 41-20-10. **Definitions.**

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise. All terms defined in Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia are incorporated in this chapter.

[~~"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.~~]

"Direct supervision" means that a Virginia licensed barber, cosmetologist, or nail technician shall be present in the barbershop, cosmetology salon, or nail technician salon at all times when services are being performed by a temporary permit holder or registered apprentice.

"Endorsement" means a method of obtaining a license by a person who is currently licensed in another state.

"Licensee" means any person, partnership, association, limited liability company, or corporation holding a license issued by the Board for Barbers and Cosmetology, as defined in § 54.1-700 of the Code of Virginia.

"Reciprocity" means a conditional agreement between two or more states that will recognize one another's regulations and laws for equal privileges for mutual benefit.

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

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

"Virginia state institution" for the purposes of these regulations means any institution approved by the Virginia Department of Education or the Virginia Department of Corrections.

PART II.
ENTRY.

18 VAC 41-20-20. General requirements for a barber, cosmetologist, or nail technician license.

A. In order to receive a license as a barber, cosmetologist, or nail technician, an applicant must meet the following qualifications:

1. The applicant shall be in good standing as a licensed barber, cosmetologist, or nail technician in every jurisdiction where licensed. The applicant shall disclose to the board at the time of application for licensure any disciplinary action taken in another jurisdiction in connection with the applicant's practice as a barber, cosmetologist, or nail technician. The applicant shall disclose to the board at the time of application for licensure whether he has been previously licensed in Virginia as a barber, cosmetologist, or nail technician.

2. The applicant shall disclose his physical address. A post office box is not acceptable.

3. The applicant shall sign, as part of the application, [~~an affidavit~~ a statement] certifying that the applicant has read and understands the Virginia barber and cosmetology license laws and the regulations of the board.

4. In accordance with § 54.1-204 of the Code of Virginia, the applicant shall not have been convicted in any jurisdiction of a misdemeanor or felony which directly relates to the profession of barbering, cosmetology, or nail care. 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 barbering, cosmetology, or nail care. 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 the purposes of this section. The applicant shall provide 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, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the applicant to the board within 10 days after all appeal rights have expired.

5. The applicant shall provide evidence satisfactory to the board that the applicant has passed the board approved examination, administered either by the board or by independent examiners.

B. Eligibility to sit for board-approved examination.

1. Training in the Commonwealth of Virginia. Any person completing an approved barber, cosmetology, or nail technician training program in a Virginia licensed barber, cosmetology, or nail technician school, respectively, or a Virginia public school's barber, cosmetology, or nail technician program approved by the State Department of Education shall be eligible for examination.

2. Training outside of the Commonwealth of Virginia, but within the United States and its territories.

a. Any person completing a barber or cosmetology training program that is substantially equivalent to the Virginia program but is outside of the Commonwealth of Virginia must submit to the board documentation of the successful completion of 1,500 hours of training to be eligible for examination. If less than 1,500 hours of barber or cosmetology training was completed, an applicant must submit a certificate, diploma or other documentation acceptable to the board verifying the completion of a substantially equivalent barber or cosmetology course and documentation of six months of barber or cosmetology work experience in order to be eligible for examination.

b. Any person completing a nail technician training program that is substantially equivalent to the Virginia program but is outside of the Commonwealth of Virginia must submit to the board documentation of the successful completion of 150 hours of training to be eligible for examination. If less than 150 hours of nail technician training was completed, an applicant must submit a certificate, diploma or other documentation acceptable to the board verifying the completion of a substantially equivalent nail technician course and documentation of six months of nail technician work experience in order to be eligible for the nail technician examination.

18 VAC 41-20-30 through 18 VAC 41-20-280. [No change from proposed.]

NOTICE: The forms used in administering 18 VAC 41-20, Barbering and Cosmetology 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 Board for Barbers and Cosmetology, 3600 W. Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Cosmetology and Nail Technician Examination Application, 12EX/EXAM APP (eff. [~~7/9/02~~ 12/02]).

Cosmetology and Nail Technician License Application, 12LIC/COSMO LIC APP (eff. [~~7/9/02~~ 8/02]).

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Barber Examination Application, 13EX/BAR EXAM APP (eff. [~~7/9/02~~ 12/02]).

Barber License Application, 13LIC/BAR LIC APP (eff. 7/9/02).

Endorsement Application, 1213END/END APP (eff. 7/2/02).

Reinstatement Application, 1213REI/REINSTATE APP (eff. 7/2/02).

Salon or Shop License Application, 1213SLSH/SALON OR SHOP LIC APP (eff. [~~7/2/02~~ 9/02]).

Cosmetology School License Application, 12SCHL/COSMO SCHOOL LIC APP (eff. [~~7/2/02~~ 9/02]).

Barber School License Application, 13SCHL/BAR SCHL LIC APP (eff. [~~7/2/02~~ 9/02]).

Cosmetology Training and Experience Verification Form, 12ETREXP/COSMO TRAIN & EXP FORM (eff. [~~7/4/00~~ 9/02]).

Cosmetology Temporary Permit Application, 12ETP/COSMO TEMP PERMIT APP (eff. 7/9/02).

[Wax Technician License Application, 1214LIC/WAX TECH LIC APP (eff. 7/02).]

VA.R. Doc. No. R01-241; Filed April 29, 2003, 12:32 p.m.

BOARD OF DENTISTRY

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 and Chapter 27 (§ 54.1-2700 et seq.) of Title 54.1 of the Code of Virginia.

Effective Date: June 18, 2003.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Summary:

The amendments establish registration requirements for voluntary dental or dental hygienist practice by out-of-state licensees and conform regulatory language on temporary permits with statutory provisions.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:8 VA.R. 1159-1164 December 30, 2002, with the changes identified below. Pursuant to § 2.2-4031 A of the Code of Virginia, the adopted regulation is not published at length; however, the sections that have changed since publication of the proposed are set out.

18 VAC 60-20-90. [No change from proposed.]

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;*
- 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 subdivision 5 of § 54.1-2701 of the Code of Virginia.*

NOTICE: The forms used in administering 18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene, 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 Dentistry, 6603 W. Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Outline and Explanation of Documentation Required for Dental Licensure by Exam, Teacher's License, Restricted License, Full Time Faculty License, and Temporary Permit (eff. ~~11/98~~ rev. 12/02).

Application for Licensure to Practice Dentistry (eff. ~~3/98~~ rev. 12/02).

Application for Restricted Volunteer Licensure to Practice Dentistry and Dental Hygiene (eff. 7/98).

Form A, Certification of Dental/Dental Hygiene School (rev. ~~3/98~~ 12/02).

Form AA, Sponsor Certification for Dental/Dental Hygiene Volunteer License (eff. 7/98).

Form B, Chronology (rev. ~~3/98~~ 12/02).

Form C, Certification of Dental/Dental Hygiene Boards (rev. ~~3/98~~ 12/02).

Outline and Explanation of Documentation Required for Dental Hygiene Licensure by Exam, Teacher's License, Dental Hygiene by Endorsement, and Dental Hygiene Temporary Permit (rev. ~~4/98~~ 12/02).

Application for Licensure to Practice Dental Hygiene (rev. 3/98 12/02).

Instructions for Reinstatement (rev. 12/02).

Reinstatement Application for Dental/Dental Hygiene Licensure (rev. 3/98 12/02).

~~Expiration letter to licensee~~ (rev. 7/98).

Radiology Information for Dental Assistants (rev. 7/97).

Renewal Notice and Application (~~Active licensure~~), 0401 Dentist (rev. 3/00 12/02).

Renewal Notice and Application (~~Inactive licensure~~), 0402 Dental Hygienist (rev. 3/00 12/02).

Renewal Notice and Application, 0404 Dental Teacher (rev. 12/02).

Renewal Notice and Application, 0406 Dental Hygiene Teacher (rev. 12/02).

Renewal Notice and Application, 0411 Full-time Faculty (rev. 12/02).

[Renewal Notice and Application, 0438 Cosmetic Procedure Certification (rev. 12/02).

Renewal Notice and Application, 0439 Oral and Maxillofacial (rev. 12/02).

Application for Certification to Perform Cosmetic Procedures (rev. 12/02).

Rhinoplasty/similar Procedures (rev. 7/02).

Bletharoplasty/similar Procedures (rev. 7/02).

Rhytidectomy/similar Procedures (rev. 7/02).

Submental liposuction/similar Procedures (rev. 7/02).

Browlift/either open or endoscopic technique/similar Procedures (rev. 7/02).

Otoplasty/similar Procedures (7/02).

Laser Resurfacing or Dermabrasion/similar Procedures (rev. 7/02).

Platysmal muscle plication/similar Procedures (rev. 7/02).

Application Review Worksheet (rev. 7/02).

Practitioner Questionnaire (rev. 12/02).

Oral and Maxillofacial Surgeon Registration of Practice (rev. 12/02).]

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. [12/02/03]).

VA.R. Doc. No. R02-281; Filed April 30, 2003, 10:59 a.m.

BOARD OF MEDICINE

Title of Regulations: **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 Date: June 18, 2003.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, 6603 West Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114, or e-mail elaine.yeatts@dhp.state.va.us.

Summary:

The amendments establish registration requirements for voluntary practice by out-of-state doctors of medicine, osteopathic medicine, podiatry or chiropractic; respiratory care practitioners; occupational therapists; radiologic technologists and radiologic technologists-limited; acupuncturists; and athletic trainers.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

REGISTRAR'S NOTICE: The proposed regulations were adopted as published in 19:8 VA.R. 1180-1183 December 30, 2002, with the additional changes in the forms lists shown below. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulations are not set out at length; however, the changes in the forms lists are printed below.

18 VAC 85-20-225. [No change from proposed.]

[FORMS

~~Information & Instructions for Completing an Application for the Computer Based United States Medical Licensing Examination (USMLE) Approved Schools With Subsequent Virginia Licensure (rev. 9/00).~~

~~Information & Instructions for Completing an Application for the Computer Based United States Medical Licensing Examination (USMLE) Non Approved Schools With Subsequent Virginia Licensure (rev. 9/00).~~

Final Regulations

~~Information & Instructions for Completing an Application for the Computer Based United States Medical Licensing Examination (USMLE) Approved Schools Without Subsequent Virginia Licensure (rev. 9/00).~~

~~Information & Instructions for Completing an Application for the Computer Based United States Medical Licensing Examination (USMLE) Non-Approved Schools Without Subsequent Virginia Licensure (rev. 9/00).~~

~~Application for USMLE Step 3 With Subsequent Virginia Licensure (rev. 1/00).~~

~~Application USMLE Step 3 Without Subsequent Virginia Licensure (rev. 1/00).~~

~~Instructions for Completing National Boards/FLEX/USMLE--American Graduates Application to Practice Medicine for Graduates of Approved Institutions (rev. 4/00 12/02).~~

~~Instructions for Completing FLEX or USMLE Application; Non-American Graduates an Application to Practice Medicine for Graduates of Nonapproved Institutions (rev. 4/00 12/02).~~

~~Instructions for Completing PMLEXIS Examination/License Application (rev. 9/00 9/01).~~

~~Instructions for Completing Chiropractic Endorsement Application (rev. 4/00 1/02).~~

~~Instructions for Completing Podiatry Endorsement Application (rev. 4/00 1/03).~~

~~Instructions for Completing LMCC Endorsement Application; Canadian/American Graduate (rev. 4/00).~~

~~Instructions for Completing LMCC Endorsement Application; Non-American Graduates (rev. 4/00).~~

~~Instructions for Completing Osteopathic National Boards Endorsement Application (rev. 4/00 4/02).~~

~~Instructions for Completing Other Boards Endorsement Application; American Graduates (rev. 4/00).~~

~~Instructions for Completing Other Boards Endorsement Application; Non-American Graduates (rev. 4/00).~~

~~Form #A A, Claims History Sheet (rev. 4/00 12/02).~~

~~Form #A (DC), Claims History Sheet (rev. 4/00).~~

~~Form #B B, Activity Questionnaire (rev. 4/00 12/02).~~

~~Form #C C, Clearance from Other State Boards (rev. 4/00 12/02).~~

~~Form #D, American Medical Association Physician Profile Service Order Form for Licensure Application or Renewal (rev. 5/99).~~

~~Form #E E, Disciplinary Inquiry (rev. 4/00 12/02).~~

~~Application for a License to Practice Medicine and Surgery (rev. 4/00 12/02).~~

~~Application for a License to Practice Osteopathy and Surgery Osteopathic Medicine (rev. 4/00 12/02).~~

~~Application for a License to Practice Podiatry (rev. 1/03).~~

~~Form #H, Certification of Grades Attained on the Podiatric Medical Licensing Examination for States (PMLEXIS) Virginia Request for Podiatry Disciplinary Action (rev. 4/00 1/03).~~

~~Form # I, National Board of Podiatric Medical Examiners Request for Scores on Part I and II (rev. 4/00 1/03).~~

~~Form HRB-30-061, Requirements and Instructions for an Intern/Resident License (rev. 4/00 1/03).~~

~~Intern/Resident, Form #A A, Memorandum from Associate Dean of Graduate Medical Education (rev. 4/00 1/03).~~

~~Intern/Resident, Form #B B, Certificate of Professional Education (rev. 4/00 12/02).~~

~~Form DHP-030-061, Application for a Temporary License for Intern/Resident Training Program (rev. 4/00 1/03).~~

~~Form H, Report of Clinical Rotations (rev. 4/00 12/02).~~

~~Instructions for Completing an Application for a Limited License to Practice Medicine as a Full-time Faculty Member or as a Full-time Fellow (rev. 4/00 3/03).~~

~~Form DHP-030-056, Application for a Limited License to Practice Medicine as a Full-time Faculty Member or as a Full-time Fellow (rev. 4/98 2/03).~~

~~Form #G G, Request for Status Report of Educational Commission for Foreign Medical Graduates Certification (rev. 4/00 12/02).~~

~~Form #L L, Certificate of Professional Education (rev. 4/00 12/02).~~

~~Continued Competency Activity and Assessment Form (rev. 4/00).~~

~~Instructions for Reinstatement of Medicine and Surgery or Osteopathy Licensure Application (rev. 5/00 1/03).~~

~~Application for Reinstatement of License to Practice Medicine (rev. 1/03).~~

~~Form A, MD Reinstatement, Claims History Sheet (rev. 1/03).~~

~~Form B, MD Reinstatement, Activity Questionnaire Form (rev. 4/00 1/03).~~

~~Form C, MD Reinstatement, State Questionnaire Form (rev. 4/00 1/03).~~

~~MD Reinstatement, Disciplinary Inquiries to Federation of State Medical Boards (rev. 4/00 1/03).~~

~~Instructions for Reinstatement of Osteopathy Licensure Application (rev. 3/03).~~

~~Application for Reinstatement of License to Practice Osteopathy (rev. 3/03).~~

~~Form A, Osteopathy Reinstatement, Claims History (rev. 3/03).~~

~~Instructions for Completing Reinstatement of Chiropractic Licensure Application (rev. 4/00 3/03).~~

~~Application for Reinstatement of License to Practice Chiropractic (rev. 3/03).~~

Instructions for Reinstatement of Podiatry Licensure Application (rev. ~~4/00~~ 1/03).

Application for Reinstatement of License to Practice Podiatry (rev. 1/03).

~~Instructions for Medicine and Surgery or Osteopathy Licensure Application After Reinstatement Denied or License Revoked~~ (rev. 8/99).

Application for Reinstatement of License to Practice Medicine/Osteopathy After Petition for Reinstatement Denied or License Revoked (rev. ~~8/99~~ 3/03).

Application for Reinstatement of License to Practice Medicine/Osteopathy (rev. 2/03).

Application for Reinstatement of License to Practice Chiropractic (rev. 3/03).

Renewal Notice and Application, 0101 *Medicine and Surgery* (rev. ~~2/00~~ 12/02).

Renewal Notice and Application, 0102 Osteopathy and Surgery (rev. 12/02).

Renewal Notice and Application, 0103 Podiatry (rev. 12/02).

Renewal Notice and Application, 0104 Chiropractic (rev. 12/02).

Renewal Notice and Application, 0108 Naturopath (rev. 12/02).

Renewal Notice and Application, 0109 University and Limited License (rev. 12/02).

Renewal Notice and Application, 0116 Interns and Residents (rev. 12/02).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).]

18 VAC 85-40-55. [No change from proposed.]

[FORMS

Instructions for Completing a Respiratory Care Practitioner Application (rev. ~~8/99~~ 11/02).

Application for a License to Practice as a Respiratory Care Practitioner (rev. ~~2/99~~ 11/02).

Instructions for Completing Reinstatement of ~~Application for Respiratory Therapy License~~ *Respiratory Care Practitioner* (eff. ~~8/99~~ 10/01).

Application for Reinstatement as a Respiratory Care Practitioner (eff. ~~7/98~~ 3/03).

Form #A, Claims History Sheet (rev. ~~7/98~~ 11/02).

Form #B, Activity Questionnaire (rev. ~~7/98~~ 11/02).

Form #C, Clearance from Other State Boards (rev. ~~7/98~~ 11/02).

Form #L, Certificate of Professional Education (rev. ~~2/99~~ 11/02).

Verification of Certification Request Form (NBRTC) (rev. ~~7/98~~ 11/02).

Renewal Notice and Application, 0117 *Respiratory Care* (rev. ~~9/00~~ 2/03).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).]

18 VAC 85-80-65. [No change from proposed.]

[FORMS

Instructions for Completing an Occupational Therapist Licensure Application (rev. ~~4/02~~ 3/03).

Application for a License to Practice as an Occupational ~~Therapy~~ *Therapist* (rev. ~~5/04~~ 3/03).

Form #A, Claims History Sheet (rev. ~~5/04~~ 3/03).

Form #B, Activity Questionnaire (rev. ~~5/04~~ 3/03).

Form #C, Clearance from Other State Boards (rev. ~~5/04~~ 3/03).

Form #L, Certificate of Professional Education (rev. ~~4/02~~ 3/03).

Board Approved Practice, Occupational ~~Therapy~~ *Therapist* Traineeship (rev. ~~6/04~~ 3/03).

~~Verification of Certification Request Form (NBCOT)~~ (rev. ~~4/99~~).

Instructions for Completing Reinstatement of Licensure Application for Occupational Therapy (rev. ~~3/02~~ 1/03).

Application for Reinstatement as an Occupational Therapist (rev. ~~7/04~~ 3/03).

Instructions for Supervised Practice, Occupational Therapy Reinstatement (rev. ~~4/02~~ 3/03).

Supervised Practice Application, Occupational Therapy Reinstatement (rev. ~~4/02~~ 3/03).

Report of Supervised Practice for Reinstatement, Form #B (rev. ~~4/02~~ 3/03).

Renewal Notice and Application (rev. ~~9/00~~ 11/02).

Continued Competency Activity and Assessment Form (rev. 9/00).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).]

18 VAC 85-101-145. [No change from proposed.]

[FORMS

Instructions for Completing an Application for Licensure as a Radiologic Technologist By Examination/Endorsement (rev. ~~4/04~~ 11/02).

Application for a License as a Radiologic Technologist (rev. ~~7/04~~ 11/02).

Form #A, Claims History Sheet (rev. ~~4/00~~ 11/02).

Form #B, Activity Questionnaire (rev. ~~4/00~~ 11/02).

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Form #C, Clearance from Other States (rev. ~~4/00~~ 11/02).

Form #E, Certification Request from ARRT (rev. ~~3/02~~ 11/02).

Form #F, Traineeship Application (rev. ~~4/00~~ 11/02).

Form #L, Certificate of Radiologic Technology Education (eff. ~~4/00~~ 11/02).

Instructions for Completing an Application for Licensure as a Radiologic Technologist-Limited (rev. ~~3/02~~ 2/03).

Application for a License to Practice as a Radiologic Technologist-Limited (rev. ~~8/04~~ 3/03).

Form #1 (a) and (b), Radiologic Technologist-Limited Training Application pursuant to Virginia Regulations 18 VAC 85-101-60 B (3) (rev. 3/03).

Form #2 (a) and (b), Radiologic Technologist-Limited Training Application (rev. ~~8/04~~ 3/03).

Instructions for Completing Reinstatement of Radiologic Technology Licensure (rev. ~~3/02~~ 1/03).

Application for Reinstatement as a Radiologic Technologist (eff. ~~3/02~~ 3/03).

Instructions for Completing Reinstatement of Radiologic Technologist-Limited Licensure (rev. ~~3/02~~ 1/03).

Application for Reinstatement as a Radiologic Technologist-Limited (eff. ~~3/02~~ 3/03).

License Renewal Notice and Application--~~Renewal Form for~~, 0120 Radiologic Technologist (rev. ~~9/00~~ 11/02).

License Renewal Notice and Application--~~Renewal Form for~~, 0122 Limited Radiologic Technologist (eff. ~~9/00~~ 11/02).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).]

18 VAC 85-110-145. [No change from proposed.]

[FORMS

Instructions for Completing the Application for Licensed Acupuncturist for Graduates of Approved Institutions (rev. 12/02).

Instructions for Completing the Application for Licensed Acupuncturist for Graduates of Nonapproved Educational Programs (rev. 12/02).

Application for a License to Practice as an Acupuncturist (rev. 12/02).

Form #A, Claims History Sheet (rev. 12/02).

Form #B, Activity Questionnaire (rev. 12/02).

Form #C, Clearance from Other State Boards (rev. 12/02).

Form #L, Certification of Professional Education (rev. 12/02).

Verification of NCCAOM Certification (rev. 12/02).

Renewal Notice and Application, 0121 *Licensed Acupuncturist* (rev. 12/02).

Recommendation for Examination by a Physician (eff. 12/01).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).]

18 VAC 85-120-85. [No change from proposed.]

[FORMS

Instructions for Completing an Athletic Trainer Application (rev. ~~42/00~~ 3/03).

Application for a Certificate to Practice Athletic Training (rev. ~~42/00~~ 3/03).

Form #A, Claims History Sheet (rev. ~~42/00~~ 3/03).

Form #B, Activity Questionnaire (rev. ~~42/00~~ 3/03).

Form #C, Clearance from Other State Boards (rev. ~~42/00~~ 3/03).

Form #L, Certificate of Professional Education (rev. ~~42/00~~ 3/03).

Provisional Certificate to Practice as an Athletic Trainer (rev. 3/03).

License Renewal Notice and Application (rev. ~~3/04~~ 11/02).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).]

VA.R. Doc. Nos. R02-282, R02-283, R02-285, R02-286, R02-287, and R02-288;
Filed April 30, 2003, 10:59 a.m.

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Title of Regulation: 18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic (adding 18 VAC 85-20-310 through 18 VAC 85-20-390).

Statutory Authority: §§ 54.1-2400 and 54.1-2912.1 of the Code of Virginia.

Effective Date: June 18, 2003.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Summary:

In response to a petition for rulemaking concerning the use of anesthesia in physician offices, ambulatory surgery centers and other nonhospital settings and pursuant to Chapter 324 of the 2002 Acts of Assembly, the board has adopted regulations for the practice of office-based anesthesia. The amendments establish the applicability of the rules; qualifications of providers; protocols for anesthesia/procedure selection; requirements for informed consent; and procedures for monitoring, emergency transfers, and discharge. Changes were made to the proposed regulation for clarity.

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.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:1 VA.R. 83-89 September 23, 2002, 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.

PART VIII.
OFFICE-BASED ANESTHESIA.

18 VAC 85-20-310. Definitions. [No change from proposed.]

18 VAC 85-20-320. General provisions.

A. Applicability of requirements for office-based anesthesia.

1. The administration of topical anesthesia, local anesthesia, minor conductive blocks, or minimal sedation/anoxiolysis, not involving a drug-induced alteration of consciousness other than minimal preoperative tranquilization, is not subject to the requirements for office-based anesthesia. A health care practitioner administering such agents shall adhere to an accepted standard of care as appropriate to the level of anesthesia or sedation, including evaluation, drug selection, administration and management of complications.

2. The administration of moderate sedation/conscious sedation, deep sedation, general anesthesia, or regional anesthesia consisting of a major conductive block are subject to these requirements for office-based anesthesia.

[3. Levels of anesthesia or sedation referred to in this chapter shall relate to the level of anesthesia or sedation intended by the practitioner in the anesthesia plan.]

B. A doctor of medicine, osteopathic medicine, or podiatry administering office-based anesthesia or supervising such administration shall:

1. Perform a preanesthetic evaluation and examination or ensure that it has been performed;
2. Develop the anesthesia plan or ensure that it has been developed;
3. Ensure that the anesthesia plan has been discussed and informed consent obtained;
4. Ensure patient assessment and monitoring through the pre-, peri-, and post-procedure phases, addressing not only physical and functional status, but also physiological and cognitive status;
5. Ensure provision of indicated post-anesthesia care; and
6. Remain physically present or immediately available, as appropriate, [~~for diagnosis, treatment and management of anesthesia-related complications or emergencies~~ to manage complications and emergencies until discharge criteria have been met].

C. All written policies, procedures and protocols required for office-based anesthesia shall be maintained and available for inspection at the facility.

18 VAC 85-20-330. Qualifications of providers.

A. Doctors who utilize office-based anesthesia shall ensure that all medical personnel assisting in providing patient care are appropriately trained, qualified and supervised, are sufficient in numbers to provide adequate care, and maintain training in basic cardiopulmonary resuscitation.

B. All providers of office-based anesthesia shall hold the appropriate license and have the necessary training and skills to deliver the level of anesthesia being provided.

1. Deep sedation, general anesthesia or a major conductive block shall only be administered by an anesthesiologist or by a certified registered nurse anesthetist.

2. Moderate sedation/conscious sedation may be administered by the operating doctor with the assistance of and monitoring by a licensed nurse, a physician assistant or a licensed intern or resident.

C. Additional training.

1. [On or after December 18, 2003,] the doctor who provides office-based anesthesia or who supervises the administration of anesthesia shall maintain current certification in advanced resuscitation techniques.

2. Any doctor who administers office-based anesthesia without the use of an anesthesiologist or certified registered nurse anesthetist shall obtain four hours of continuing education in [in topics related to] anesthesia [within the 60 hours required] each biennium [for licensure renewal, which are subject to random audit by the board].

18 VAC 85-20-340. [No change from proposed.]

18 VAC 85-20-350. [No change from proposed.]

18 VAC 85-20-360. Monitoring.

A. A written protocol shall be developed for monitoring equipment to include but not be limited to:

1. Monitoring equipment shall be appropriate for the type of anesthesia and the nature of the facility. At a minimum, provisions shall be made for a reliable source of oxygen, suction, resuscitation equipment and emergency drugs.

2. In locations where anesthesia is administered, there shall be adequate anesthesia apparatus and equipment to ensure appropriate monitoring of patients. All equipment shall be maintained, tested and inspected according to manufacturer's specifications, and backup power shall be sufficient to ensure patient protection in the event of an emergency.

3. When anesthesia services are provided to infants and children, the required equipment, medication and resuscitative capabilities shall be appropriately sized and calibrated for children.

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B. To administer office-based moderate sedation/conscious sedation, the following equipment, supplies and pharmacological agents are required:

1. Appropriate equipment to manage airways;
2. Drugs and equipment to treat shock and anaphylactic reactions;
3. Precordial stethoscope;
4. Pulse oximeter with appropriate alarms or an equivalent method of measuring oxygen saturation;
5. Continuous electrocardiograph [~~with paper recorder~~];
6. Devices for measuring blood pressure, heart rate and respiratory rate;
7. Defibrillator; and
8. Accepted method of identifying and preventing the interchangeability of gases.

C. In addition to requirements in subsection B of this section, to administer general anesthesia, deep sedation or major conductive blocks, the following equipment, supplies and pharmacological agents are required:

1. Drugs to treat malignant hyperthermia, when triggering agents are used;
2. Peripheral nerve stimulator, if a muscle relaxant is used; and
3. If using an anesthesia machine, the following shall be included:
 - a. End-tidal carbon dioxide monitor (capnograph);
 - b. In-circuit oxygen analyzer designed to monitor oxygen concentration within breathing circuit by displaying oxygen percent of the total respiratory mixture;
 - c. Oxygen failure-protection devices (fail-safe system) that have the capacity to announce a reduction in oxygen pressure and, at lower levels of oxygen pressure, to discontinue other gases when the pressure of the supply of oxygen is reduced;
 - d. Vaporizer exclusion (interlock) system, which ensures that only one vaporizer, and therefore only a single anesthetic agent can be actualized on any anesthesia machine at one time;
 - e. Pressure-compensated anesthesia vaporizers, designed to administer a constant non-pulsatile output, which shall not be placed in the circuit downstream of the oxygen flush valve;
 - f. Flow meters and controllers, which can accurately gauge concentration of oxygen relative to the anesthetic agent being administered and prevent oxygen mixtures of less than 21% from being administered;
 - g. Alarm systems for high (disconnect), low (subatmospheric) and minimum ventilatory pressures in the breathing circuit for each patient under general anesthesia; and

h. A gas evacuation system.

D. A written protocol shall be developed for monitoring procedures to include but not be limited to:

1. Physiologic monitoring of patients shall be appropriate for the type of anesthesia and individual patient needs, including continuous monitoring and assessment of ventilation, oxygenation, cardiovascular status, body temperature, neuromuscular function and status, and patient positioning.
2. Intraoperative patient evaluation shall include continuous clinical observation and continuous anesthesia monitoring.
3. A health care practitioner administering general anesthesia or deep sedation shall remain present and available in the facility to monitor a patient until the patient meets the discharge criteria. A health care practitioner administering moderate sedation/conscious sedation shall routinely monitor a patient according to procedures consistent with such administration.

18 VAC 85-20-370 through 18 VAC 85-20-390. [No change from proposed.]

<p>NOTICE: The forms used in administering 18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic, 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 Health Professions, 6603 West 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

~~Information & Instructions for Completing an Application for the Computer Based United States Medical Licensing Examination (USMLE) Approved Schools With Subsequent Virginia Licensure (rev. 9/00).~~

~~Information & Instructions for Completing an Application for the Computer Based United States Medical Licensing Examination (USMLE) Non-Approved Schools With Subsequent Virginia Licensure (rev. 9/00).~~

~~Information & Instructions for Completing an Application for the Computer Based United States Medical Licensing Examination (USMLE) Approved Schools Without Subsequent Virginia Licensure (rev. 9/00).~~

~~Information & Instructions for Completing an Application for the Computer Based United States Medical Licensing Examination (USMLE) Non-Approved Schools Without Subsequent Virginia Licensure (rev. 9/00).~~

~~Application for USMLE Step 3 With Subsequent Virginia Licensure (rev. 1/00).~~

~~Application USMLE Step 3 Without Subsequent Virginia Licensure (rev. 1/00).~~

~~Instructions for Completing National Boards/FLEX/USMLE--American Graduates Application to Practice Medicine for Graduates of Approved Institutions (rev. 4/00 12/02).~~

~~Instructions for Completing FLEX or USMLE Application; Non-American Graduates an Application to Practice Medicine for Graduates of Nonapproved Institutions (rev. 4/00 12/02).~~

Instructions for Completing PMLEXIS Examination/License Application (rev. 9/00 9/01).

Instructions for Completing Chiropractic Endorsement Application (rev. 4/00 1/02).

Instructions for Completing Podiatry Endorsement Application (~~rev. 4/00 1/03~~).

~~Instructions for Completing LMCC Endorsement Application; Canadian/American Graduate (rev. 4/00).~~

~~Instructions for Completing LMCC Endorsement Application; Non-American Graduates (rev. 4/00).~~

Instructions for Completing Osteopathic National Boards Endorsement Application (rev. 4/00 4/02).

~~Instructions for Completing Other Boards Endorsement Application; American Graduates (rev. 4/00).~~

~~Instructions for Completing Other Boards Endorsement Application; Non-American Graduates (rev. 4/00).~~

Form #A, Claims History Sheet (rev. 4/00 12/02).

~~Form #A (DC), Claims History Sheet (rev. 4/00).~~

Form #B, Activity Questionnaire (rev. 4/00 12/02).

Form #C, Clearance from Other State Boards (rev. 4/00 12/02).

~~Form #D, American Medical Association Physician Profile Service Order Form for Licensure Application or Renewal (rev. 5/99).~~

Form #E, Disciplinary Inquiry (rev. 4/00 12/02).

Application for a License to Practice Medicine and Surgery (rev. 4/00 12/02).

Application for a License to Practice ~~Osteopathy and Surgery~~ Osteopathic Medicine (rev. 4/00 12/02).

Application for a License to Practice Podiatry (rev. 1/03).

~~Form #H, Certification of Grades Attained on the Podiatric Medical Licensing Examination for States (PMLEXIS) (rev. 4/00).~~

Form #I, National Board of Podiatric Medical Examiners Request for Scores on Part I and II (rev. 4/00 1/03).

Form #H, Virginia Request for Podiatry Disciplinary Action (rev. 1/03).

~~Form HRB-30-064, Requirements and Instructions for an Intern/Resident License (rev. 4/00 1/03).~~

Intern/Resident Form #A, Memorandum from Associate Dean of Graduate Medical Education (rev. 4/00 1/03).

Intern/Resident, Form #B, Certificate of Professional Education (rev. 4/00 12/02).

~~Form DHP-030-064, Application for a Temporary License for Intern/Resident Training Program (rev. 4/00 1/03).~~

Form H, Report of Clinical Rotations (rev. 4/00 12/02).

Instructions for Completing an Application for a Limited License to Practice Medicine as a Full-time Faculty Member or as a Full-time Fellow (rev. 4/00 3/03).

~~Form DHP-030-056, Application for a Limited License to Practice Medicine as a Full-time Faculty Member or as a Full-time Fellow (rev. 4/98 2/03).~~

Form #G, Request for Status Report of Educational Commission for Foreign Medical Graduates Certification (rev. 4/00 12/02).

Form #L, Certificate of Professional Education (rev. 4/00 12/02).

Continued Competency Activity and Assessment Form (rev. 4/00).

Instructions for Reinstatement of Medicine and Surgery ~~or Osteopathy~~ Licensure Application (rev. 5/00 1/03).

Application for Reinstatement of License to Practice Medicine (rev. 1/03).

Form A, MD Reinstatement, Claims History Sheet (eff. 1/03).

Instructions for ~~Completing~~ Reinstatement of Chiropractic Licensure Application (rev. 4/00 3/03).

Application for Reinstatement of a License to Practice Chiropractic (eff. 3/03).

Instructions for Reinstatement of Podiatry Licensure Application (rev. 4/00 1/03).

Application for Reinstatement of License to Practice Podiatry (rev. 1/03).

~~Instructions for Medicine and Surgery or Osteopathy Licensure Application After Reinstatement Denied or License Revoked (rev. 8/99).~~

Application for Reinstatement of License to Practice Medicine/Osteopathy After Petition for Reinstatement Denied or License Revoked (rev. 8/99 3/03).

Form C, MD Reinstatement, State Questionnaire Form (rev. 4/00 1/03).

Form B, MD Reinstatement, Activity Questionnaire Form (rev. 4/00 1/03).

MD Reinstatement, Disciplinary Inquiries to Federation of State Medical Boards (rev. 4/00 1/03).

Renewal Notice and Application, 0101 Medicine and Surgery (rev. 2/00 12/02).

Application for Reinstatement of License to Practice Medicine/Osteopathy After Surrender, Suspension (rev. 2/03).

Application for Reinstatement of License to Practice Chiropractic After Surrender, Suspension (rev. 3/03).

Renewal Notice and Application, 0102 Osteopathy and Surgery (rev. 12/02).

Renewal Notice and Application, 0103 Podiatry (rev. 12/02).

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Renewal Notice and Application, 0104 Chiropractic (rev. 12/02).

Renewal Notice and Application, 0108 Naturopath (rev. 12/02).

Renewal Notice and Application, 0109 University and Limited License (rev. 12/02).

Renewal Notice and Application, 0116 Interns and Residents (rev. 12/02).]

VA.R. Doc. No. R02-69; Filed April 28, 2003, 10:53 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 and 54.1-2912.1 of the Code of Virginia.

Effective Date: June 18, 2003.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Summary:

Chapter 740 of the 2002 Acts of Assembly mandates that the board promulgate regulations 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 underserved 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.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:9 VA.R. 1330-1335 January 13, 2003, with the additional changes in the forms list shown below. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out; however, the changes to the forms are noted below.

NOTICE: The forms used in administering 18 VAC 85-50, Regulations Governing the Practice of Physician Assistants, 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 Medicine, 6603 W. Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

[**FORMS**

Instructions for Completing a Physician Assistant Licensure Application (rev. 7/01).

Application for a License to Practice as a Physician Assistant (rev. ~~7/04~~ 3/03).

Form #B, Activity Questionnaire (rev. ~~5/04~~ 3/03).

Form #C, Clearance from Other State Boards (rev. ~~4/00~~ 3/03).

Form #L, Certificate of Physician Assistant Education (eff. ~~5/04~~ 3/03).

Form #2, Physician Assistant Invasive Procedures Protocol (rev. ~~10/04~~ 3/03).

Renewal Notice and Application, 0110 Physician Assistant (rev. ~~9/00~~ 12/02).

Instructions for Subsequent Employment to Practice as a Physician Assistant (rev. 8/01).

Application for Employment to Practice as a Physician Assistant (rev. ~~8/04~~ 3/03).

Request for Prescriptive Authority from the PA (eff. ~~8/04~~ rev. 1/03).

Alternate Supervisors Signature Form (rev. 3/03).

Form #1-A, Addendum to Protocol of Physician Assistant Duties (rev. 3/03).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).

Physician Assistant Volunteer License Application (eff. 3/03).]

VA.R. Doc. No. R02-284; Filed April 30, 2003, 10:57 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 of the Code of Virginia.

Effective Date: June 18, 2003.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Summary:

The amendments establish registration requirements for voluntary nurse practice by out-of-state licensees.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:8 VA.R. 1184-1186 December 30, 2002, with the additional changes in the forms list shown below. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out; however, the changes to the forms are noted below.

[FORMS

- Application for Licensure by Endorsement -- Registered Nurse (rev. 10/02).
- Instructions for Licensure by Endorsement -- Registered Nurse (rev. 10/02).
- Instructions for Licensure by Endorsement -- Licensed Practical Nurse (rev. 10/02).
- Application for Licensure by Endorsement -- Licensed Practical Nurse (rev. 10/02).
- Instructions for Filing Application for Licensure by Examination for Registered Nurses, RN1-INS (rev. 10/02).
- Application for Licensure by Examination -- Registered Nurse (rev. 10/02).
- Instructions for Filing Application for Licensure by Examination for Practical Nurses, PN1-INS (rev. 10/02).
- Application for Licensure by Examination -- Licensed Practical Nurse (rev. 10/02).
- Instructions for Filing Application for Licensure by Repeat Examination for Registered Nurses, RN2-INS (rev. 10/02).
- Application for Licensure by Repeat Examination for Registered Nurse (rev. 10/02).
- Instructions for Filing Application for Licensure by Repeat Examination for Practical Nurses, PN2-INS (rev. 10/02).
- Application for Licensure by Repeat Examination for Licensed Practical Nurse (rev. 10/02).
- Instructions for Filing Application for Licensure by Examination for Licensed Practical Nurses Educated in Other Countries, PNF-INS (rev. 10/02).
- Application for Licensure by Examination for Registered Nurses Educated in Other Countries (rev. 10/02).
- Temporary Exemption To Licensure (eff. 10/02).
- Application for Licensure by Examination for Licensed Practical Nurses Educated in Other Countries (rev. 10/02).
- Application for Reinstatement of License as a Registered Nurse (rev. 10/02).
- Application for Reinstatement of License as a Licensed Practical Nurse (rev. 10/02).
- License Verification Form (rev. 10/02).
- Renewal Notice and Application, 0001, RN (rev. 12/02).
- Renewal Notice and Application, 0002, LPN (rev. 12/02).
- Renewal Notice and Application, 0015, Clinical Nurse Specialist (rev. 12/02).
- Application for Registration as a Clinical Nurse Specialist (rev. 10/02).
- Survey Visit Report (rev. 12/02).
- Annual Report for Registered Nursing Programs (rev. 12/02).
- Annual Report for Practical Nursing Programs (rev. 12/02).
- Renewal Notice and Application 1401, Certified Nurse Aide (rev. 12/02).
- Renewal Notice and Application, Advanced Certified Nurse Aide (eff. 12/02).
- Instructions for Application for Certification as Advanced Certified Nurse Aide (eff. 2/03).
- Application for Certification as Advanced Certified Nurse Aide (eff. 2/03).
- Application for Reinstatement of Nurse Aide Certification (rev. 12/02).
- Instructions for Application for Reinstatement of Nurse Aide Certification (rev. 12/02).
- Instructions for Application for Reinstatement of Advanced Nurse Aide Certification (eff. 2/03).
- Application for Reinstatement of Advanced Nurse Aide Certification (eff. 2/03).
- Application for Nurse Aide Certification by Endorsement (rev. 12/02).
- Instructions for Application for Nurse Aide Certification by Endorsement (rev. 12/02).
- Nurse Aide Certification Verification Form (rev. 12/02).
- Application to Establish a Nurse Aide Education Program (rev. 12/02).
- Application to Establish an Advanced Certification Nurse Aide Education Program (eff. 12/02).
- Nurse Aide Education Program -- Program Evaluation Report (rev. 11/02).
- Nurse Aide Education Program -- On-Site Review Report (rev. 12/02).
- Advanced Certification Nurse Aide Education Program -- On-site Review Report (eff. 12/02).
- Evaluation of On-Site Visitor (eff. 12/02).
- Request for Statistical Information (eff. 12/02).
- Application for Registration for Volunteer Practice (eff. 12/02).*
- Sponsor Certification for Volunteer Registration (eff. 12/02 1/03).]*

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VA.R. Doc. No. R02-289; Filed April 30, 2003, 10:59 a.m.

BOARD OF COUNSELING

Title of Regulation: **18 VAC 115-30. Regulations Governing the Certification of Substance Abuse Counselors and Substance Abuse Counseling Assistants (amending 18 VAC 115-30-10, 18 VAC 115-30-30, 18 VAC 115-30-40, 18 VAC 115-30-45, 18 VAC 115-30-50, 18 VAC 115-30-60, 18 VAC 115-30-90, 18 VAC 115-30-110, and 18 VAC 115-30-140; adding 18 VAC 115-30-61 and 18 VAC 115-30-62; repealing 18 VAC 115-30-70).**

Statutory Authority: §§ 54.1-2400 and 54.1-3505 of the Code of Virginia.

Effective Date: June 18, 2003.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 W. Broad Street, 5th Floor, Richmond, VA 23230-1717, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Summary:

The amendments require substance abuse counselors to have attained a bachelor's degree in order to be certified and establish a separate level of certification for substance abuse counseling assistants. The amendments comport with Chapter 460 of the 2001 Acts of Assembly.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:6 VA.R. 980-988 December 2, 2002, with the additional changes in the forms list shown below. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out; however, the changes to the forms are noted below.

[FORMS

Application for Certification as a Substance Abuse Counselor, Form 1 (rev. ~~8/99~~ 10/02).

Substance Abuse Counselor Verification of Supervision, Form 3 (rev. ~~8/99~~ 10/02).

Supervisor's Experience and Education, Form 3A (eff. 10/02).

Licensure or Certification Verification of Out-of-State Supervisor, Form 4, (eff. 10/02).

Application for Certification as a Substance Abuse Counseling Assistant, Form 1A (eff. 10/02).

Substance Abuse Certification Licensure/Certification Verification of Applicant, Form 2 (eff. 10/02).

Application for Reinstatement of a Lapsed Certification (eff. 10/02).

Renewal Notice and Application, 0710 (rev. ~~2/00~~ 3/03).

Renewal Notice and Application, CSAC Assistant (rev. 3/03).]

VA.R. Doc. No. R02-23; Filed April 28, 2003, 10:55 a.m.

REAL ESTATE APPRAISER BOARD

Title of Regulation: **18 VAC 130-20. Real Estate Appraiser Board Rules and Regulations (amending 18 VAC 130-20-10, 18 VAC 130-20-30, [18 VAC 130-20-40,] 18 VAC 130-20-50, [18 VAC 130-20-60,] 18 VAC 130-20-70, 18 VAC 130-20-110, 18 VAC 130-20-170, 18 VAC 130-20-180, 18 VAC 130-20-200, [18 VAC 130-20-210,] 18 VAC 130-20-220, 18 VAC 130-20-230).**

Statutory Authority: §§ 54.1-201 and 54.1-2013 of the Code of Virginia.

Effective Date: July 1, 2003.

Agency Contact: Christine Martine, Executive Director, Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475 or e-mail reappraisers@dpor.state.va.us.

Summary:

The amended regulation incorporates changes to criteria set forth by the Appraiser Qualifications Board and standards set by the Appraisal Standards Board of the Appraisal Foundation, permits renewal on an inactive status, and makes clarifying changes.

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.

18 VAC 130-20-10. Definitions.

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

"Accredited colleges, universities, junior and community colleges" means those accredited institutions of higher learning approved by the Virginia Council of Higher Education or listed in the Transfer Credit Practices of Designated Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers or a recognized international equivalent.

"Adult distributive or marketing education programs" means those programs offered at schools approved by the Virginia Department of Education or any other local, state, or federal government agency, board or commission to teach adult education or marketing courses.

"Analysis" means a study of real estate or real property other than the estimation of value.

"Appraisal Foundation" means the foundation incorporated as an Illinois Not for Profit Corporation on November 30, 1987, to establish and improve uniform appraisal standards by defining, issuing and promoting such standards.

"Appraisal subcommittee" means the designees of the heads of the federal financial institutions regulatory agencies established by the Federal Financial Institutions Examination Council Act of 1978 (12 USC § 3301 et seq.), as amended.

"Appraiser" means ~~[any person one]~~ who ~~[, for valuable consideration or with the intent or expectation of receiving the same from another, engages in real estate appraisal activity on any type of property is expected to perform valuation services competently and in a manner that is independent, impartial and objective]~~.

"Appraiser classification" means any category of appraiser which the board creates by designating criteria for qualification for such category and by designating the scope of practice permitted for such category.

"Appraiser Qualifications Board" means the board created by the Appraisal Foundation to establish appropriate criteria for the certification and recertification of qualified appraisers by defining, issuing and promoting such qualification criteria; to disseminate such qualification criteria to states, governmental entities and others; and to develop or assist in the development of appropriate examinations for qualified appraisers.

"Appraiser trainee" means an individual who is licensed as an appraiser trainee to appraise those properties which the supervising appraiser is permitted to appraise.

"Business entity" means any corporation, partnership, association or other business entity under which appraisal services are performed.

"Certified general real estate appraiser" means an individual who meets the requirements for licensure that relate to the appraisal of all types of real estate and real property and is licensed as a certified general real estate appraiser.

"Certified instructor" means an individual holding an instructor certificate issued by the Real Estate Appraiser Board to act as an instructor.

"Certified residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of any residential real estate or real property of one to four residential units regardless of transaction value or complexity. Certified residential real estate appraisers may also appraise nonresidential properties with a transaction value up to \$250,000.

"Classroom hour" means 50 minutes out of each 60-minute segment. The prescribed number of classroom hours includes time devoted to tests which are considered to be part of the course.

"Distance education" means an educational process based on the geographical separation of provider and student (i.e., CD-ROM, on-line learning, correspondence courses, etc.).

"Experience" as used in this chapter includes but is not limited to experience gained in the performance of traditional appraisal assignments, or in the performance of the following: fee and staff appraisals, ad valorem tax appraisal, review appraisal, appraisal analysis, real estate ~~[counseling consulting]~~, highest and best use analysis, and feasibility analysis/study.

For the purpose of this chapter, experience has been divided into four major categories: (i) fee and staff appraisal, (ii) ad

valorem tax appraisal, (iii) review appraisal, and (iv) real estate ~~[counseling consulting]~~.

1. *"Fee/staff appraiser experience"* means experience acquired as either a sole appraiser ~~[or ,]~~ as a cosigner ~~[, or through disclosure of assistance in the certification in accordance with the Uniform Standards of Professional Appraisal Practice]~~.

Sole appraiser experience is experience obtained by an individual who makes personal inspections of real estate, assembles and analyzes the relevant facts, and by the use of reason and the exercise of judgment, forms objective opinions and prepares reports as to the market value or other properly defined value of identified interests in said real estate.

Cosigner appraiser experience is experience obtained by an individual who signs an appraisal report prepared by another, thereby accepting full responsibility for the content and conclusions of the appraisal.

To qualify for fee/staff appraiser experience, an individual must have prepared written appraisal reports which meet minimum standards. For appraisal reports dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall adequately state the reasons for the exclusions):

- a. An adequate identification of the real estate and the interests being appraised;
- b. The purpose of the report, date of value, and date of report;
- c. A definition of the value being appraised;
- d. A determination of highest and best use;
- e. An estimate of land value;
- f. The usual valuation approaches for the property type being appraised or the reason for excluding any of these approaches;
- g. A reconciliation and conclusion as to the property's value;
- h. Disclosure of assumptions or limiting conditions, if any; and
- i. Signature of appraiser.

For appraisal reports dated subsequent to July 1, 1991, the minimum standards for written appraisal reports are those as prescribed in Standard 2 of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

2. *"Ad valorem tax appraisal experience"* means experience obtained by an individual who assembles and analyzes the relevant facts, and who correctly employs those recognized methods and techniques that are necessary to produce and communicate credible appraisals within the context of the real property tax laws. Ad valorem tax appraisal experience may be obtained either through individual property appraisals or through mass appraisals as long as applicants under this category of experience can demonstrate that they

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are using techniques to value real property similar to those being used by fee/staff appraisers and that they are effectively utilizing the appraisal process.

To qualify for ad valorem tax appraisal experience for individual property appraisals, an individual must have prepared written appraisal reports which meet minimum standards. For appraisal reports dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall adequately state the reasons for the exclusions):

- a. An adequate identification of the real estate and the interests being appraised;
- b. The effective date of value;
- c. A definition of the value being appraised if other than fee simple;
- d. A determination of highest and best use;
- e. An estimate of land value;
- f. The usual valuation approaches for the property type being appraised or the reason for excluding any of these approaches;
- g. A reconciliation and conclusion as to the property's value; and
- h. Disclosure of assumptions or limiting conditions, if any.

For appraisal reports dated subsequent to July 1, 1991, the minimum standards for written appraisal reports are those as prescribed in the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

To qualify for ad valorem tax appraisal experience for mass appraisals, an individual must have prepared mass appraisals or have documented mass appraisal files which meet minimum standards. For mass appraisals dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall adequately state the reasons for the exclusions):

- a. An adequate identification of the real estate and the interests being appraised;
- b. The effective date of value;
- c. A definition of the value being appraised if other than fee simple;
- d. A determination of highest and best use;
- e. An estimate of land value; and
- f. Those recognized methods and techniques that are necessary to produce a credible appraisal.

For mass appraisal reports dated subsequent to July 1, 1991, the minimum standards for these appraisal reports are those as prescribed in Standard 6 of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

In addition to the preceding, to qualify for ad valorem tax appraisal experience, the applicant's experience log must be attested to by the applicant's supervisor.

3. "*Reviewer experience*" means experience obtained by an individual who examines the reports of appraisers to determine whether their conclusions are consistent with the data reported and other generally known information. An individual acting in the capacity of a reviewer does not necessarily make personal inspection of real estate, but does review and analyze relevant facts assembled by fee/staff appraisers, and by the use of reason and exercise of judgment, forms objective conclusions as to the validity of fee/staff appraisers' opinions. Reviewer experience shall not constitute more than 1,000 hours of total experience claimed and at least 50% of the review experience claimed must be in field review wherein the individual has personally inspected the real property which is the subject of the review.

To qualify for reviewer experience, an individual must have prepared written reports recommending the acceptance, revision, or rejection of the fee/staff appraiser's opinions, which written reports must meet minimum standards. For appraisal reviews dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall adequately state the reasons for the exclusions):

- a. An identification of the report under review, the real estate and real property interest being appraised, the effective date of the opinion in the report under review, and the date of the review;
- b. A description of the review process undertaken;
- c. An opinion as to the adequacy and appropriateness of the report being reviewed, and the reasons for any disagreement;
- d. An opinion as to whether the analyses, opinions, and conclusions in the report under review are appropriate and reasonable, and the development of any reasons for any disagreement;
- e. Signature of reviewer.

For appraisal review reports dated subsequent to July 1, 1991, the minimum standards for these appraisal reports are those as prescribed in Standard 3 of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

Signing as "Review Appraiser" on an appraisal report prepared by another will not qualify an individual for experience in the reviewer category. Experience gained in this capacity will be considered under the cosigner subcategory of fee/staff appraiser experience.

4. "*Real estate [~~counseling~~ consulting] experience*" means experience obtained by an individual who assembles and analyzes the relevant facts and by the use of reason and the exercise of judgment, forms objective opinions concerning matters other than value estimates relating to real property. Real estate [~~counseling~~ consulting]

experience includes, but is not necessarily limited to, the following:

- Absorption Study
- Ad Valorem Tax Study
- Annexation Study
- Assemblage Study
- Assessment Study
- Condominium Conversion Study
- Cost-Benefit Study
- Cross Impact Study
- Depreciation/Cost Study
- Distressed Property Study
- Economic Base Analysis
- Economic Impact Study
- Economic Structure Analysis
- Eminent Domain Study
- Feasibility Study
- Highest and Best Use Study
- Impact Zone Study
- Investment Analysis Study
- Investment Strategy Study
- Land Development Study
- Land Suitability Study
- Land Use Study
- Location Analysis Study
- Market Analysis Study
- Market Strategy Study
- Market Turning Point Analysis
- Marketability Study
- Portfolio Study
- Rehabilitation Study
- Remodeling Study
- Rental Market Study
- Right of Way Study
- Site Analysis Study
- Utilization Study
- Urban Renewal Study
- Zoning Study

To qualify for real estate [counseling consulting] experience, an individual must have prepared written reports which meet minimum standards. For real estate [counseling consulting] reports dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall so state the reasons for the exclusions):

- a. A definition of the problem;
- b. An identification of the real estate under consideration (if any);
- c. Disclosure of the client's objective;
- d. The effective date of the consulting assignment and date of report;
- e. The information considered, and the reasoning that supports the analyses, opinions, and conclusions;
- f. Any assumptions and limiting conditions that affect the analyses, opinions, and conclusions;
- g. Signature of real estate [counselor appraiser].

For real estate [counseling consulting] reports dated subsequent to July 1, 1991, the minimum standards for these appraisal reports are those as prescribed in Standard 4 of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation. Real estate [counseling consulting] shall not constitute more than 500 hours of experience for any type of appraisal license.

"Inactive license" means a license that has been renewed without meeting the continuing education requirements specified in this chapter. Inactive licenses do not meet the requirements set forth in § 54.1-2011 of the Code of Virginia.

"Licensed residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of any noncomplex, residential real estate or real property of one to four residential units, including federally related transactions, where the transaction value is less than \$1 million. Licensed residential real estate appraisers may also appraise noncomplex, nonresidential properties with a transaction value up to \$250,000.

"Licensee" means any individual holding a an active license issued by the Real Estate Appraiser Board to act as a certified general real estate appraiser, certified residential real estate appraiser, licensed residential real estate appraiser, or appraiser trainee as defined, respectively, in § 54.1-2009 of the Code of Virginia and in this chapter.

"Local, state or federal government agency, board or commission" means an entity established by any local, federal or state government to protect or promote the health, safety and welfare of its citizens.

"Proprietary school" means a privately owned school offering appraisal or appraisal related courses approved by the board.

"Provider" means accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations.

"Real estate appraisal activity" means the act or process of valuation of real property or preparing an appraisal report.

"Real estate appraisal" or *"real estate related organization"* means any appraisal or real estate related organization formulated on a national level, where its membership extends to more than one state or territory of the United States.

"Reciprocity agreement" means a conditional agreement between two or more states that will recognize one another's regulations and laws for equal privileges for mutual benefit.

"Registrant" means any corporation, partnership, association or other business entity which provides appraisal services and which is registered with the Real Estate Appraiser Board in accordance with § 54.1-2011 E of the Code of Virginia.

"Reinstatement" means having a license or registration restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license or registration for another period of time.

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"*Sole proprietor*" means any individual, but not a corporation, partnership or association, who is trading under his own name, or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

"*Substantially equivalent*" is any educational course or seminar, experience, or examination taken in this or another jurisdiction which is equivalent in classroom hours, course content and subject, and degree of difficulty, respectively, to those requirements outlined in this chapter and Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1 of the Code of Virginia for licensure and renewal.

"*Supervising appraiser*" means any individual holding a license issued by the Real Estate Appraiser Board to act as a certified general real estate appraiser, certified residential real estate appraiser, or licensed residential real estate appraiser who supervises any unlicensed person acting as a real estate appraiser or an appraiser trainee as specified in this chapter.

"*Transaction value*" means the monetary amount of a transaction which may require the services of a certified or licensed appraiser for completion. The transaction value is not always equal to the market value of the real property interest involved. For loans or other extensions of credit, the transaction value equals the amount of the loan or other extensions of credit. For sales, leases, purchases and investments in or exchanges of real property, the transaction value is the market value of the real property interest involved. For the pooling of loans or interests in real property for resale or purchase, the transaction value is the amount of the loan or the market value of real property calculated with respect to each such loan or interest in real property.

"*Uniform Standards of Professional Appraisal Practice*" means those standards promulgated by the Appraisal Standards Board of the Appraisal Foundation for use by all appraisers in the preparation of appraisal reports.

"*Valuation*" means an estimate [*or opinion*] of the value of real property.

"*Valuation assignment*" means an engagement for which an appraiser is employed or retained to give an analysis, opinion or conclusion that results in an estimate [*or opinion*] of the value of an identified parcel of real property as of a specified date.

"*Waiver*" means the voluntary, intentional relinquishment of a known right.

18 VAC 130-20-30. General qualifications for licensure.

Every applicant to the Real Estate Appraiser Board for a certified general, certified residential, or licensed residential real estate appraiser license shall meet the following qualifications:

1. The applicant shall be of good moral character, honest, truthful, and competent to transact the business of a licensed real estate appraiser in such a manner as to safeguard the interests of the public.
2. The applicant shall meet the current educational and experience requirements and submit a license application to

the Department of Professional and Occupational Regulation or its agent prior to the time the applicant is approved to take the licensing examination. Applications received by the department or its agent must be complete within 12 months of the date of the receipt of the license application and fee by the Department of Professional and Occupational Regulation or its agent.

~~3. The applicant shall sign, as part of the application, [*an affidavit certifying a statement verifying*] that the applicant has read and understands the Virginia real estate appraiser license law and the regulations of the Real Estate Appraiser Board.~~

~~3.~~ 4. The applicant shall be in good standing as a real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification 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.

~~4.~~ 5. The applicant may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. 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 evidence under the laws of the jurisdiction where convicted~~ 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.

~~5.~~ 6. The applicant shall be at least 18 years old.

~~6.~~ 7. The applicant shall have successfully completed 90 hours for the licensed residential classification, 120 hours for the certified residential classification, and 180 hours for the certified general classification, of approved real estate appraisal courses, including a course of at least 15 hours on the Uniform Standards of Professional Appraisal Practice, from accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations. The classroom hours required for the licensed residential real estate appraiser may include the classroom hours required for the appraiser trainee. The classroom hours required for the certified residential real estate appraiser may include the classroom hours required for the appraiser trainee or the licensed real estate appraiser and may also include 30 hours of related courses in topics specified in 18 VAC 130-20-220 A 1. The classroom hours required for the certified general real estate appraiser may include the classroom hours required for the appraiser trainee, the licensed residential real estate appraiser, or the certified residential real estate appraiser and may also include 30 hours of related courses in topics specified in 18 VAC 130-20-220 A 1.

All applicants for licensure as a certified general real estate appraiser must complete an advanced level appraisal

course of at least 30 classroom hours in the appraisal of nonresidential properties.

~~7-~~ 8. The applicant shall [~~execute an affidavit~~ ,] as part of the application for licensure [~~attesting to~~ , *verify*] his experience in the field of real estate appraisal. All applicants must submit, upon application, sample appraisal reports as specified by the board. In addition, all experience must be supported by adequate written reports or file memoranda which shall be made available to the board upon request.

a. Applicants for a licensed residential real estate appraiser license shall have a minimum of 2,000 hours appraisal experience [~~obtained continuously over a period of not less than 24 months~~]. Hours may be treated as cumulative in order to achieve the necessary 2,000 hours of appraisal experience.

b. Applicants for a certified residential real estate appraiser license shall have a minimum of 2,500 hours of appraisal experience obtained [~~continuously over a period of not less~~ *during no fewer*] than 24 months. Hours may be treated as cumulative in order to achieve the necessary 2,500 hours of appraisal experience.

c. Applicants for a certified general real estate appraiser license shall have a minimum of 3,000 hours of appraisal experience obtained [~~continuously over a period of not less~~ *during no fewer*] than 30 months. Hours may be treated as cumulative in order to achieve the necessary 3,000 hours of appraisal experience. At least 50% of the appraisal experience required (1,500 hours) must be in nonresidential appraisal assignments and include assignments which demonstrate the use and understanding of the income approach. An applicant whose nonresidential appraisal experience is predominately in such properties which do not require the use of the income approach may satisfy this requirement by performing two or more appraisals on properties in association with a certified general appraiser which include the use of the income approach.

~~8-~~ 9. Within 12 months after being approved by the board to take the examination, the applicant shall have registered for and passed a written examination endorsed by the Appraiser Qualifications Board and provided by the board or by a testing service acting on behalf of the board.

~~9-~~ 10. Applicants for licensure who do not meet the requirements set forth in subdivisions ~~3~~ 4 and 4 5 of this section may be approved for licensure following consideration of their application by the board.

[18 VAC 130-20-40. Qualifications for licensure by reciprocity.

Every applicant to the Real Estate Appraiser Board for a license by reciprocity shall have met the following qualifications:

1. An individual who is currently licensed or certified as a real estate appraiser in another jurisdiction may obtain a Virginia real estate appraiser license by providing documentation that the applicant has met educational, experience and examination requirements that are

substantially equivalent to those required in Virginia for the appropriate level of licensure.

2. The applicant shall be at least 18 years of age.

3. The applicant shall ~~sign~~, as part of the application, ~~an affidavit certifying~~ *verify* that the applicant has read and understands the Virginia real estate appraiser license law and the regulations of the Real Estate Appraiser Board.

4. The applicant shall be in good standing as a licensed or certified real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification as a real estate appraiser 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.

5. The applicant shall be of good moral character, honest, truthful, and competent to transact the business of a licensed real estate appraiser in such a manner as to safeguard the interests of the public.

6. The applicant may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. 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 evidence under the laws of the jurisdiction where convicted~~ *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.*

7. Applicants for licensure who do not meet the requirements set forth in subdivisions 4 and 6 of this section may be approved for licensure following consideration by the board.]

18 VAC 130-20-50. Qualifications for temporary licensure.

An individual who is currently licensed or certified as a real estate appraiser in another jurisdiction may obtain a temporary Virginia real estate appraiser's license as required by Section 1121 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, 12 USCS § 1811.

The appraiser's permanent certification or license issued by another state shall be recognized as equivalent to a Virginia license provided that:

1. The appraiser's business is of a temporary nature, and is limited to one specific assignment not to exceed 12 months. *A specific assignment may include multiple properties.* The temporary assignment must be complete prior to the expiration date of the permanent certification or license issued by another state.

~~2. The education, experience and general examination completed in the jurisdiction of original licensure is deemed to be substantially equivalent to those required for the appropriate level of licensure in Virginia.~~

~~3-~~ 2. The applicant shall [*sign*], as part of the application, [~~an affidavit certifying~~ *verify*] that the applicant has read

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and understands the Virginia real estate appraiser license law and the regulations of the Real Estate Appraiser Board.

~~4.~~ 3. The applicant shall be in good standing as a licensed or certified real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification as a real estate appraiser 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.~~

~~5.~~ 4. The applicant shall be of good moral character, honest, truthful, and competent to transact the business of a real estate appraiser in such a manner as to safeguard the interest of the public.

~~6.~~ 5. The applicant may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. 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 evidence under the laws of the jurisdiction where convicted~~ 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.

~~7.~~ 6. Applicants for licensure who do not meet the requirements set forth in subdivisions 4 3 and 6 5 of this section may be approved for licensure following consideration by the board.

~~8.~~ The applicant shall be at least 18 years of age.

Applicants for temporary licensure shall verify the above information on an application form provided by the board. A temporary license cannot be renewed. *More than one temporary license may be issued per year.*

[18 VAC 130-20-60. Qualifications for licensure as an appraiser trainee.

An applicant for licensure as an appraiser trainee shall meet the following educational, experience, and examination requirements in addition to those set forth in 18 VAC 130-20-30 1 through 5 and 18 VAC 130-20-30 9.

1. Within 12 months after being approved by the board to take the examination, the applicant shall have registered for and passed a written examination provided by the board or by a testing service acting on behalf of the board.

2. *Within the five-year period immediately preceding application for licensure,* the applicant shall have successfully completed 75 hours of approved real estate appraisal courses from accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations. The classroom hours shall include 15 hours relative to the Uniform Standards of Professional Appraisal Practice.

3. There is no experience requirement for the appraiser trainee classification.

4. Responsibilities of supervising appraisers are described in this subdivision.

a. The appraiser trainee shall be subject to direct supervision by a supervising appraiser who shall be state licensed or certified in good standing.

b. The supervising appraiser shall be responsible for the training and direct supervision of the appraiser trainee by:

(1) Accepting responsibility for the appraisal report by signing and certifying the report is in compliance with the Uniform Standards of Professional Appraisal Practice;

(2) Reviewing the appraiser trainee appraisal report(s); and

(3) Personally inspecting each appraised property with the appraiser trainee until the supervising appraiser determines the appraiser trainee is competent in accordance with the Competency Provision of the Uniform Standards of Professional Appraisal Practice for the property type.

c. The appraiser trainee is permitted to have more than one supervising appraiser.]

18 VAC 130-20-70. Requirement for the certification of appraisal education instructors.

Pursuant to the mandate of Title 11 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, and § 54.1-2013 of the Code of Virginia, instructors teaching prelicense educational offerings who are not employed or contracted by accredited colleges, universities, junior and community colleges, adult distributive or marketing education programs are required to be certified by the board. ~~Instructors teaching the required continuing education course on recent developments in federal, state and local real estate appraisal law and regulation shall also be certified by the board and, at the board's discretion, may be required to attend training sessions sponsored by the board. Effective January 1, 2003, all Uniform Standards of Professional Appraisal Practice courses taught for [prelicense and] continuing education credit must be taught by instructors certified by the Appraiser Qualifications Board.~~

18 VAC 130-20-110. Qualifications for renewal.

A. As a condition of renewal, and under § 54.1-2014 of the Code of Virginia, all *active* certified general real estate appraisers, certified residential real estate appraisers, and licensed residential real estate appraisers, resident or nonresident, shall be required to complete continuing education courses satisfactorily within each licensing term as follows:

1. All real estate appraisers must satisfactorily complete continuing education courses or seminars offered by accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate

appraisal or real estate related organizations of not less than 28 classroom hours during each licensing term.

2. All real estate appraisers may also satisfy continuing education requirements by participation other than as a student in educational processes and programs approved by the board to be substantially equivalent for continuing education purposes, including but not limited to teaching, program development, or authorship of textbooks.

3. ~~Three~~ *Seven* of the classroom hours completed to satisfy the continuing education requirements shall be ~~a course approved by the board on recent developments in federal, state and local real estate appraisal law and [an update on regulation and]~~ the [*National*] Uniform Standards of Professional Appraisal Practice [*course or its equivalent*].

~~[B. In addition to the continuing education requirements specified in subsection A of this section all] applicants for renewal [active certified general real estate appraisers, certified residential real estate appraisers, and licensed residential real estate appraisers, resident or nonresident, shall be required to complete a 15-hour course in the Uniform Standards of Professional Appraisal Practice once every six years.]~~

~~[G. B.]~~ As a condition of renewal, all licensed real estate appraiser trainees shall meet the continuing education requirements set forth in [~~subsections~~ subsection] A [~~and B~~] of this section beginning with the second licensing term. Continuing education is not required to renew a real estate appraiser trainee license at the expiration of the first licensing term.

~~[D. C.]~~ All applicants for renewal of a license shall meet the standards for entry as set forth in subdivisions 1, 3 and 4 of 18 VAC 130-20-30.

~~[D. E.]~~ Applicants for the renewal of a registration shall meet the requirement for registration as set forth in 18 VAC 130-20-20.

~~[E. F.]~~ Applicants for the renewal of a certificate as an instructor shall meet the standards for entry as set forth in 18 VAC 130-20-80.

~~[G.F.]~~ Licensees applying to activate an inactive license must have met the continuing education requirements set forth in this section within two years prior to application to activate the license.

18 VAC 130-20-170. Standards of ethical conduct.

In obtaining a real estate appraiser license and performing a real estate appraisal, a licensee shall comply with the ~~Ethics Provisions of the~~ Uniform Standards of Professional Appraisal Practice [, 2003 Edition,] and the following standards of ethical conduct:

1. All applicants for licensure shall follow all rules established by the board with regard to conduct at the examination. Such rules shall include any written instructions communicated prior to the examination date and any instruction communicated at the site, either written or oral, on the date of the examination. Failure to comply with all rules established by the board or a testing service acting on behalf of the board with regard to conduct at the examination shall be grounds for denial of a license.

2. A licensee, certificate holder or registrant shall not obtain or attempt to obtain a license, certification or registration by false or fraudulent representation.

3. A licensee, registrant or certificate holder shall not make any misrepresentation.

18 VAC 130-20-180. Standards of professional practice.

A. The provisions of subsections C through J of this section shall not apply to local, state and federal employees performing in their official capacity.

B. Maintenance of licenses. The board shall not be responsible for the failure of a licensee, registrant, or certificate holder to receive notices, communications and correspondence.

1. Change of address.

a. All licensed real estate appraisers, appraiser trainees, and certified instructors shall at all times keep the board informed in writing of their current home address and shall report any change of address to the board within 30 days of such change.

b. Registered real estate appraisal business entities shall at all times keep the board informed in writing of their current business address and shall report any change of address to the board within 30 days of such change.

2. Change of name.

a. All real estate appraisers, appraiser trainees, and certified instructors shall promptly notify the board in writing and provide appropriate written legal verification of any change of name.

b. Registered real estate appraisal business entities shall promptly notify the board of any change of name or change of business structure in writing. In addition to written notification, corporations shall provide a copy of the Certificate of Amendment from the State Corporation Commission, partnerships shall provide a copy of a certified Partnership Certificate, and other business entities trading under a fictitious name shall provide a copy of the certificate filed with the clerk of the court where business is to be conducted.

3. Upon the change of name or address of the registered agent, associate, or partner, or sole proprietor designated by a real estate appraisal business entity, the business entity shall notify the board in writing of the change within 30 days of such event.

4. No license, certification or registration issued by the board shall be assigned or otherwise transferred.

5. All licensees, certificate holders and registrants shall operate under the name in which the license or registration is issued.

6. All certificates of licensure, registration or certification in any form are the property of the Real Estate Appraiser Board. Upon death of a licensee, dissolution or restructure of a registered business entity, or change of a licensee's, registrant's, or certificate holder's name or address, such licenses, registrations, or certificates must be returned with

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proper instructions and supplemental material to the board within 30 days of such event.

7. All appraiser licenses issued by the board shall be visibly displayed.

C. Use of signature and electronic transmission of report.

1. The signing of an appraisal report or the transmittal of a report electronically in accordance with the Appraisal Standards Board Statement on Appraisal Standards No. 8, 1998 Edition, shall indicate that the licensee has exercised complete direction and control over the appraisal. Therefore, no licensee shall sign or electronically transmit an appraisal which has been prepared by an unlicensed person unless such work was performed under the direction and supervision of the licensee in accordance with § 54.1-2011 C of the Code of Virginia.

2. All original appraisal reports shall be signed by the licensed appraiser. For narrative and letter appraisals, the signature and final value conclusion shall appear on the letter of transmittal and certification page. For form appraisals, the signature shall appear on the page designated for the appraiser's signature and final estimate of value. All temporary licensed real estate appraisers shall sign and affix their temporary license to the appraisal report or letter for which they obtained the license to authenticate such report or letter. Appraisal reports may be transmitted electronically in accordance with Appraisal Standards Board Statement on Appraisal Standards No. 8. Reports prepared without the use of a seal shall contain the license number of the appraiser.

a. An appraiser may provide market analysis studies or [counseling consulting] reports [,] which do not constitute appraisals of market value provided such reports, studies or evaluations shall contain a conspicuous statement that such reports, studies or valuations are not an appraisal as defined in § 54.1-2009 of the Code of Virginia.

b. Application of the seal and signature or electronic transmission of the report indicates acceptance of responsibility for work shown thereon.

c. The seal shall conform in detail and size to the design illustrated below:



*The number on the seal shall be the 10-digit number or the last 6 digits, or the last significant digits on the license issued by the board.

D. Development of appraisal. In developing a real property appraisal, all licensees shall comply with the provisions of ~~Standard 1~~ of the Uniform Standards of Professional Appraisal Practice (USPAP) in the edition in effect at the time of the reports' preparation. If the required definition of value uses the word "market," licensees must use the definition of market value set forth in USPAP "DEFINITIONS."

E. Appraisal report requirements. In reporting a real property appraisal, a licensee shall meet the requirements of ~~Standard 2~~ of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

F. Reviewing an appraisal. In performing a review appraisal, a licensee shall comply with the requirements of ~~Standard 3~~ of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation. The reviewer's signature and seal shall appear on the certification page of the report.

G. Mass appraisals. In developing and reporting a mass appraisal for ad valorem tax purposes, a licensee shall comply with the requirements of ~~Standard 6~~ of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

H. Recordkeeping requirements.

1. A licensee or registrant of the Real Estate Appraiser Board shall, upon request or demand, promptly produce to the board or any of its agents any document, book, or record in a licensee's possession concerning any appraisal which the licensee performed, or for which the licensee is required to maintain records for inspection and copying by the board or its agents. These records shall be made available at the licensee's place of business during regular business hours.

2. Upon the completion of an assignment, a licensee or registrant shall return to the rightful owner, upon demand, any document or instrument which the licensee possesses.

3. ~~Supervising appraisers shall make appraisal reports prepared by appraiser trainees available to the board, at the appraiser trainee's expense, upon request of the appraiser trainee for the purpose of documenting experience when applying to the board for licensure. The appraiser trainee shall be entitled to obtain copies of appraisal reports he prepared. The supervising appraiser shall keep copies of appraisal reports for a period of at least five years or at least two years after final disposition of any judicial proceedings in which testimony was given, whichever period expires last.~~

I. Disclosure requirements. A licensee appraising property in which he, any member of his family, his firm, any member of his firm, or any entity in which he has an ownership interest, has any interest shall disclose, in writing, to any client such interest in the property and his status as a real estate appraiser licensed in the Commonwealth of Virginia. As used in the context of this chapter, "any interest" includes but is not limited to an ownership interest in the property to be appraised or in an adjacent property or involvement in the transaction,

such as deciding whether to extend credit to be secured by such property.

J. Competency. A licensee shall abide by the Competency Provision as stated in the Ethics Provision of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

K. Unworthiness.

1. A licensee shall act as a certified general real estate appraiser, certified residential real estate appraiser or licensed residential real estate appraiser in such a manner as to safeguard the interests of the public, and shall not engage in improper, fraudulent, or dishonest conduct.

2. A licensee may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of the United States of a misdemeanor involving moral turpitude 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. ~~The record of a conviction certified or authenticated in such form as to be admissible in evidence of the laws of the jurisdiction where convicted~~ A certified copy of a final order, decree [,] or case decision by a court with the lawful authority to issue such order [or ,] decree [,] or case decision shall be admissible as prima facie evidence of such guilt.

3. A licensee shall inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty, regardless of adjudication, of any felony or of a misdemeanor involving moral turpitude.

4. A licensee may not have had a license or certification as a real estate appraiser which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction.

5. A licensee shall inform the board in writing within 30 days of the suspension, revocation or surrender of an appraiser license or certification in connection with a disciplinary action in any other jurisdiction, and a licensee shall inform the board in writing within 30 days of any appraiser license or certification which has been the subject of discipline in any jurisdiction.

6. A licensee shall perform all appraisals in accordance with Virginia Fair Housing Law, § 36-96.1 et seq. of the Code of Virginia.

18 VAC 130-20-200. Requirement for the approval of appraisal educational offerings.

Pursuant to the mandate of Title 11 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, § 54.1-2013 of the Code of Virginia, and the qualifications criteria set forth by the Appraisal Qualifications Board of the Appraisal Foundation, all educational offerings submitted for prelicensure and continuing education credit shall be approved by the board. ~~Although Educational offerings which that have been approved by the Appraisal Foundation's Educational Offering Review Panel may Appraiser Qualifications Board shall~~ be considered to have met the

standards for approval set forth in this chapter, ~~all educational offerings must be approved by the board.~~

[18 VAC 130-20-210. Standards for the approval of appraisal educational offerings for prelicensure credit.

A. Content.

1. Prior to licensure, applicants shall have successfully completed a ~~the 15 classroom~~ hour *National Uniform Standards of Professional Appraisal Practice* course ~~in the Uniform Standards of Professional Appraisal Practice or its equivalent.~~

2. While various appraisal courses may be credited toward the classroom requirement specified for each classification of licensure, all applicants for licensure as an appraiser trainee, a licensed residential, certified residential, or certified general real estate appraiser must demonstrate that their course work included coverage of all the topics listed below.

- Appraisal standards and ethics
- Influences on real estate value
- Legal considerations in appraisal
- Types of value
- Land economic principles
- Real estate markets and analysis
- Valuation process
- Property description and analysis
- Highest and best use analysis
- Appraisal statistical concepts
- Sales comparison approach
- Site valuation
- Cost approach
- Income approach
- Valuation of partial interests

In addition, all applicants for certified residential or certified general real estate appraiser must demonstrate that their course work included coverage in narrative report writing.

3. All appraisal and appraisal-related offerings presented for prelicense credit must have a final, written examination. The examination may not be an open book examination.

4. Credit toward the classroom hour requirement to satisfy the educational requirement prior to licensure shall be granted only where the length of the educational offering is at least 15 classroom hours.

B. Instruction. With the exception of courses taught at accredited colleges, universities, junior and community colleges, or adult distributive or marketing education programs, all other prelicense educational offerings given after January 1, 1993, must be taught by instructors certified by the board. *All courses in the Uniform Standards of Professional Appraisal Practice must be instructed by an Appraisal Qualifications Board certified instructor.*]

18 VAC 130-20-220. Standards for the approval of appraisal educational offerings for continuing education credit.

A. Content.

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1. The content of courses, seminars, workshops or conferences which may be accepted for continuing education credit includes, but is not limited to those topics listed in 18 VAC 130-20-210 A 2 and below.

Ad valorem taxation
Arbitrations
Courses related to the practice of real estate appraisal
~~Construction~~ *Development cost* estimating
Ethics and Uniform Standards of Professional Appraisal Practice
Fair housing
Land use planning, zoning, and taxation
Management, leasing, brokerage, timesharing
Property development
Real estate appraisal (valuations/evaluations)
Real estate financing and investment
Real estate law
Real estate litigation
Real estate appraisal related computer applications
Real estate securities and syndication
Real property exchange

2. Courses, seminars, workshops or conferences submitted for continuing education credit must indicate that the licensee participated in an educational program that maintained and increased his knowledge, skill and competency in real estate appraisal.

3. Credit toward the classroom hour requirement to satisfy the continuing education requirements shall be granted only where the length of the educational offering is at least two hours and the licensee participated in the full length of the program.

~~B. Instruction. Although continuing education offerings, except the three-hour required course on recent developments in federal, state and local real estate appraisal law and regulation and the Uniform Standards of Professional Appraisal Practice, are not required to be taught by board certified instructors, these offerings must meet the standards set forth in this section effective January 1, 2003, the Uniform Standards of Professional Appraisal Practice course must be taught by an instructor certified by the Appraiser Qualifications Board.~~

18 VAC 130-20-230. Procedures for awarding prelicense and continuing education credits.

A. Course credits shall be awarded only once for courses having substantially equivalent content.

B. Proof of completion of such course, seminar, workshop or conference may be in the form of a transcript, certificate, letter of completion or in any such written form as may be required by the board. All courses, seminars and workshops submitted for prelicensure and continuing education credit must indicate the number of classroom hours.

C. Information which may be requested by the board in order to further evaluate course content includes, but is not limited to, course descriptions, syllabi or textbook references.

D. All transcripts, certificates, letters of completion or similar documents submitted to verify completion of seminars, workshops or conferences for continuing education credit

must indicate successful completion of the course, seminar, workshop or conference. Applicants must furnish written proof of having received a passing grade in all prelicense education courses submitted.

E. Credit may be awarded for prelicensure courses completed by challenge examination without classroom attendance, if such credit was granted by the course provider prior to July 1, 1990, and provided that the board is satisfied with the quality of the challenge examination that was administered by the course provider.

F. All courses seminars, workshops, or conferences, submitted for satisfaction of continuing education requirements must be satisfactory to the board.

G. Prelicense courses. A distance education course may be acceptable to meet the classroom hour requirement or its equivalent provided that the course is approved by the board [, *the learner successfully completes a written examination proctored by an official approved by the presenting entity, college or university, the course meets the requirements for qualifying education established by the Appraiser Qualifications Board, the course is equivalent to the minimum of 15 classroom hours*] and meets one of the following conditions:

1. The course is presented by an accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines; [~~the learner successfully completes a written examination personally administered by an official approved by the college or university; and the course meets the requirements for real estate appraisal related courses established by the Appraiser Qualifications Board and is equivalent to the minimum of 15 classroom hours~~]; [or]

2. The course has received the American Council on Education's Program on Noncollegiate Sponsored Instruction [(PONS) ACE/Credit Program] approval for college credit [;] or [~~has been approved under the Appraiser Qualifications Board Course Approval Program; the learner successfully completes a written examination personally administered by an official approved by the presenting entity; and the course meets the requirements for~~] real estate appraisal related courses [~~qualifying education established by the Appraiser Qualifications Board and is equivalent to the minimum of 15 classroom hours~~]; or

3. *The course has received approval of the International Distance Education Certification Center (IDECC) for the course design and delivery mechanism and either the approval of the Appraisal Qualifications Board through its course approval program or the approval of the board for the content of the course.*]

H. *Continuing education. Distance education courses may be acceptable to meet the continuing education requirement provided that the course is approved by the [state certification/licensing authority board, is a minimum of two classroom hours, meets the requirements for continuing education established by the Appraiser Qualifications Board] and meets one of the following conditions:*

1. The course is presented to an organized group in an instructional setting with a person qualified and available to answer questions, provide information, and monitor student attendance [~~, and is a minimum of two classroom hours and meets the requirements for continuing education courses established by the Appraiser Qualifications Board~~];[~~or~~]

2. The course [~~either~~] has been presented by an accredited (Commission on Colleges or regional accreditation association) college or university that offers distance education programs in other disciplines [~~, or~~ and the student successfully completes a written examination proctored by an official approved by the presenting college or university or by the sponsoring organization consistent with the requirements of the course accreditation; or if a written examination is not required for accreditation, the student successfully completes the course mechanisms required for accreditation that demonstrate mastery and fluency (said mechanisms must be present in a course without an exam in order to be acceptable;

3. The course] has received [~~either approval for college credit by~~] the American Council on [~~Education's Program on Non-collegiate Sponsored Instruction Education through its~~] (ACE/[~~PONSICredit Program~~]) [~~approval for college credit or the Appraiser Qualification Board's Course Approval Program, and the course meets the following requirements: and the student successfully completes a written examination proctored by an official approved by the presenting college or university or by the sponsoring organization consistent with the requirements of the course accreditation; or if a written examination is not required for accreditation, the student successfully completes the course mechanisms required for accreditation that demonstrate mastery and fluency (said mechanisms must be present in a course without an exam in order to be acceptable; or]~~

[~~a. The course is equivalent to a minimum of two classroom hours in length and meets the requirements for real estate appraisal-related courses established by the Appraiser Qualifications Board; and~~

b. 4. The course has received approval of the International Distance Education Certification Center (IDECC) for the course design and delivery mechanism and either the approval of the Appraiser Qualifications Board through its course approval program or the approval of the board for the content of the course and] the student successfully completes a written examination proctored by an official approved by the presenting college or university or by the sponsoring organization consistent with the requirements of the course accreditation; or if a written examination is not required for accreditation, the student successfully completes the course mechanisms required for accreditation that demonstrate mastery and fluency (said mechanisms must be present in a course without an exam in order to be acceptable).

H. 1. A teacher of appraisal courses may receive education credit for the classroom hour or hours taught. These credits shall be awarded only once for courses having substantially equivalent content.

NOTICE: The forms used in administering 18 VAC 130-20, Real Estate Appraiser Board Rules and Regulations, are not being published due to the number of pages; however, the name of each form is listed below. The forms are available for public inspection at the Real Estate Appraiser Board, 3600 W. Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Real Estate Appraiser Board License Application, *40LIC* (~~2/97~~ rev. [~~8/04~~ 9/02]).

Real Estate Appraiser Board Experience Log, *40EXP* (~~2/97~~ rev. [~~3/00~~ 9/02]).

[*Experience Affidavit Form, 40EXPAFF* (eff. 9/02).]

[*Experience Requirements, 40EXPREQ* (eff. 9/02).]

Real Estate Appraiser Board Trainee License Application Form, *40TRLIC* (~~2/97~~ rev. [~~3/00~~ 9/02]).

Real Estate Appraiser Board Trainee Supervisor Verification Form, *40TRSUP* (eff. [~~3/00~~ 9/02]).

Real Estate Appraiser Business Registration Application (eff. [4/29/94 9/02]).

[~~Application for Approval of Appraisal~~] Course [~~Offering Application, 40CRS~~] (eff. [9/6/94 9/02]).

[~~Instructor Certificate~~] Application [~~for Certification as an Appraisal Instructor, 40INSTR~~] (eff. [9/6/94 9/02]).

[DOCUMENTS INCORPORATED BY REFERENCE

Transfer Credit Practices of Designated Educational Institutions, American Association of Collegiate Registrars and Admissions Officers.

Uniform Standards of Professional Appraisal Practice, ~~1997~~ 2003 Edition, Appraisal Standards Board, Appraisal Foundation.

Statement on Appraisal Standards No. 8 (SMT-8), Electronic Transmission of Reports, 1998 Edition, Appraisal Standards Board, Appraisal Foundation.]

VA.R. Doc. No. R01-168; Filed April 29, 2003, 12:25 p.m.



TITLE 22. SOCIAL SERVICES

DEPARTMENT OF REHABILITATIVE SERVICES

Title of Regulation: **22 VAC 30-20. Provision of Vocational Rehabilitation Services (amending 22 VAC 30-20-90).**

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

Effective Date: June 18, 2003.

Agency Contact: Elizabeth Smith, Policy and Planning Director, Department of Rehabilitative Services, 8004 Franklin Farms Drive, P.O. Box K-300, Richmond, VA 23288-0300,

Final Regulations

telephone (804) 662-7071, FAX (804) 662-7696, e-mail
smithee@drs.state.va.us.

Summary:

The revisions amend the Department of Rehabilitative Services' order of selection system that prioritizes among individuals eligible for vocational rehabilitation services in the event that resources are not sufficient to provide services to all eligible persons.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:11 VA.R. 1618-1622 February 10, 2003, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R02-297; Filed April 16, 2003, 3:40 p.m.



EMERGENCY REGULATIONS

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Title of Regulation: 12 VAC 5-90. Regulations for Disease Reporting and Control (amending 12 VAC 5-90-80).

Statutory Authority: § 32.1-35 of the Code of Virginia.

Effective Dates: April 24, 2003, through April 23, 2004.

Preamble:

This emergency regulation is necessary due to an imminent threat to public health. Severe acute respiratory syndrome (SARS) is a new communicable disease that has affected more than 3,000 people worldwide, with 200 suspected cases in the United States, including six in Virginia. Each case needs to immediately come to the attention of the health department to ensure that measures are put in place to prevent the spread of this disease to others.

The Asian and Canadian experiences have demonstrated that if a person with SARS is not properly isolated, dozens of others can become ill and hundreds may need to have restrictions placed on their usual activities. SARS can cause serious and life-threatening disease. The emergency action amends 12 VAC 5-90-80, the reportable disease list from the Regulations for Disease Reporting and Control, to add severe acute respiratory syndrome (SARS) to the list, thereby making this a reportable condition in Virginia and allowing the Virginia Department of Health to track and respond to SARS cases.

The condition has similarly been added to the list of diseases requiring rapid reporting so that the department will be in a position to respond as quickly as possible to prevent illness due to SARS. The reportable disease list is the mechanism used by the Virginia Department of Health to gather information about conditions affecting the health of citizens of the Commonwealth.

This regulatory action will position the department to monitor the occurrence of SARS in Virginia and ensure that measures are taken to protect the health of those with the illness and their close contacts.

Agency Contact: Diane Woolard, Director, Division of Surveillance and Investigation, Department of Health, 1500 E. Main Street, Suite 113, Richmond, VA 23219, telephone (804) 786-6615, e-mail dwoolard@vdh.state.va.us.

12 VAC 5-90-80. Reportable disease list.

A. The board declares the following named diseases, toxic effects, and conditions to be reportable by the persons enumerated in 12 VAC 5-90-90. Conditions identified by an asterisk (*) require rapid communication as defined in subsection B of this section:

Acquired Immunodeficiency Syndrome (AIDS)
Amebiasis
*Anthrax
Arboviral infections (e.g., EEE, LAC, SLE, WNV)
*Botulism

Brucellosis
Campylobacter infection
Chancroid
Chickenpox
Chlamydia trachomatis infections
*Cholera
Creutzfeld-Jakob disease if < 55 years of age
Cryptosporidiosis
Cyclosporiasis
*Diphtheria
Ehrlichiosis
Escherichia coli O157:H7 and other enterohemorrhagic E. coli infections
Giardiasis
Gonorrhea
Granuloma inguinale
*Haemophilus influenzae infection, invasive
Hantavirus pulmonary syndrome
Hemolytic uremic syndrome (HUS)
*Hepatitis A (IgM +)
Hepatitis B:
 Acute disease (IgM +)
 HBsAg positive pregnant women
Hepatitis C (acute and chronic)
Hepatitis, other acute viral
Human immunodeficiency virus (HIV) infection
Influenza
Kawasaki syndrome
Lead-elevated blood levels
Legionellosis
Leprosy (Hansen disease)
Listeriosis
Lyme disease
Lymphogranuloma venereum
Malaria
*Measles (Rubeola)
*Meningococcal infection
Mumps
Ophthalmia neonatorum
*Outbreaks, all (including foodborne, nosocomial, occupational, toxic substance-related, waterborne, and other outbreaks)
*Pertussis (Whooping cough)
*Plague
*Poliomyelitis
*Psittacosis
Q fever
*Rabies, human and animal
Rabies treatment, post-exposure
Rocky Mountain spotted fever
Rubella (German measles), including congenital rubella syndrome
Salmonellosis
*Severe acute respiratory syndrome (SARS)
Shigellosis
Smallpox
Streptococcal disease, Group A, invasive
Streptococcus pneumoniae, invasive in <5 years of age
Syphilis (report *primary and *secondary syphilis by rapid means)
Tetanus

Emergency Regulations

Toxic shock syndrome
Toxic substance-related illness
Trichinosis (Trichinellosis)
*Tuberculosis disease
Tuberculosis infection in children ages <4 years (Mantoux tuberculin skin test reaction \geq 10 mm)
Tularemia
Typhoid fever
Typhus
Unusual occurrence of disease of public health concern
*Vaccinia, disease or adverse event
Vancomycin-resistant *Staphylococcus aureus*
Vibrio infection
Viral hemorrhagic fever
*Yellow Fever

B. Reportable diseases requiring rapid communication. Certain of the diseases in the list of reportable diseases, because of their extremely contagious nature or their potential for greater harm, or both, require immediate identification and control. Reporting of persons confirmed or suspected of having these diseases, listed below and identified by asterisks in subsection A of this section and 12 VAC 5-90-90 B, shall be made within 24 hours by the most rapid means available, preferably that of telecommunication (e.g., telephone, telephone transmitted facsimile, telegraph, teletype, etc.) to the local health director or other professional employee of the department:

Anthrax
Botulism
Cholera
Diphtheria
Haemophilus influenza infection, invasive
Hepatitis A
Measles (Rubeola)
Meningococcal infection
Outbreaks, all
Pertussis
Plague
Poliomyelitis
Psittacosis
Rabies in man and animals
Severe acute respiratory syndrome (SARS)
Syphilis, primary and secondary
Tuberculosis disease
Vaccinia, disease or adverse event
Yellow Fever

C. Diseases to be reported by number of cases. The following disease in the list of reportable diseases shall be reported as number-of-cases only:

Influenza (by type, if available)

D. Human immunodeficiency virus (HIV) infection. Every physician practicing in this Commonwealth shall report to the local health department any patient of his who has tested positive for human immunodeficiency virus (HIV). Every person in charge of a medical care facility shall report the occurrence in or admission to the facility of a patient with HIV infection unless there is evidence that the occurrence has been reported by a physician. When such a report is made, it shall include the information required in 12 VAC 5-90-90 A.

Only individuals who have laboratory results which indicate the presence of HIV antigen, nucleic acid, or antibodies (such as at least two enzyme-linked immunosorbent assays (done in duplicate at the same time or singly at different times), and a supplemental test such as the western blot or by rapid tests with confirmation) are considered to have HIV infection.

E. Toxic substance-related diseases or illnesses. All toxic substance-related diseases or illnesses, including pesticide and heavy metal poisoning or illness or disease resulting from exposure to an occupational dust or fiber or radioactive substance, shall be reported.

If such disease or illness is verified or suspected and presents an emergency or a serious threat to public health or safety, the report of such disease or illness shall be by rapid communication as in subsection B of this section.

F. Outbreaks. The occurrence of outbreaks or clusters of any illness which may represent a group expression of an illness which may be of public health concern shall be reported to the local health department by the most rapid means available.

G. Unusual or ill-defined diseases or emerging or reemerging pathogens. Unusual or emerging conditions of public health concern shall be reported to the local health department by the most rapid means available. In addition, the commissioner or his designee may establish temporary surveillance systems for diseases or conditions that are not on the list of reportable diseases. Such surveillance may be established to identify cases (delineate the magnitude of the situation), to identify the mode of transmission and risk factors for the disease, and to identify and implement appropriate action to protect public health. Any person reporting information at the request of the department for special surveillance or other epidemiological studies shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

H. Contact tracing. When notified about a disease specified in subsection A of this section, the local health department shall perform contact tracing for HIV infection, infectious syphilis, and tuberculosis and may perform contact tracing for the other diseases if deemed necessary to protect the public health. The local health director shall have the responsibility to accomplish contact tracing by either having patients inform their potential contacts directly or through obtaining pertinent information such as names, descriptions, and addresses to enable the health department staff to inform the contacts. All contacts of HIV infection shall be afforded the opportunity for appropriate counseling, testing, and individual face-to-face disclosure of their test results. In no case shall names of informants or infected persons be revealed to contacts by the health department. All information obtained shall be kept strictly confidential.

/s/ Mark R. Warner
Governor
Date: April 23, 2003

VA.R. Doc. No. R03-184; Filed April 24, 2003, 3:38 p.m.



FORMS

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

EDITOR'S NOTICE: The following form has been revised by the State Water Control Board. The form is available for public inspection at the State Water Control Board, 629 E. Main Street, Richmond, VA 23219. Copies of the forms may be obtained from Cindy Berndt, State Water Control Board, 629 E. Main Street, Richmond, VA 23219, telephone (804) 698-4378.

Title of Regulation: **9 VAC 25-120. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges from Petroleum Contaminated Sites.**

FORMS

General VPDES Permit Registration Statement for Discharges from Petroleum Contaminated Sites ~~eff. 9/97~~ and *Hydrostatic Tests (rev. 4/03)*.

GENERAL VPDES PERMIT REGISTRATION STATEMENT
FOR DISCHARGES FROM PETROLEUM CONTAMINATED SITES AND HYDROSTATIC TESTS
9 VAC 25-120-10 et seq.

The owner shall file a complete VPDES general permit registration statement for discharges from petroleum contaminated sites and hydrostatic tests. Any owner proposing a new discharge shall file a complete registration statement at least 30 days prior to the date planned for commencing operation of the new discharge. Any owner of an existing discharge covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing discharge not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file a complete registration statement. The required registration statement shall contain the following information:

1. Legal Name of Facility _____
2. Location of Facility (Address and Telephone Number) _____
3. Facility Owner (individual or corporate) _____
4. Address of Owner _____
Street _____
City _____ State _____ Zip _____
5. Phone _____
Home _____ Work _____
6. Nature of the business conducted at the facility _____
7. Has a site characterization report for this site been submitted to the Department of Environmental Quality?
Yes _____ No _____
8. Are central wastewater treatment facilities available to this site? Yes _____ No _____ If yes, has the option of discharging to the central facilities been evaluated? What was the result of that evaluation?
Yes _____ No _____
9. Does this facility currently have a permit issued by the Board? Yes _____ No _____
If yes, please provide permit number: _____
10. Pollution Complaint Number (if applicable) _____
11. Is the material being treated or discharged classified as a hazardous waste under the Virginia Hazardous Waste Regulation, 9 VAC 20-60-10 et seq.? Yes _____ No _____
12. Identify the discharge point and the waterbody into which the discharge will occur _____
13. Attach a diagram of the proposed wastewater treatment system identifying the individual treatment units.
14. Attach a topographic or other map which indicates the receiving waterbody name, the discharge point(s), the property boundaries, as well as springs, other surface waterbodies, drinking water wells, and public water supplies, which are identified in the public record or are otherwise known to the applicant, within a 1/2 mile radius of the proposed discharge(s).

GENERAL VPDES PERMIT REGISTRATION STATEMENT
FOR DISCHARGES FROM PETROLEUM CONTAMINATED SITES AND HYDROSTATIC TESTS
9 VAC 25-120-10 et seq.
Page 2.

For DDO use only: Waterbody _____

Basin _____

Stream Class _____ Section _____

Special Standards _____

15. Type of petroleum product(s) causing or that caused the contamination _____
16. Which activities will result in a point source discharge from the petroleum contaminated site? (Check all that apply)
 - ____ Excavation Dewatering
 - ____ Pumping Ground Water Monitoring Wells
 - ____ Aquifer Tests to Characterize Site Conditions
 - ____ Hydrostatic Relief of Building or Parking Deck Underdrains
 - ____ Hydrostatic Tests of Petroleum Storage Tanks or Pipelines
 - ____ Pumping Contaminated Ground Water to Remove Petroleum Products From The Ground
 - ____ Other (specify) _____
17. How often will the discharge occur (e.g. daily, monthly, continuously)? _____
18. Estimate how long each discharge will last _____ hours/days
19. Estimate total volume of wastewater to be discharged _____ Gal.
20. Estimate maximum flow rate of the discharge _____ Gal/day.

Certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations. I do also hereby grant daily authorized agents of the Department of Environmental Quality, upon presentation of credentials, permission to enter the property for the purpose of determining the suitability of the general permit.

Signature: _____ Date: _____

Print Name: _____

Title: _____

For Department use only:
Registration Statement Accepted/Not Accepted by: _____ Date: _____

**INSTRUCTIONS FOR COMPLETING THE
GENERAL VPDES PERMIT REGISTRATION STATEMENT
FOR DISCHARGES FROM PETROLEUM CONTAMINATED SITES AND HYDROSTATIC TESTS**

General

A registration statement must be submitted to the Department of Environmental Quality (DEQ) in order for the DEQ to consider a proposed discharge for coverage under the General VPDES Permit for Discharges from Petroleum Contaminated Sites and Hydrostatic Tests (9 VAC 25-120-10 et seq.). Discharges not associated with petroleum-contaminated water or hydrostatic tests are not covered under this general permit.

Questions 1 and 2: Facility Information

Give the name of the business or other entity that occupies the site where the discharge is proposed to occur. Provide either the street address or other information that will allow DEQ personnel to locate the site. Give a telephone number at the site so that DEQ can contact someone at the facility.

Questions 3, 4, and 5: Owner Information

Provide the full name, street address and telephone numbers of the owner to whom the permit will be issued. This person, firm, public organization or other entity is the party responsible for the control of the facility's operation.

Question 6: Nature of Business

Give a brief statement as to what usual business activities are conducted at the site of contamination.

Question 7: Site Characterization

Please indicate if a site characterization report has been submitted to the DEQ. NOTE: A SCR is required from the person responsible for conducting the release investigation and performing corrective action. If you are not a Responsible Person (RP), you are NOT required to submit an SCR.

Question 8: Central Wastewater Availability

The owner should investigate the possibility of discharging to central sewer prior to requesting coverage under this general permit. If central sewer is in the vicinity but access for this discharge is denied, make that statement in the space provided.

Questions 9 and 10: Permit/Pollution Complaint Numbers

If the facility has already been permitted to discharge and has a discharge permit number, or if the facility is responsible for the release and the DEQ has issued a Pollution Complaint Number for the site, fill in the appropriate blanks with the permit or pollution complaint number. In some instances the applicant should fill in both questions; in others only one question may apply.

Question 11: Hazardous Waste Statement

Indicate yes or no in the blanks provided. The general permit cannot be used to cover the treatment or discharge of hazardous materials.

Question 12: Discharge Location

Provide a narrative description of the point of discharge (e.g. northwest corner of intersection of First St. and Second Ave.) Give the name of the stream, lake, river, etc. that the discharge will go into (e.g. Unnamed Tributary to Clear Creek). If the discharge is to enter a storm drain, give the name of the owner of the storm drain system (e.g. Fairfax Co. storm drain inlet).

Question 13: Treatment Works Design

Attach a line drawing that traces the flow of wastewater from one treatment unit to the next. This drawing may be a sketch that shows, conceptually, what system will be used to treat wastewater so that it will meet the effluent quality requirements of the general permit. Identify all treatment technologies that will be employed at the facility.

Question 14: Topographic Map

The topo map should be a copy of the USGS 7.5 minute quadrangle that encompasses the facility and the surrounding property for at least 1/2 mile in all directions. Maps other than the USGS quadrangle may be substituted if they provide at least the same level of detail. The required information should be clearly marked on the map. Information regarding public water supplies and private wells may be obtained from local health department officials.

Question 15: Type of petroleum products involved

The type of petroleum products that are involved in the contamination will determine the conditions under which the general permit is issued. It is important to list or describe all of the materials involved.

Question 16: Proposed activities

Select all of the categories that apply to this proposed discharge. If events at the facility will cause the discharge to change over time from one category to another, indicate all categories that are anticipated.

Questions 17, 18, 19 and 20: Discharge Information

Provide estimates of the frequency at which the discharge will occur, the duration of the discharge and of the amount and flow rate of wastewater to be discharged.

Certification Statement:

State statutes provide for severe penalties for submitting false information on this registration statement. State regulations require that the registration statement be signed as follows:

For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. (If the title of the individual signing is Plant Manager, submit a written verification that the facility employs more than 250 people or has gross annual sales or expenditures in excess of \$25 million (in 1980 dollars) and that authority to sign the registration statement has been delegated to the Plant Manager in accordance with corporate procedures.);

For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Dumps Creek Total Maximum Daily Load Report

The Department of Environmental Quality (DEQ) and the Department of Mines, Minerals and Energy, Division of Mined Land Reclamation (DMLR) seek written and oral comments from interested persons on the draft Total Maximum Daily Load (TMDL) report for aquatic life on Dumps Creek in the Clinch River watershed. The draft TMDL can be found on the DEQ website <http://www.deq.state.va.us/tmdl/tmdlrvts.html> under the report title "Dumps Creek." The public comment period is extended from April 25, 2003, to June 24, 2003.

Dumps Creek is located in Russell County, Virginia. It is 3.4 miles in length and extends from the Clinch River confluence at Carbo upstream to the Hurricane Fork confluence. The stream is near the American Electric Power Plant that discharges to Clinch River at Carbo. Dumps Creek flows near Route 616 and 615. Tributaries include Millstone Branch. Dumps Creek was identified in Virginia's 1998 § 303(d) TMDL Priority List and Report as impaired due to violations of the state's General Standard for Aquatic Life.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired segment contained in Virginia's § 303(d) TMDL Priority List and Report. The purpose of the report is to identify sources and recommend reductions of pollutants so that Dumps Creek can meet the water quality standard.

Written comments should be submitted by close of business on June 24, 2003, and addressed to Nancy T. Norton, P.E., Department of Environmental Quality, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212, telephone (276) 676-4807, FAX (276) 676-4899, or e-mail ntnorton@deq.state.va.us. Comments should include the name, address, and telephone number of the person submitting the comments.

Total Maximum Daily Load (TMDL) for Fecal Coliform Bacteria on an 8.0-Mile Segment of Four Mile Run

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of an Implementation Plan (IP) for the Total Maximum Daily Load (TMDL) for fecal coliform bacteria on an 8.0-mile segment of Four Mile Run. A TMDL for bacteria in Four Mile Run was approved by EPA on May 31, 2002, and is available on DEQ's website at:

<http://www.deq.state.va.us/tmdl/apptmdls/potrivr/fourmlrn1.pdf>.

The Four Mile Run impaired segment is located in Arlington County, Fairfax County, the City of Falls Church and the City of Alexandria. It begins at the headwaters of Four Mile Run and extends downstream to river mile 1.46, approximately 0.27 river miles upstream of Mount Vernon Avenue Bridge.

Section 62.1-44.19:7 C of the Code of Virginia requires the development of an IP for approved TMDLs. The IP should provide measurable goals and the date of expected achievement of water quality objectives. The IP should also include the corrective actions needed and their associated costs, benefits and environmental impacts.

The first public meeting on the development of the IP for the Four Mile Run bacteria TMDL will be held on Wednesday, June 11, 2003, at 7 p.m. in Room 10 of the Fairlington Community Center, located at 3308 S. Stafford Street, Arlington, VA 22206.

The public comment period will end on July 10, 2003. A fact sheet on the development of an IP for the TMDL for fecal coliform bacteria on Four Mile Run is available upon request. Questions or information requests should be addressed to Kate Bennett. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Ms. Kate Bennett, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3896, FAX (703) 583-3841, or e-mail kebennett@deq.state.va.us.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Legal Notice of Intent to Amend the Virginia State Plan for Medical Assistance

Notice is hereby given that the Department of Medical Assistance Services (DMAS) intends to modify its reimbursement plan as set forth below 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 and of § 1902(a)(13) of the Social Security Act, 42 USC § 1396a(a)(13). The changes contained in this public notice are occurring in response to mandates of the 2003 General Assembly as contained in the 2003 Acts of Assembly, Items 325 #13c, #18c, HHH, KKK, LLL, MMM, NNN, OOO and YY. The changes contained in this notice are to become effective July 1, 2003, and are as follows:

Methods and Standards for Establishing Payment Rates-Long Term Care Services: Nursing Facility Reimbursement Formula (12 VAC 30-90-41)

Nursing facility prospective operating ceilings (direct and indirect) and prospective operating rates are adjusted for inflation. The allowance for inflation is based upon the percentage of change in the moving average of the percentage change of the Virginia-Specific Nursing Home Input Price Index, updated quarterly, published by DRI-WEFA, Incorporated (formerly, Standard and Poor's DRI).

The 2003 Acts of Assembly of Item 325 MMM directed the Department of Medical Assistance Services (DMAS) to amend the State Plan in regards to the calculation of direct and indirect care nursing home rate inflation adjustments for State Fiscal Year (SFY) 2004. This Item directs DMAS to calculate the direct care inflation adjustment provided to nursing facilities effective on July 1, 2003, through June 30, 2004, in a

manner to ensure that the increase in payments does not exceed \$8,768,125 of general funds and \$8,813,838 in nongeneral funds. This represents an inflation adjustment of approximately 5.1%.

The indirect care inflation adjustments provided to nursing facilities effective on July 1, 2003, through June 30, 2004, shall be calculated in a manner to ensure that the increase in payments does not exceed \$2,325,094 of general funds and \$2,337,216 of nongeneral funds in SFY 2004. This represents an inflation adjustment of approximately 1.53%.

The proposed methodology will make an estimate, based on existing nursing facility rates and forecasts of patient volume, of the inflation factor that will expend \$8,768,125 of general funds and \$8,813,838 of nongeneral funds for direct care and \$2,325,094 of general funds and \$2,337,216 of nongeneral funds for indirect care payments. This inflation factor will be used to set rates for SFY 2004. The actual increase in expenditures will be slightly more or less than the amount appropriated, based on the difference between the forecasted and actual patient volume in SFY 2004.

Methods and Standards for Establishing Payment Rates-Inpatient Hospital Services (12 VAC 30-70-351)

Provisions for adjusting hospital inpatient rates for inflation are contained in 12 VAC 30-70-351. The proposed amendment would add language providing that the adjustment for inflation applicable to the time period of SFY 2004 would not be based on the normal methodology, but would be calculated to expend no more than the amount prescribed by the appropriation act (\$10,863,375). Because the appropriation act also provides for rebasing of hospital rates for SFY 2005, and because all new inflation factors are calculated for each new state fiscal year, this provision will affect rates only in SFY 2004, as intended. The proposed methodology will make an estimate, based on existing hospital rates and forecasts of patient volume, of the inflation factor that will expend no more than \$10.9 million. This inflation factor will be used to set rates for SFY 2004.

Fee-for-service providers: School Divisions (12 VAC 30-80-75)

The emergency regulation would add the new subsection to Chapter 80 on fee-for-service providers as part of the chapter on the Standards and Methodology for Establishing Payment Rates: Other Types of Care. This subsection would apply only to school division providers. Fee-for-service rates would be based on costs incurred.

School division providers certify the state share for special education services that they bill to Medicaid. As a result, DMAS reimburses schools only for the federal share of the amounts billed and approved for payment by Medicaid. No general funds are expended. In addition, the General Assembly has directed that in the future school divisions receive only half of the FFP and DMAS will retain the other half above previously billed amounts. It is therefore in the interest of the school divisions and the Commonwealth to pay the maximum permitted by federal law and regulation.

This emergency regulation allows DMAS to set separate rates for school division providers, establishing a methodology for setting fees based on direct, indirect and capital costs

associated with providing the service. Cost information for school providers will be developed from financial and time study information gathered as part of the process of preparing administrative claims for periods after January 1, 2003. DMAS will supplement this information with data from the Department of Education, interviews with providers and surveys as necessary. Information from providers participating in administrative claiming will be weighted so that it is representative of all school providers in the state.

Because this is a new methodology, there is no data upon which DMAS is currently able to make fiscal projections; however, it is estimated that as a result of these regulation changes approximately \$300,000 (representing only the federal portion) will flow directly to Virginia school districts through DMAS in 2003.

Limit Inpatient/Outpatient Hospital Capital Costs to 80% of Costs (12 VAC 30-70-271) and Outpatient Hospital Allowable Cost Limit (12 VAC 30-80-20)

Provisions for reimbursement of hospital inpatient capital costs are contained in 12 VAC 30-70-271. Currently hospitals are paid the actual allowable cost of capital. The proposed amendment would add language providing that starting July 1, 2003, hospitals, excluding state teaching hospitals, would be paid 80% of allowable capital costs. Provisions in 12 VAC 30-70-271 C and 12 VAC 30-70-70 E provide for the recapture of previously paid depreciation upon sale of a hospital. The proposed amendment would eliminate this language. The estimated amount of savings total \$5.2 million, which includes amounts saved on reimbursement for outpatient capital costs as well.

Regulations at 12 VAC 30-80-20 identify services that are reimbursed on the basis of allowable cost and describe any special provisions related to specific services or provider categories. Outpatient hospital services are currently listed in this section, and are subject only to the limits related to Medicare principles of reimbursement. These limits provide that outpatient operating costs are reimbursed at 94.2% of cost, and capital costs at 90% of cost. The proposed amendment would provide for reimbursement of all outpatient costs at 80% of allowable cost. The estimated amount of savings total \$8.5 million. Therefore the total aggregate savings for these two changes is \$13.7 million.

Freestanding Psychiatric Hospital Rates Unchanged (12 VAC 30-70-391)

Provisions in 12 VAC 30-70-391 provide for rebasing of hospital rates at least every three years. In compliance with this, DMAS has calculated rebased hospital rates to be effective July 1, 2003. The proposed amendment would add language providing that freestanding psychiatric hospitals' rates would not be re-based for SFY2004, but would continue to be based on the previous base year. This holds reimbursement at current levels, so no net gain or loss is expected over expenditures for the previous three years.

Prospective Reimbursement for Rehab Agencies (12 VAC 30-80-20)

Regulations at 12 VAC 30-80-20 also currently list rehabilitation agency services that are reimbursed their actual

General Notices/Errata

allowable costs, subject only to the limits related to Medicare principles of reimbursement. The proposed amendment would provide that rehab agencies operated by community services boards (CSBs) would continue to be paid based on allowable costs, and this amendment also includes a new subsection (12 VAC 30-80-200) describing a prospective reimbursement methodology applicable to other rehabilitation agencies. Each provider's prospective rate would be the lesser of its own historical cost per visit, or 112% of the median cost per visit of all providers. The estimated amount of savings total \$6,030,576 million.

Methods and Standards for Establishing Payment Rate: Fee-For-Service Providers: Pharmacy Services (12 VAC 30-80-40)

Effective since July 1, 1995, DMAS has reimbursed pharmacists \$4.25 for every legend drug prescription they filled for Medicaid recipients. The 2003 General Assembly directed the agency to reduce its legend drug dispensing fee from the current \$4.25 to \$3.75 (pursuant to the conference report). Estimated savings total \$4.0 million.

Nursing Home Specialized Care (12 VAC 30-90-264)

This regulatory change will reduce the specialized care rates while increasing ceilings for regular nursing facilities. Some services that were covered in the specialized care nursing facilities will now be covered in regular nursing facilities. Ceilings for regular nursing facility individual rates will also be revised. It is estimated that DMAS will expend an additional \$10 million as a result of these changes.

A copy of this notice is available for public review from N. Stanley Fields, Director, Division of Cost Settlement and Audit, DMAS, 600 Broad Street, Suite 1300, Richmond, VA 23219, and this notice is available for public review at any local public library. 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.

DEPARTMENT OF SOCIAL SERVICES

Periodic Review of Regulations

Pursuant to Executive Order Number 21 (2002), the Department of Social Services is currently reviewing the regulation, 22 VAC 40-325, Fraud Reduction/Elimination Effort, to determine if it should be terminated, amended, or retained in its current form. The review will be guided by the principles listed in Executive Order Number 21 (2002) and in the department's Plan for Review of Existing Agency Regulations.

The department seeks public comment regarding the regulation's interference in private enterprise and life, the essential need of the regulation, less burdensome and intrusive alternatives to the regulation, specific and measurable goals that the regulation is intended to achieve, and whether the regulation is clearly written and easily understandable.

Written comments may be submitted until June 9, 2003, in care of S. Michelle Lauter, Manager, Fraud Unit, Department of Social Services, Division of Program Integrity, 730 East Broad Street, Richmond, VA 23219-1849, by e-mail to sml900@dss.state.va.us, or by facsimile to (804) 692-2431.

STATE WATER CONTROL BOARD

Proposed Consent Special Orders City of Hampton Bergey's Dairy Farm, Inc. Perdue Farms, Inc. Terry M. Chaffin

The State Water Control Board proposes to take enforcement actions against the legal entities listed above for violations that occurred in the following municipalities:

Hampton: City of Hampton
Chesapeake: Bergey's Dairy Farm, Inc.
Accomack County: Perdue Farms, Inc.
York County: Terry M. Chaffin

The proposed enforcement actions are consent special orders that will require corrective actions and/or the payment of civil charges 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 orders from May 19, 2003, through June 18, 2003. Comments should be addressed to David S. Gussman, Department of Environmental Quality - Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, and should refer to one of the orders specified above. Comments may also be submitted by e-mail to dsgussman@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 orders may be examined at the above address and copies of the orders may be obtained in person, by mail or by e-mail.

Proposed Consent Special Order Dominion Campground, Inc. Dominion Campground Sewage Treatment Plant

The State Water Control Board proposes to issue a consent special order to Dominion Campground, Inc. (Dominion) regarding the Dominion Campground sewage treatment plant (STP) located in Spotsylvania County, Virginia.

The proposed order requires that Dominion submit a plan and schedule for achieving compliance with final permit effluent limits for ammonia and implement the approved plan and schedule. The order also provides interim limits for ammonia until the construction schedule is completed.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive comments relating to the order through June 18, 2003. 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
Farmer's Service Company
Chesapeake Public Schools
Elizabeth River Terminals, L.L.C.
Concrete Precast Systems, Inc.**

The State Water Control Board proposes to take an enforcement action against Farmer's Service Company (Town of Smithfield), Chesapeake Public Schools (City of Chesapeake), and Elizabeth River Terminals, L.L.C. (City of Chesapeake), and Concrete Precast Systems, Inc. (City of Chesapeake). The enforcement actions will be consent special orders that will require the facilities to come into compliance with appropriate Virginia laws and regulations. All the consent special orders contain provisions for the payment of civil charges.

The Department of Environmental Quality will receive written comments relating to the board's proposed consent special orders from May 19, 2003, to June 18, 2003. 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 one of the orders specified above. Comments may also be submitted by e-mail to dsgilbert@deq.state.va.us. In order for email comments to be considered, they must include the sender's name, address and telephone number. The proposed orders 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
Harold L. Bare and Laila B. Bare
d/b/a
The Godalming Subdivision**

The State Water Control Board proposes to enter into a consent special order with Harold L. and Laila B. Bare (the owners). The parties have agreed to the terms of a consent special order for settlement of violations of State Water Control Law at the Godalming Subdivision.

The Godalming Subdivision is a single family housing subdivision presently under development. The subdivision is located on the north side of Route 33 between Route 29 and Route 610 east of Ruckersville in Greene County, Virginia. In September 2002, staff of DEQ's Valley Regional Office inspected the Godalming Subdivision and found that the Owners, in constructing the subdivision, had filled and modified unnamed tributaries to Rippin Run and adjacent wetlands in violation of State Water Control Law. DEQ staff also found that the construction site was configured to discharge stormwater from the site into unnamed tributaries of

Rippin Run in violation of State Water Control Law. The proposed order would require the owners to obtain the necessary permits for the subdivision and to mitigate the impacts to the unnamed tributaries and wetlands. The proposed order would also assess a civil charge against the owners in settlement of the violations.

The board will receive written comments relating to the proposed order for 30 days from the date of publication of this notice. Comments should be addressed to Edward A. Liggett, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA 22801, and should refer to the order. The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia. A copy of the order may be obtained in person or by mail from the DEQ office.

Comments may also be submitted via electronic mail to ealiggett@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.

**Proposed Consent Special Order
Red Hill Mobile Home Park**

The State Water Control Board proposes to issue a consent special order to Red Hill Mobile Home Park to resolve certain alleged violations of environmental laws and regulations occurring at their facility in Prince George County, Virginia. The proposed order requires corrective action and payment of a \$5,700 civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive for 30 days from the date of publication of this notice written comments related to the proposed consent special order. Comments should be addressed to Frank Lupini, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060-6295; or sent to the e-mail address of felupini@deq.state.va.us. All comments received by e-mail must include the commenter's name, address and phone number. A copy of the order may be obtained in person or by mail from the above office.

**Proposed Consent Special Order
Sussex Service Authority**

The State Water Control Board proposes to issue a consent special order to Sussex Service Authority to resolve certain alleged violations of environmental laws and regulations occurring at their Courthouse and Black Swamp wastewater treatment plants in Sussex County, Virginia. The proposed order requires Sussex Service Authority to execute corrective action and pay a \$7,600 civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive for 30 days from the date of publication of this notice written comments related to the proposed consent special order. Comments should be addressed to Frank Lupini, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen

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Allen, VA 23060-6295; or sent to the e-mail address of felupini@deq.state.va.us. All comments received by e-mail must include the commenter's name, address and phone number. A copy of the order may be obtained in person or by mail from the above office.

Proposed Consent Special Order United States Marine Corps Marine Corps Base Quantico

The State Water Control Board (board) proposes to issue a Consent Special Order (order) to the United States Marine Corps, Marine Corps Base Quantico (Quantico) regarding the Quantico Mainside wastewater treatment plant (WWTP) located in Prince William County, Virginia.

The proposed order requires that Quantico submit an inventory of the WWTP collection system manholes and pump stations and implement its approved plan and schedule for cleaning and flushing the collection system sewer lines and cleaning base food service grease traps in order to prevent sanitary sewer overflows from the collection system.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive comments relating to the order through June 18, 2003. 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.

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://register.state.va.us>.

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

ERRATA

STATE WATER CONTROL BOARD

Title of Regulation: **9 VAC 25-720. Water Quality Management Planning Regulation.**

Publication: 19:14 VA.R. 2090-2138 March 24, 2003

Corrections to Final Regulation:

Page 2100, in TABLE B5 of 9 VAC 25-720-50, row 8, "Massanutten Public Service Corporation": insert "14" in column 1 and insert superscript "(8)" following "84.0" in column 7

Page 2100, in TABLE B5 of 9 VAC 25-720-50, following row 9, which is facility number 15, insert the following three rows that were inadvertently omitted:

15	Shenandoah	S.F. Shenandoah River EL (1-4)	Upgrade, expand, correct I/I	0.35	Secondary	Secondary limits	Town of Shenandoah	No existing facility
16	Stanley	S.F. Shenandoah River EL (1-4)	Construct new facility	0.3	Secondary	Secondary limits	Town of Stanley	No existing facility
18	Luray	Hawksbill Creek WQ (1-4b)	Construct new facility, abandon old plant, correct I/I	0.8	Secondary	Secondary Limits	Town of Luray	July 1, 1983

Page 2100, in TABLE B5 of 9 VAC 25-720-50, row 15, which is facility 28, column 7, change "6.5" to "65"

Page 2115, following TABLE B2 of 9 VAC 25-720-80, insert:
"NOTES: ¹See Table B3 of this section."

Page 2117, in new TABLE B5 of 9 VAC 25-720-80, add footnote superscript designation as follows to the fifth column:
"MILE to MILE²"

Page 2122, TABLE B5 of 9 VAC 25-720-80, in the first row on this page, which is labeled "AN," the VPDES PERMIT NUMBER column should read: "[~~VA0023515~~ VA0068063]"

Page 2134, in TABLE B2 of 9 VAC 25-720-120, strike the following footnote: "⁶Based on assumed influent characteristics."

Page 2136 and 2137, in TABLE B2 of 9 VAC 25-720-130, insert the footnote superscript "(3)" in the first column prior to the following two DISCHARGE designations: "Pulaski" and "Dublin-New River-Fairlawn-Radford-Plum Creek"

CALENDAR OF EVENTS

Symbol Key

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

♿ 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

COMMONWEALTH COUNCIL ON AGING

† **May 21, 2003 - 9:30 a.m.** -- Open Meeting

Virginia Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting of the Housing Subcommittee to discuss the council's strategic plan for aging in Virginia. Public comments are welcome.

Contact: Marsha Mucha, Virginia Department for the Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9312.

† **May 22, 2003 - 10 a.m.** -- Open Meeting

Virginia Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

The first meeting of the Opportunities for Older Persons to Contribute to the Community Subcommittee to discuss the council's strategic plan for aging in Virginia. Public comments are welcome.

Contact: Marsha Mucha, Virginia Department for the Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9312.

† **May 22, 2003 - 2 p.m.** -- Open Meeting

Virginia Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting of the Health Care System Subcommittee to discuss the council's strategic plan for aging in Virginia. Public comments are welcome.

Contact: Marsha Mucha, Virginia Department for the Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9312.

† **June 5, 2003 - 9 a.m.** -- Open Meeting

Virginia Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A regular business meeting of the Public Relations Committee. Public comments are welcome.

Contact: Marsha Mucha, Virginia Department for the Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9312.

† **June 5, 2003 - 10 a.m.** -- Open Meeting

Virginia Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A regular business meeting. Public comments are welcome.

Contact: Marsha Mucha, Virginia Department for the Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9312.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

NOTE: EXTENSION OF PUBLIC COMMENT PERIOD

August 1, 2003 - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-360. Regulations for the Enforcement of the Virginia Commercial Feed Act.** The purpose of the proposed action is to amend the current regulation to incorporate the changes made to the commercial feed industry standards by the Association of American Feed Control Officials in the last decade and statutory changes made to Virginia's Commercial Feed Law in 1994.

Statutory Authority: § 3.1-828.4 of the Code of Virginia.

Contact: J. Alan Rogers, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room

402, Richmond, VA 23219, telephone (804) 786-2476, FAX (804) 371-1571 or e-mail jrogers@vdacs.state.va.us.

NOTE: EXTENSION OF PUBLIC COMMENT PERIOD

August 1, 2003 - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-440. Rules and Regulations for Enforcement of the Virginia Pest Law - Cotton Boll Weevil Quarantine.** The purpose of the proposed regulatory action is to amend the regulation to (i) establish the fixed date of July 1 as the official reporting and payment date for acreage assessment, (ii) reduce penalties assessed on farm operators for the late payment or nonpayment of fees from \$10 to \$5.00 per acre, and (iii) eliminate the mandate for destruction of the cotton crop for nonpayment of fees and assessments by farm operators.

Statutory Authority: § 3.1-188.23 of the Code of Virginia.

Contact: Frank M. Fulgham, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 703, Richmond, VA 23219, telephone (804) 786-3515, FAX (804) 371-7793 or e-mail ffulgham@vdacs.state.va.us.

NOTE: EXTENSION OF PUBLIC COMMENT PERIOD

September 2, 2003 - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-20. Standards for Classification of Real Estate as Devoted to Agricultural Use and to Horticultural Use under the Virginia Land Use Assessment Law.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, including amending the regulation to satisfy the statutory amendment made by Chapter 705 of the 2001 Acts of Assembly. Under that provision, localities are authorized to waive, with respect to real estate devoted to the production of crops that require more than two years from initial planting until commercially feasible harvesting, any requirement contained in the regulation that requires the real estate to have been used for a particular purpose for a minimum length of time before qualifying as real estate devoted to agricultural or horticultural use. The Commissioner of Agriculture and Consumer Services is to promulgate regulations to carry out the provisions of the act.

Statutory Authority: § 58.1-3230 of the Code of Virginia; Chapter 705 of the 2001 Acts of Assembly.

Contact: Lawrence H. Redford, Regulatory Coordinator, Department of Agriculture and Consumer Services, 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 371-8067, FAX (804) 371-2945, or e-mail lredford@vdacs.state.va.us.

Virginia Cattle Industry Board

† **May 21, 2003 - 11:30 a.m.** -- Open Meeting
Lynchburg Radisson, 2900 Candler's Mountain Road, Lynchburg, Virginia. 

During the regular business meeting, the board will approve minutes from the February 2003, meeting in addition to reviewing the financial statement for the period October 1 through May 1. Staff will provide program updates for the state and national level. Prior to the full board meeting, a new board member orientation will be held at 10 a.m. 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 the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Reginald B. Reynolds, Executive Director, Department of Agriculture and Consumer Services, P.O. Box 9, Daleville, VA 24083, telephone (540) 992-1992, FAX (540) 992-4632.

Virginia Small Grains Board

† **July 24, 2003 - 8 a.m.** -- Open Meeting
Richmond Airport Hilton, 4700 South Laburnum Avenue, Richmond, Virginia. 

The board will review FY 2002-03 project reports and will receive 2003-04 project proposals. Minutes from the last board meeting and a current financial statement will be heard and approved, if appropriate. Additionally, action will be taken on any other new business that comes before the group. 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 the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 1100 Bank St., Room 1005, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786.

ALCOHOLIC BEVERAGE CONTROL BOARD

May 27, 2003 - 9 a.m. -- Open Meeting
June 9, 2003 - 9 a.m. -- Open Meeting
June 23, 2003 - 9 a.m. -- Open Meeting
July 14, 2003 - 9 a.m. -- Open Meeting
July 28, 2003 - 9 a.m. -- Open Meeting
† **August 11, 2003 - 9 a.m.** -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. 

A meeting to receive and discuss reports and activities from staff members. Other matters are not yet determined.

Contact: W. Curtis Coleburn, III, Secretary to the Board, Alcoholic Beverage Control Board, P.O. Box 27491,

Calendar of Events

Richmond, VA 23261, telephone (804) 213-4409, FAX (804) 213-4442, e-mail wccolen@abc.state.va.us.

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

June 5, 2003 - 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. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. 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: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail APELSCIDLA@dpor.state.va.us.

June 5, 2003 - 2:30 p.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

An informal fact-finding conference of the Land Surveyor Section. 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: Ilona LaPaglia, Legal Assistant, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2394, FAX (804) 367-0194, (804) 367-9753/TTY , e-mail LaPaglia@dpor.state.va.us.

ART AND ARCHITECTURAL REVIEW BOARD

June 6, 2003 - 10 a.m. -- Open Meeting
July 11, 2003 - 10 a.m. -- Open Meeting
August 1, 2003 - 10 a.m. -- Open Meeting
Science Museum of Virginia, 2500 West Broad 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 Street, #221, Richmond, VA 23219, telephone (804) 643-1977, FAX (804) 643-1981, (804) 786-6152/TTY , e-mail rifaia@aol.com.

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

June 4, 2003 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business.

Contact: David Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail asbestos@dpor.state.va.us.

COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES

State Executive Council

May 28, 2003 - 9 a.m. -- Open Meeting
June 25, 2003 - 9 a.m. -- Open Meeting
July 30, 2003 - 9 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street, Lower Level Room 3, Richmond, Virginia. 

A monthly council meeting. For traveling directions, please call (804) 692-1100.

Contact: Alan G. Saunders, Director, Office of Comprehensive Services for At-Risk Youth and Families, 1604 Santa Rosa Rd., Richmond, VA 23229, telephone (804) 662-9815, FAX (804) 662-9831, e-mail ags992@central.dss.state.va.us.

DEPARTMENT FOR THE BLIND AND VISION IMPAIRED

Statewide Rehabilitation Council for the Blind

June 7, 2003 - 10 a.m. -- Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The council meets quarterly to advise the Department for the Blind and Vision Impaired on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth.

Contact: James G. Taylor, VR Program Director, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3111, FAX (804) 371-3390, toll-free (800) 622-2155, (804) 371-3140/TTY , e-mail taylorjg@dbvi.state.va.us.

CEMETERY BOARD

May 21, 2003 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business.

Contact: Christine Martine, Executive Director, Cemetery Board, 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.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **June 16, 2003 - 10 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room C, Main Level, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The board will conduct general business including review of local Chesapeake Bay Preservation Area programs. Public comment will be taken.

Contact: Carolyn J. Elliott, Administrative Assistant, Chesapeake Bay Local Assistance Department, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 371-7505, FAX (804) 225-3447, toll-free (800) 243-7229, (800) 243-7229/TTY , e-mail celliott@cblad.state.va.us.

STATE CHILD FATALITY REVIEW TEAM

† **July 8, 2003 - 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 East Jackson St., Richmond, VA 23219, telephone (804) 786-6047, FAX (804) 371-8595, toll-free (800) 447-1708, e-mail vpowell@vdh.state.va.us.

STATE BOARD FOR COMMUNITY COLLEGES

May 21, 2003 - 11:15 a.m. -- Open Meeting
Northern Virginia Community College, Medical Education Campus, 6699 Springfield Center Drive, Springfield, Virginia.  (Interpreter for the deaf provided upon request)

The State Board for Community Colleges will tour the Medical Education Campus of Northern Virginia Community College. No board action will be taken.

Contact: D. Susan Hayden, Director of Public Affairs, State Board for Community Colleges, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY 

May 21, 2003 - 1:45 p.m. -- Open Meeting
Northern Virginia Community College, Manassas Campus, 6901 Sudley Road, Manassas, Virginia.  (Interpreter for the deaf provided upon request)

The State Board for Community Colleges will hold meetings of the Academic and Student Affairs Committee, the Audit Committee, and the Budget and Finance Committee at 1:45 p.m. At 3:15 p.m. the Facilities and the Personnel Committees will meet, and at 4:45 p.m. the Executive Committee will meet.

Contact: D. Susan Hayden, Director of Public Affairs, State Board for Community Colleges, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY 

May 22, 2003 - 9 a.m. -- Open Meeting
Northern Virginia Community College, Manassas Campus, 6901 Sudley Road, Manassas, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Public comment may be received at the beginning of the meeting upon notification at least five working days prior to the meeting.

Contact: D. Susan Hayden, Director of Public Affairs, State Board for Community Colleges, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY 

COMPENSATION BOARD

May 21, 2003 - 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.

DEPARTMENT OF CONSERVATION AND RECREATION

† **May 20, 2003 - 6:30 p.m.** -- Open Meeting
Rugby Rescue Squad Building, Mouth of Wilson, Virginia.

A meeting to discuss the Grayson Highlands State Park master planning process.

Contact: Derral Jones, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-9042, FAX (804) 371-7899, e-mail djones@dcr.state.va.us.

† **June 2, 2003 - 6:30 p.m.** -- Open Meeting
Jackson Elementary School, 4424 Fort Chiswell Road (U.S. Route 52), Cafeteria, Austinville, Virginia.

A meeting to continue preparation of a new master plan for the New River Trail State Park.

Calendar of Events

Contact: Robert 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.

† **June 2, 2003 - 7 p.m.** -- Open Meeting

† **June 23, 2003 - 7 p.m.** -- Open Meeting

Leesylvania State Park, Visitor Center, 2001 Daniel K. Ludwig Drive, Woodbridge, Virginia

A meeting to continue preparation of a new park master plan for Leesylvania State Park.

Contact: Derral Jones, Planning Bureau Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-9042, FAX (804) 371-7899, e-mail djones@dcr.state.va.us.

† **June 3, 2003 - 3:30 p.m.** -- Open Meeting

Fairy Stone State Park, Fayerdale Hall, 967 Fairystone Lake Drive Stuart, Virginia.

A meeting to continue preparation of a new master plan for the Fairy Stone State Park.

Contact: Robert 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.

Virginia Cave Board

May 31, 2003 - 1 p.m. -- Open Meeting

Department of Conservation and Recreation, Division of Natural Heritage, Conference Room, 203 Governor Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Committee meetings begin at 11 a.m. A general business meeting will begin at 1 p.m.

Contact: Larry Smith, N.A. Protection Manager, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 371-6205, FAX (804) 371-2674, e-mail lsmith@dcr.state.va.us.

BOARD FOR CONTRACTORS

May 19, 2003 - 9 a.m. -- Open Meeting

June 10, 2003 - 9 a.m. -- Open Meeting

June 17, 2003 - 9 a.m. -- Open Meeting

June 24, 2003 - 9 a.m. -- Open Meeting

July 15, 2003 - 9 a.m. -- Open Meeting

July 22, 2003 - 9 a.m. -- Open Meeting

July 29, 2003 - 9 a.m. -- Open Meeting

† **August 6, 2003 - 1:30 p.m.** -- Open Meeting

† **August 12, 2003 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Informal fact-finding conferences. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at 804-367-0946 at least 10 days prior to the

meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Earlyne Perkins, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0946, FAX (804) 367-0194, (804) 367-9753/TTY , e-mail perkins@dpor.state.va.us.

May 28, 2003 - 9 a.m. -- Open Meeting

July 9, 2003 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A regular meeting to address policy and procedural issues, review and render decisions on applications for contractors' licenses, and review and render case decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be conducted in closed session.

Contact: Eric L. Olson, Assistant Director, Department of Professional and Occupational Regulation, 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.

June 3, 2003 - 9 a.m. -- Open Meeting

July 1, 2003 - 9 a.m. -- Open Meeting

August 5, 2003 - 9 a.m. -- Open Meeting

† **August 6, 2003 - 1:30 p.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Informal fact-finding conferences for the Contractor Recovery Fund. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at 804-367-0946 at least 10 days prior to this meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Victoria S. Traylor, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8561, FAX (804) 367-0194, (804) 367-9753/TTY , e-mail perkins@dpor.state.va.us.

† **August 6, 2003 - 10 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A regular meeting of the Tradesman/Education Committee to consider items of interest relating to the Tradesmen, Backflow Workers, Education and other appropriate matters relating to Tradesmen and the Board for Contractors.

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

May 20, 2003 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor
Board Room, Richmond, Virginia. 

Meetings of the following committees to discuss correctional matters to be brought before the full board:

10 a.m. - Liaison Committee
1 p.m. - Correctional Services Committee

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3605, e-mail woodhousebl@vadoc.state.va.us.

May 21, 2003 - 8:30 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor
Board Room, Richmond, Virginia. 

A meeting of the Administration Committee.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3605, e-mail woodhousebl@vadoc.state.va.us.

May 21, 2003 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor
Board Room, Richmond, Virginia. 

A meeting of the full board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department 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

May 30, 2003 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia. 

The Informal Conference Committee will meet to hold an informal conference pursuant to § 2.2-4019 of the Code of Virginia. The committee will meet in open and closed sessions.

Contact: Evelyn B. Brown, Executive Director, Board of Counseling, Board of Counseling, 6603 W. Broad St., 6th Floor, Richmond, VA 23230, telephone (804) 662-9912, FAX (804) 662-7250, (804) 662-7197/TTY , e-mail coun@dhp.state.va.us.

CRIMINAL JUSTICE SERVICES BOARD

June 12, 2003 - 9 a.m. -- Public Hearing
General Assembly Building, 9th and Broad Streets, House
Room D, Richmond, Virginia. 

May 23, 2003 - 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 Criminal Justice Services Board

intends to amend regulations entitled: **6 VAC 20-171. Regulations Relating to Private Security Services.** The purpose of the proposed action is to update minimum training standards and improve licensing, registration, certification, training requirements, fees and procedures.

Statutory Authority: § 9.1-141 of the Code of Virginia.

Contact: Lisa R. Hahn, Private Security Services Chief, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-2356, FAX (804) 786-6344 or e-mail lhahn@dcjs.state.va.us.

DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

June 19, 2003 - 11 a.m. -- Open Meeting
July 17, 2003 - 11 a.m. -- Open Meeting
Department of General Services, 8th Street Office Building,
3rd Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to review requests submitted by localities to use D-B or Construction Management type contracts. Please contact Division of Engineering and Buildings to confirm 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

† **May 19, 2003 - 9 a.m.** -- Open Meeting
Sheraton Park West, Richmond, Virginia.

A meeting of the Advisory Board for Teacher Education and Licensure. The public is urged to confirm arrangements prior to each meeting by viewing the Department of Education's public meeting calendar at <http://www.pen.k12.va.us/VDOE/meetings.html>. This site will contain the latest information on the meeting arrangements and will note any last-minute changes in time or location. Please note that persons requesting the services of an interpreter for the deaf are asked to do so at least 72 hours in advance so that the appropriate arrangements may be made.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Board of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

May 27, 2003 - 10 a.m. -- Open Meeting
Crowne Plaza Hotel, 555 Canal Street, Richmond, Virginia.

A meeting of the Advisory Committee on Adult Education and Literacy. The public is urged to confirm arrangements prior to each meeting by viewing the Department of Education's public meeting calendar at

Calendar of Events

<http://www.pen.k12.va.us/VDOE/meetings.html> for the latest information on the meeting arrangements time or location. Please note that persons requesting the services of an interpreter for the deaf are asked to do so at least 72 hours in advance so that the appropriate arrangements may be made.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Board of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

May 28, 2003 - 9 a.m. -- Open Meeting

June 25, 2003 - 9 a.m. -- Open Meeting

July 23, 2003 - 9 a.m. -- Open Meeting

NOTE: CHANGE IN MEETING LOCATION

General Assembly Building, 9th and Broad Streets, 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 72 hours 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.

DEPARTMENT OF ENVIRONMENTAL QUALITY

May 20, 2003 - 7:30 p.m. -- Open Meeting

Johns Auditorium, Hampden-Sydney College, Hampden-Sydney, Virginia. 

The first public meeting on the development of the Upper Appomattox River Basin TMDLs located in Amelia, Appomattox, Buckingham, Cumberland, and Prince Edward Counties.

Contact: Ram K. Gupta, Department of Environmental Quality, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-5120, FAX (434) 583-5125, e-mail rk Gupta@deq.state.va.us.

May 21, 2003 - 7:30 p.m. -- Open Meeting

Town of Chesterfield, Police Department's Public Meeting Room, 10031 Iron Bridge Road, Chesterfield, Virginia. 

The first public meeting on the development of TMDLs for the Lower Appomattox River Basin and its tributaries located in Amelia, Chesterfield, Dinwiddie, Nottoway, Powhatan and Prince George Counties. The public comment period closes on June 21, 2003.

Contact: Denise Moyer, Department of Environmental Quality, 4949-A Cox Rd., Glen Allen, VA 23060, telephone (804) 527-5146, e-mail damoyer@deq.state.va.us.

† June 3, 2003 - 7 p.m. -- Open Meeting

North River Elementary School, 3395 Scenic Highway, Mount Solon, Virginia. 

The first public meeting on the development of TMDLs to address multiple impairments in the Mossy Creek and Long Glade Run watersheds. The public comment period closes on July 2, 2003.

Contact: Gary Flory, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7840, FAX (540) 574-7878, e-mail gflory@deq.state.va.us.

† June 11, 2003 - 7 p.m. -- Open Meeting

Fairlington Community Center, Room 10, 3308 S. Stafford Street, Arlington, Virginia. 

The first public meeting on the development of the implementation plan for the bacteria TMDL for the Four Mile Run impaired segment located in Arlington and Fairfax Counties and the Cities of Falls Church and Alexandria. The public comment period closes on July 10, 2003.

Contact: Katherine Bennett, Department of Environmental Quality, 13901 Crown Court Woodbridge, VA 22193, telephone (703) 583-3896, FAX (703) 583-3841, e-mail kebennett@deq.state.va.us.

† June 18, 2003 - 9 a.m. -- Public Hearing

Department of Environmental Quality, 629 East Main Street, First Floor Conference Room, Richmond, Virginia. 

A public hearing on a proposed revision to the Commonwealth of Virginia § 111(d)/129 Plan (Clean Air Act) for small municipal waste combustors. The hearing will be held to accept testimony concerning the proposed revision. The proposed revision consists of (i) emission limitations and other regulatory requirements; (ii) an inventory of emissions from the affected facilities; and (iii) other supporting documentation. The department is seeking comment on the overall plan, and on the issue of whether any regulations included in the plan should be submitted to the U.S. Environmental Protection Agency (EPA) as part of the plan.

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

Ground Water Protection Steering Committee

† May 20, 2003 - 9 a.m. -- Open Meeting

Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A regular meeting.

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.

Litter Control and Recycling Fund Advisory Board

† August 13, 2003 - 10:30 a.m. -- Open Meeting

Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A regular meeting.

Contact: G. Steven Coe, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4029, FAX (804) 698-4424, e-mail gscoe@deq.state.va.us.

VIRGINIA FIRE SERVICES BOARD

† **June 5, 2003 - 9 a.m.** -- Open Meeting
Richmond Fire Training Center.  (Interpreter for the deaf provided upon request)

Contact Christy King for details.

Contact: Christy King, Policy, Planning and Legislative Affairs Manager, Virginia Fire Services Board, 101 North 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0219, e-mail cking@vdfp.state.va.us.

† **June 6, 2003 - 9 a.m.** -- Open Meeting
Richmond Fire Training Center.  (Interpreter for the deaf provided upon request)

The following committees will meet: Fire Education and Training Committee (FEandT) at 9 a.m.; Administration and Policy (AandP) 10 minutes after the conclusion of FEandT; Fire Prevention and Control (FPandC) 10 minutes after the conclusion of AandP; Finance 10 minutes after the conclusion of FPandC.

Contact: Jennifer Cole, VFSB Clerk, Virginia Fire Services Board, 101 North 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0219, e-mail jcole@vdfp.state.va.us.

† **June 7, 2003 - 9 a.m.** -- Open Meeting
Richmond Fire Training Center  (Interpreter for the deaf provided upon request)

Contact Jennifer Cole for details.

Contact: Jennifer Cole, VFSB Clerk, Virginia Fire Services Board, 101 North 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0219, e-mail jcole@vdfp.state.va.us.

BOARD FOR GEOLOGY

July 29, 2003 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business.

Contact: David E. Dick, Assistant Director, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail geology@dpor.state.va.us.

STATE BOARD OF HEALTH

July 25, 2003 - 9 a.m. -- Open Meeting
Department of Health, Main Street Station, 1500 East Main Street, 3rd Floor Conference Room, Richmond, Virginia. 

A general business and working meeting.

Contact: Rene Cabral-Daniels, Director, Office of Health Policy, Department of Health, 1500 E. Main St., Richmond, VA 23219, telephone (804) 786-3561.

DEPARTMENT OF HEALTH

Biosolids Use Regulations Advisory Committee

June 12, 2003 - 10 a.m. -- Open Meeting
The Virginia Farm Bureau, 12580 West Creek Parkway, Richmond, Virginia. 

A meeting to discuss proposed revisions to the regulations including land application site management practices.

Contact: C. M. 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, e-mail csawyer@vdh.state.va.us.

Sewage Handling and Disposal Advisory Committee

† **May 21, 2003 - 10 a.m.** -- Open Meeting
Department of Health, 1500 East Main Street, Room 115, Richmond, Virginia.

A meeting to discuss regulations, new technologies and new products to recommend for approval to the State Health Commissioner for use in Virginia.

Contact: Donald J. Alexander, Division Director, Department of Health, 1500 E. Main St., Room 115, Richmond, VA 23219, telephone (804) 225-4030, FAX (804) 225-4003, e-mail dalexander@vdh.state.va.us.

DEPARTMENT OF HEALTH PROFESSIONS

June 20, 2003 - 9 a.m. -- Open Meeting
† **August 15, 2003 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A bimonthly meeting of the Intervention Program Committee for the Health Practitioners' Intervention Program.

Contact: Donna P. Whitney, Intervention Program Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9424, FAX (804) 662-7358, e-mail donna.whitney@dhp.state.va.us.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

May 20, 2003 - 9 p.m. -- Open Meeting
Radford University, Radford, Virginia.

A meeting of the Executive Committee. Agenda materials will be available on the website approximately one week prior to the meeting at www.schev.edu.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2602, FAX (804) 371-7911, e-mail lrung@schev.edu.

Calendar of Events

May 21, 2003 - 8:30 a.m. -- Open Meeting
Radford University, Cook Hall, Radford, Virginia.

Agenda materials will be available on the website approximately one week prior to the meeting at www.schev.edu. A public comment period will be allocated on the meeting agenda. Those interested in making public comment should contact the person listed below no later than 5 p.m. three business days prior to the meeting date. At the time of the request, the speaker's name, address and topic must be provided. Each speaker will be given up to three minutes to address SCHEV. Speakers are asked to submit a written copy of their remarks at the time of comment.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2602, FAX (804) 371-7911, e-mail lrung@schev.edu.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

May 19, 2003 - 10 a.m. -- Open Meeting
Department of Housing and Community Development, 501 North 2nd Street, Richmond, Virginia. 

A regular business meeting.

Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7000, FAX (804) 371-7090, (804) 371-7089/TTY , e-mail scalhoun@dhcd.state.va.us.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

May 20, 2003 - 9 a.m. -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. 

A regular meeting of the Board of Commissioners to review and, if appropriate, approve the minutes from the prior monthly meeting. The board may consider for approval and ratification mortgage loan commitments under its various programs, will review the authority's operations for the prior month, and consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners, including the Programs Committee, the Operations Committee, the Policy Committee, and the Committee of the Whole, may also meet during the day preceding the regular meeting and before and after the regular meeting and may consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll-free (800) 968-7837, (804) 783-6705/TTY 

VIRGINIA INTERAGENCY COORDINATING COUNCIL

† June 11, 2003 - 9:30 a.m. -- Open Meeting
Henrico Area Mental Health, 10299 Woodman Road, Glen Allen, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Interagency Coordinating Council (VICC) meets quarterly to advise and assist the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, as the lead agency for Part C of (IDEA), early intervention for infants and toddlers with disabilities and their families. Discussion focuses on Virginia's implementation of the Part C program.

Contact: LaKeishia White, Part C Office Services Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, Infant and Toddler Connection of VA, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-3710, FAX (804) 371-7959, toll-free (800) 234-1448.

JAMESTOWN-YORKTOWN FOUNDATION

June 11, 2003 - Noon -- Open Meeting
The Library of Virginia, 800 East Broad Street, Room A, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Jamestown 2007 Steering Committee. Public comment will not be heard.

Contact: Stacey Ruckman, Jamestown 2007 Executive Assistant, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4659, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-7236/TTY , e-mail sruckman@jyf.state.va.us.

† August 6, 2003 - 2 p.m. -- Open Meeting
Location to be determined.  (Interpreter for the deaf provided upon request)

A meeting of the Jamestown 2007 Steering Committee's Executive Committee. Public comment will not be heard.

Contact: Stacey Ruckman, Jamestown 2007 Executive Assistant, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4659, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-7236/TTY , e-mail sruckman@jyf.state.va.us.

STATE BOARD OF JUVENILE JUSTICE

July 9, 2003 - 9 a.m. -- Open Meeting
Department of Juvenile Justice, 700 Centre Building, 7th and Franklin Streets, 4th Floor, Richmond, Virginia. 

Committees of the Board for Secure Services and Nonsecure Services will meet at 9 a.m. to receive certification audit reports. The full board will meet at 10 a.m. to take certification action on the audited programs.

Contact: Donald Carignan, Regulatory Coordinator, State Board of Juvenile Justice, 700 Centre, 700 E. Franklin St., 4th

Floor, Richmond, VA 23219, telephone (804) 371-0743, FAX (804) 371-0773, e-mail carigndr@djj.va.state.us.

DEPARTMENT OF LABOR AND INDUSTRY

† **June 13, 2003 - 10 a.m.** -- Open Meeting
Tyler Building (State Corporation Commission Building),
Second Floor, Courtroom B, 1300 East Main Street,
Richmond, Virginia. (Interpreter for the deaf provided upon
request)

A regular meeting of the Safety and Health Codes Board.

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, (804) 786-2376/TTY ☎, e-
mail rlc@doli.state.va.us.

Virginia Apprenticeship Council

June 19, 2003 - 10 a.m. -- Open Meeting
J. Sargeant Reynolds Community College, North Run
Business Park, 1630 E. Parham Road, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A quarterly meeting.

Contact: Beverley Donati, Assistant Program Director,
Department of Labor and Industry, Powers-Taylor Bldg., 13 S.
13th St., Richmond, VA 23219, telephone (804) 786-2382,
FAX (804) 786-8418, (804) 786-2376/TTY ☎, e-mail
bgd@doli.state.va.us.

STATE LIBRARY BOARD

June 16, 2003 - 8:15 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond,
Virginia. (Interpreter for the deaf provided upon request)

A meeting 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

May 27, 2003 - 9:30 a.m. -- Open Meeting
June 24, 2003 - 9:30 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue,
4th Floor, Newport News, Virginia. (Interpreter for the deaf
provided upon request)

A monthly commission meeting.

Contact: Kathy Leonard, Executive Secretary, Marine
Resources Commission, 2600 Washington Ave., 3rd Floor,
Newport News, VA 23607, telephone (757) 247-2120, FAX
(757) 247-8101, toll-free (800) 541-4646, (757) 247-2292/TTY
☎, e-mail kleonard@mrc.state.va.us.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

May 23, 2003 - 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 adopt regulations entitled: **12 VAC 12-
30-135. Demonstration Waiver Services.** The purpose of
the proposed action is to establish family planning waiver
program by extending Medicaid coverage for family
planning services, annual gynecological exams, and testing
for sexually transmitted diseases up to 24 months
postpartum to women who received a Medicaid-reimbursed
pregnancy-related service on or after October 1, 2002.

The agency does not intend to hold a public hearing on the
proposed action.

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

Public comments may be submitted until May 23, 2003, to
Deborah Sprang, Policy Analyst, Policy Division, Department
of Medical Assistance Services, 600 East Broad Street, Suite
1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator,
Department of Medical Assistance Services, 600 E. Broad St.,
Suite 1300, Richmond, VA 23219, telephone (804) 786-7959,
FAX (804) 786-1680, or e-mail vsimmons@dmas.state.va.us.

* * * * *

June 7, 2003 - 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 30-70. Methods and Standards for Establishing
Payment Rates; Inpatient Hospital Care (adding 12 VAC
30-70-425 and 12 VAC 30-70-426).**

**12 VAC 30-80. Methods and Standards for Establishing
Payment Rates; Other Types of Care (amending 12 VAC
30-80-20 and 12 VAC 30-80-30).**

Calendar of Events

12 VAC 30-90. Methods and Standards for Establishing Payment Rates for Long-Term Care (adding 12 VAC 30-90-17 and 12 VAC 30-90-18).

The purpose of the proposed action is to promulgate permanent regulations to provide the authority to make supplemental payments to certain various provider types.

The agency does not intend to hold a public hearing on the proposed action.

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

Public comments may be submitted until April 11, 2003, to William Lessard, Reimbursement Analyst, Division of Reimbursement, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680, or e-mail vsimmons@dmas.state.va.us.

July 5, 2003 - 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 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care.** The purpose of the proposed action is to conform the Medicaid state plan's definition of unit dose pharmacy services to the same definition used by the Board of Pharmacy.

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

Public comments may be submitted until July 5, 2003, to Maryanne McNeil, Pharmacy Manager, Division of Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680, or e-mail vsimmons@dmas.state.va.us.

July 5, 2003 - 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. Waiver Services.** The purpose of the proposed action is to modify existing waiver services to permit children who attain their sixth birthday to be automatically transitioned over to this waiver program from the mental retardation waiver program.

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

Public comments may be submitted until July 5, 2003, to Sherry Confer, Policy Analyst, Division of LTC, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680, or e-mail vsimmons@dmas.state.va.us.

BOARD OF MEDICINE

June 5, 2003 - 8 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, Board Room 2, Richmond, Virginia.

The board will conduct a general business meeting including consideration of regulatory, legislative and disciplinary matters 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, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.state.va.us.

Informal Conference Committee

May 21, 2003 - 8:45 a.m. -- Open Meeting
June 11, 2003 - 8:45 a.m. -- Open Meeting
July 16, 2003 - 9 a.m. -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

May 28, 2003 - 9:15 a.m. -- Open Meeting
June 25, 2003 - 9:15 a.m. -- Open Meeting
Clarion Hotel, 3315 Orday Drive, Roanoke, Virginia.

July 9, 2003 - 9:15 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, Richmond, Virginia.

† **May 29, 2003 - 9 a.m.** -- Open Meeting
July 31, 2003 - 9 a.m. -- Open Meeting
Holiday Inn Select, 2801 Plank Road, Fredericksburg, 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, 6603 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.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

May 23, 2003 - 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 Mental Health, Mental Retardation and Substance Abuse Services Board intends to amend regulations entitled: **12 VAC 35-105. Rules and Regulations for the Licensing of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services.** The purpose of the proposed action is to amend the regulations to incorporate provisions to license providers of services funded by the Individual and Family Development Disabilities Support (IFDDS) Waiver.

The agency does not intend to hold a public hearing on the proposed action.

Statutory Authority: §§ 37.1-10, 37.1-179.1 and 37.1-182 of the Code of Virginia.

Contact: Leslie Anderson, Director, Office of Licensing, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 371-6885, FAX (804) 692-0066 or e-mail landerson@dmhmrsas.state.va.us.

† **June 2, 2003 - 9 a.m.** -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the Steering Committee of the Olmstead Task Force.

Contact: Fran M. Sadler, Administrative Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-8019, FAX (804) 786-9248, (804) 371-8977/TTY, e-mail fsadler@dmhmrsas.state.va.us.

STATE MILK COMMISSION

May 21, 2003 - 10:45 a.m. -- Open Meeting
Department of Agriculture and Consumer Services, 1100 Bank Street, Room 204, 2nd Floor Board Room, Richmond, Virginia.

A regular meeting to consider industry issues, distributor licensing, base transfers, baseholder license amendments and fiscal matters, and to review reports from agency staff. In addition, the agency will consider public comment and evidence in regard to a review of its regulations to ascertain if they should be retained, amended, repealed or if further study and analysis may be required. The commission offers anyone an opportunity to speak at the conclusion of the meeting. Those persons requiring special accommodations to participate in the meeting should contact Edward C. Wilson, Jr. 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, Ninth 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.

May 21, 2003 - 10:45 a.m. -- Public Hearing
Department of Agriculture and Consumer Services, 1100 Bank Street, Room 204, 2nd Floor Board Room, Richmond, Virginia.

A public hearing pursuant to Executive Order Number Twenty-One (2002), § 2.2-4017 of the Code of Virginia and agency regulation 2 VAC 15-11-100. The Virginia State Milk Commission intends to commence a review of 2 VAC 15-11-10 through 2 VAC 15-11-120 and 2 VAC 15-20-10 through 2 VAC 15-20-130. This review is to determine if these regulations should be terminated, amended or retained in their current form. The review shall be guided by the principles specified in Executive Order Number Twenty-One. The commission seeks public comment on the regulation's interference in public enterprise and life, essential need for the regulation, less burdensome and intrusive alternatives to the regulation, specific and measurable goals that the regulation is intended to achieve, and whether the regulation is clearly written and easily understandable. It is also requested that public comment address the regulation's effectiveness, efficiency, and cost of compliance. The commenter should provide name, mailing address, telephone number, and, if applicable, the organization represented, number and title of the specific regulation addressed, the commenter's interest in the regulation, a description on the need and justification for development, repeal, or amendment of the regulation, suggested language for a developed or amended regulation, a statement of impact on the commenter and/or other affected parties. This hearing will be conducted under the provisions of 2 VAC 15-20-125.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, Ninth 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.

VIRGINIA MUSEUM OF FINE ARTS

May 21, 2003 - 9 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, Virginia.

The following committees will meet:

- 9 a.m. Exhibitions Committee - CEO 2nd Floor Conference Room
- 10:30 a.m. - Planning Committee - CEO 2nd Floor Conference Room
- 11:15 a.m. - Expansion Committee - CEO Parlor
- 2 p.m. - Education and Programs Committee - CEO 2nd Floor Conference Room
- 3:15 p.m. - Communications and Marketing Committee - CEO 2nd Floor Conference Room

Public comment will not be received.

Calendar of Events

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.

May 22, 2003 - 8:30 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, Virginia. ♿

The following committees will meet:
8:30 a.m. - Buildings and Grounds Committee - CEO 2nd Floor Conference Room
9:30 a.m. - Collections Committee - Auditorium
11 a.m. - Finance Committee - Main Lobby, Conference Room

Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.

May 22, 2003 - 12:30 p.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. ♿

An annual meeting to present yearly reports to the full Board of Trustees. Part of the meeting will be held in closed session. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.

June 18, 2003 - 10 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, CEO Building Parlor, Richmond, Virginia. ♿

A meeting for staff to update the Expansion Committee. The meeting will be held in closed session. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.

June 19, 2003 - Noon -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. ♿

An annual meeting of the Executive/Finance Committee to approve the museum's budget. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.

VIRGINIA MUSEUM OF NATURAL HISTORY

June 9, 2003 - 10 a.m. -- Open Meeting
LeClair Ryan Consulting, 1010 First Union Building, 213 South Jefferson Street, Roanoke, Virginia. ♿

A meeting of the Executive Committee to discuss management and direction of museum.

Contact: Cindy Rorrer, Administrative Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (276) 666-8616, FAX (276) 632-6487, (276) 666-8638/TTY ☎, e-mail crorrer@vmnh.org.

BOARD OF NURSING

July 14, 2003 - 9 a.m. -- Open Meeting
July 16, 2003 - 9 a.m. -- Open Meeting
July 17, 2003 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 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, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.state.va.us.

Special Conference Committee

June 3, 2003 - 9 a.m. -- Open Meeting
June 9, 2003 - 9 a.m. -- Open Meeting
June 10, 2003 - 9 a.m. -- Open Meeting
June 24, 2003 - 9 a.m. -- Open Meeting
June 25, 2003 - 9 a.m. -- Open Meeting
June 26, 2003 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ♿

A Special Conference Committee, comprised of two or three members of the Virginia Board of Nursing, will conduct informal conferences with licensees and/or certificate holders. Public comment will not be received.

Contact: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 West Broad Street, 5th 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

† **July 23, 2003 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. ♿

The board will meet to discuss regular board business. There will be a public comment period at the beginning of the meeting.

Contact: JeAnne Marshall, Administrative Assistant, Board of Nursing Home Administrators, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7457, FAX (804) 662-7246, (804) 662-7197/TTY ☎, e-mail JeAnne.Marshall@dhp.state.va.us.

Special Conference Committee

† **July 23, 2003 - 1 p.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Room 1, Richmond, Virginia. 

An informal hearing. No public comment will be received.

Contact: JeAnne M. Marshall, Administrative Assistant, Board of Nursing Home Administrators, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7457, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail JeAnne.Marshall@dhp.state.va.us.

OLD DOMINION UNIVERSITY

June 17, 2003 - 1:30 p.m. -- Open Meeting
Old Dominion University, Webb University Center, Norfolk,
Virginia. 

A quarterly meeting of the governing board of the institution to discuss business of the board and the institution as determined by the Rector and the President. Public comment will not be received. Standing committees will meet on June 16 and on June 17 prior to the full board meeting.

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.

VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

May 23, 2003 - 10 a.m. -- Open Meeting
202 North 9th Street, 9th Floor Conference Room, Richmond,
Virginia. 

The Guardianship Study Group will hear from practitioners who understand community support needs for people with developmental disabilities.

Contact: Katherine Lawson, Planning and Constituent Outreach Manager, Virginia Board for People with Disabilities, 202 N. 9th St., Richmond, VA 23219, telephone (804) 786-9376, FAX (804) 786-1118, toll-free (800) 846-4464, e-mail lawsonkw@vbpd.state.va.us.

BOARD OF PHARMACY

May 22, 2003 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Conference Room 3, Richmond, Virginia. 

A meeting of the Special Conference Committee to discuss disciplinary matters. Public comments will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313.

POLYGRAPH EXAMINERS ADVISORY BOARD

June 18, 2003 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business.

Contact: Eric Olson, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail olson@dpor.state.va.us.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

† **June 2, 2003 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

Contact Judith Spiller for details.

Contact: Judith A. Spiller, Executive Secretary, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8519, FAX (804) 367-9537, (804) 367-9753/TTY , e-mail spiller@dpor.state.va.us.

VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR ADVISORY BOARD

June 19, 2003 - 10 a.m. -- Open Meeting
1600 Forest Avenue, Suite 102, Richmond, Virginia. 

A regular quarterly meeting.

Contact: Terry Raney, Guardianship Coordinator, Virginia Public Guardian and Conservator Advisory Board, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-7049, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY , e-mail traney@vdh.stat.va.us.

REAL ESTATE BOARD

May 21, 2003 - 9 a.m. -- Open Meeting
May 22, 2003 - 9 a.m. -- Open Meeting
May 29, 2003 - 9 a.m. -- Open Meeting
June 16, 2003 - 1 p.m. -- Open Meeting
July 31, 2003 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to conduct informal fact-finding conferences. 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: Debbie Amaker, Legal Assistant, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804)

Calendar of Events

367-8582, FAX (804) 367-0194, (804) 367-9753/TTY ☎, e-mail amaker@dpor.state.va.us.

DEPARTMENT OF REHABILITATIVE SERVICES

† **June 9, 2003 - 9 a.m.** -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Commonwealth Neurotrauma Initiative Advisory Board to review proposals submitted under Option A: Research on the Mechanisms and Treatment of Neurotrauma and award grant funding.

Contact: Sandra Prince, CNI Program Specialist, Brain Injury/Spinal Cord Injury Services, Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7021, FAX (804) 662-7122, toll-free (800) 552-5019, (804) 662-9040/TTY ☎, e-mail princesw@dps.state.va.us.

SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

May 21, 2003 - 10 a.m. -- Open Meeting
Henrico County Government Center, 8600 Dixon Powers Drive, Human Resource Board Room, Richmond, Virginia.

A meeting to hear appeals of health department denials of septic tank permits and indemnification fund claims.

Contact: Susan C. Sherertz, Business Manager A, Sewage Handling and Disposal Appeal Review Board, 1500 E. Main St., Room 117, Richmond, VA 23219, telephone (804) 371-4236, FAX (804) 225-4003, e-mail ssherertz@vdh.state.va.us.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

May 27, 2003 - 11 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 for general business of the board. 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) 371-8256, FAX (804) 225-3384, e-mail sparsons@dba.state.va.us.

STATE BOARD OF SOCIAL SERVICES

Reproposed

June 18, 2003 - 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 meet code requirements and provide regulatory guidance for personnel operations in local departments of social services in Virginia.

Statutory Authority: §§ 63.2-217 and 63.2-219 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.

† **June 18, 2003 - 9 a.m.** -- Open Meeting
† **June 19, 2003 - 9 a.m.** -- Open Meeting
Hampton Inn-Col Alto, 401 East Nelson Street, Lexington, Virginia. ♿

A regular meeting of the board.

Contact: Pat Rengnerth, Board Liaison, State Board of Social Services, Division of Legislative Affairs, 730 E. Broad St., Room 930, Richmond, VA 23219-1849, telephone (804) 692-1826, FAX (804) 692-1960, (800) 828-1120/TTY ☎, e-mail pvr2@email1.dss.state.va.us.

DEPARTMENT OF SOCIAL SERVICES

† **May 19, 2003 - 7 p.m.** -- Public Hearing
Department of Social Services, Central Regional Office, Forest Office Park, 1604 Santa Rosa Road, Richmond, Virginia. ♿

† **May 20, 2003 - 7 p.m.** -- Public Hearing
Department of Social Services, Eastern Regional Office, Pembroke Office Building, Virginia Beach, Virginia. ♿

† **May 22, 2003 - 7 p.m.** -- Public Hearing
Department of Social Services, Office of Child Support Enforcement, 2127 Lakeside Drive, Lynchburg, Virginia. ♿

† **May 29, 2003 - 7 p.m.** -- Public Hearing
Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia. ♿

A public hearing to receive comments about the State Child Care and Development Fund Plan for the period 10/1/03 through 9/30/05. A copy of the plan may be accessed at <http://www.dss.state.va.us.us/family/cdcplan.html>. The meeting will be connected via video teleconference with the Virginia Department of Social Services, Western Regional Office, 190 Paton Street, Abingdon, VA 24210.

Contact: Nancy Cantrell, Administrative Assistant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1298, FAX (804) 692-2425.

June 20, 2003 - 10 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street, Richmond, Virginia. ♿

A regular Family and Children's Trust Fund board meeting and a meeting of the Nominating Committee.

Contact: Nan McKenney, Executive Director, Department of Social Services, 730 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 692-1823, FAX (804) 692-1869, e-mail fct900@dss.state.va.us.

July 11, 2003 - 5 p.m. -- Open Meeting
Accomack, Virginia.

A quarterly meeting Virginia Commission on National and Community Services.

Contact: Felicia Jones, Administrative Assistant, Department of Social Services, 730 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 692-1998, FAX (804) 692-1999, toll-free (800) 638-3839, e-mail fyj900@email1.dss.state.va.us.

July 12, 2003 - 9 a.m. -- Open Meeting
Accomack, Virginia.

A quarterly meeting and retreat of the Virginia Commission on National and Community Services.

Contact: Felicia Jones, Administrative Assistant, Department of Social Services, 730 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 692-1998, FAX (804) 692-1999, toll-free (800) 638-3839, e-mail fyj900@email1.dss.state.va.us.

DEPARTMENT OF TECHNOLOGY PLANNING

Wireless E-911 Services Board

July 9, 2003 - 9 a.m. -- Open Meeting
Richmond Plaza Building, 110 South 7th Street, 3rd Floor Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the CMRS subcommittee in closed session.

Contact: Steven Marzolf, Public Safety Communications Coordinator, Department of Technology Planning, 110 South 7th Street, Richmond, VA 23219, telephone (804) 371-0015, e-mail smarzolf@ntp.state.va.us.

July 9, 2003 - 10 a.m. -- Open Meeting
Richmond Plaza Building, 110 South 7th Street, 3rd Floor Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular monthly meeting of the full board.

Contact: Steven Marzolf, Public Safety Communications Coordinator, Department of Technology Planning, 110 South 7th Street, Richmond, VA 23219, telephone (804) 371-0015, e-mail smarzolf@ntp.state.va.us.

COUNCIL ON TECHNOLOGY SERVICES

June 5, 2003 - 2 p.m. -- Open Meeting
† **August 7, 2003 - 2 p.m.** -- Open Meeting
Department of Information Technology, 110 South 7th Street, 3rd Floor, Executive Conference Room, Richmond, Virginia.

A regular monthly meeting of the Executive Committee. Agenda and meeting information available at www.cots.state.va.us.

Contact: Jenny Hunter, COTS Executive Director, Council on Technology Services, Department of Technology Planning, 110 S. 7th St., Richmond, VA 23219, telephone (804) 786-9579, FAX (804) 786-9584, e-mail jhunter@gov.state.va.us.

June 11, 2003 - 9:30 a.m. -- Open Meeting

July 9, 2003 - 9:30 a.m. -- Open Meeting

† **August 13, 2003 - 9:30 a.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, 7th Floor, Executive Conference Room, Richmond, Virginia. 

A regular monthly meeting of the Change Management Workgroup. Agenda and details available at www.cots.state.va.us.

Contact: Jenny Hunter, COTS Executive Director, Council on Technology Services, 110 S. 7th St., Suite 135, Richmond, VA 23219, telephone (804) 786-9579, FAX (804) 786-9584, e-mail jhunter@gov.state.va.us.

June 19, 2003 - 3 p.m. -- Open Meeting

July 17, 2003 - 3 p.m. -- Open Meeting

Department of Rehabilitative Services, 8004 Franklin Farms Drive, Lee Building, Rooms 101, 103, and 105, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular monthly meeting of the Security Workgroup. Agenda and more details can be found at www.cots.state.va.us.

Contact: Jenny Hunter, COTS Executive Director, Council on Technology Services, 110 S. 7th St., Suite 135, Richmond, VA 23219, telephone (804) 786-9579, FAX (804) 786-9584, e-mail jhunter@gov.state.va.us.

COMMONWEALTH TRANSPORTATION BOARD

June 18, 2003 - 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, Commonwealth Transportation Board, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 225-4701, FAX (804) 225-4700, e-mail Sandee.Mills@VirginiaDOT.org.

June 19, 2003 - 9 a.m. -- Open Meeting

Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. 

A monthly meeting 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

Calendar of Events

these conditions. Separate committee meetings may be held on call of the chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.

Contact: Sandra M. Mills, Agency Regulatory Coordinator, Commonwealth Transportation Board, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 225-4701, FAX (804) 225-4700, e-mail Sandee.Mills@VirginiaDOT.org.

TREASURY BOARD

May 21, 2003 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Room, Richmond, Virginia. 

A regular meeting.

Contact: Melissa Mayes, Treasury Board Secretary, Department of the Treasury, 101 N. 14th St., 3rd Floor, Treasury Board Room, Richmond, VA 23219, telephone (804) 371-6011, FAX (804) 225-3187, e-mail melissa.mayes@trs.state.va.us.

BOARD OF VETERINARY MEDICINE

May 21, 2003 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 

In addition to routine board business, the board will entertain a discussion concerning the current activities of some online veterinary technician programs and their preceptorships, review outdated guidance documents on the board's interpretation of routine surgical closures and tooth extractions permissible to licensed veterinary technicians, consider acceptance of the American Association of Veterinary State Boards' Program for the Assessment of Veterinary Education Equivalence (PAVE), review/approve the final proposed regulations to replace the emergency regulations pertaining to voluntary practice by out-of-state licensees, handle correspondence, and hold formal hearings. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9915, FAX (804) 662-9504, (804) 662-7197/TTY , e-mail elizabeth.carter@dhp.state.va.us.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

May 20, 2003 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business. The board will discuss proposed amendments to regulations.

Contact: David E. Dick, Executive Director, Board for Waste Management Facility Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804)

367-6128, (804) 367-9753/TTY , e-mail wastemgt@dpor.state.va.us.

VIRGINIA WASTE MANAGEMENT BOARD

† June 10, 2003 - 7:30 p.m. -- Public Hearing
Charles City Government and School Board Administrative Building, Auditorium, 10900 Courthouse Road, Charles City, Virginia. 

† June 11, 2003 - 7 p.m. -- Public Hearing
Rappahannock Community College, Warsaw Campus, Lecture Hall, 52 Campus Drive, Warsaw, Virginia. 

Public hearings to receive comments on the suspended sections of the transportation of solid and medical wastes on state waters regulation, 9 VAC 20-170-70 and 9 VAC 20-170-195. The comment period will begin with publication of the suspended sections in the Virginia Register of Regulations on May 19, 2003. The comment period will close on June 18, 2003.

Contact: John E. Ely, Virginia Waste Management Board, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4249, FAX (804) 698-4327, e-mail eeely@deq.state.va.us.

STATE WATER CONTROL BOARD

May 20, 2003 - 2 p.m. -- Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

June 6, 2003 - Public comments may be submitted until 5 p.m. on 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 adopt regulations entitled: **9 VAC 25-760. James River (Richmond Regional West) Surface Water Management Area.** The purpose of the proposed action is to designate the James River near Richmond as a surface water management area. The area would encompass the James River upstream from the southeastern toe of the I-95 Bridge in the City of Richmond to the southwestern toe of the U.S. Route 522 Bridge in Goochland and Powhatan Counties. After designation, the requirements of the Surface Water Management Area Regulation (9 VAC 25-220) would apply.

Statutory Authority: § 62.1-246 of the Code of Virginia.

Contact: Terry Wagner, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4043, FAX (804) 698-4032, or e-mail: tdwagner@deq.state.va.us.

† May 28, 2003 - 1 p.m. -- Open Meeting

† July 2, 2003 - 1 p.m. -- Open Meeting

Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A meeting of the technical advisory committee assisting the department in the reissuance of the general VPDES permit for storm water discharges associated with construction activities.

Contact: Burton R. Tuxford, State Water Control Board, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4086, FAX (804) 698-4032, e-mail brtuxford@deq.state.va.us.

† **June 4, 2003 - 1 p.m.** -- Open Meeting

† **July 9, 2003 - 1 p.m.** -- Open Meeting

Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A meeting of the technical advisory committee assisting the department in the reissuance of the general VPDES permit for storm water discharges associated with industrial activities.

Contact: Burton R. Tuxford, State Water Control Board, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4086, FAX (804) 698-4032, e-mail brtuxford@deq.state.va.us.

† **June 19, 2003 - 9:30 a.m.** -- Open Meeting

General Assembly Building, House Room C, 9th and Broad Streets, Richmond, Virginia. 

A regular meeting.

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 cmberndt@deq.state.va.us.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

June 19, 2003 - 8:30 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail waterwasteoper@dpor.state.va.us.

VIRGINIA WORKFORCE COUNCIL

† **June 5, 2003 - 2:30 p.m.** -- Open Meeting

Sheraton Pentagon South Hotel, 4641 Kenmore Avenue, Alexandria, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly business meeting. Agenda: Aging and Incumbent Worker Study; Revised Strategic Plan; Semi-annual WIA Performance Report; Demand Plan; WIA 10% budget.

Contact: Gail Robinson, Virginia Workforce Council Liaison, Virginia Employment Commission, P.O. Box 1358, Richmond, VA 23218-1358, telephone (804) 225-3070, FAX (804) 225-2190, (800) 828-1120/TTY , e-mail grobinson@vec.state.va.us.

INDEPENDENT

STATE LOTTERY BOARD

† **June 18, 2003 - 9:30 a.m.** -- Open Meeting

State Lottery Department, 900 East Main Street, Richmond, Virginia. 

A regular meeting of the board. A period for public comment is scheduled at the beginning of the meeting.

Contact: Barbara L. Robertson, Board, Legislative and Regulatory Coordinator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7903, FAX (804) 692-7905, e-mail brobertson@valottery.state.va.us.

BOARD FOR PROTECTION AND ADVOCACY

† **May 21, 2003 - 9 a.m.** -- Open Meeting

Crowne Plaza Hotel, 555 East Canal Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Public comment is welcomed by the board and will be received beginning at 9:30 a.m. Public comment will also be accepted by telephone. Participants who wish to provide public comment via telephone must call Claunita Jackson-Jones at 1-800-552-3962 (voice/TTY) or e-mail jacksoca@vopa.state.va.us no later than May 14, 2003. Ms. Jackson-Jones will take participants' names and phone numbers and they will be telephoned during the public comment period. The board's Nominating Committee will meet from noon to 12:30 p.m. at the same location.

Contact: Claunita Jackson-Jones, Administrative Assistant, Virginia Office for Protection and Advocacy, 202 N. 9th St., 9th Floor, 9th Street Office Bldg., Richmond, VA 23219, telephone (804) 225-3220, FAX (804) 225-3221, toll-free (800) 552-3962, (804) 225-2042/TTY , e-mail jacksoca@vopa.state.va.us.

VIRGINIA RETIREMENT SYSTEM

May 20, 2003 - Noon -- Open Meeting

Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. 

A regular meeting of the Optional Retirement Plan Advisory Committee. No public comment will be received at the meeting.

Contact: Darla Glazier, Office Manager, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3119, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail dglazier@vrs.state.va.us.

June 16, 2003 - 9 a.m. -- Open Meeting

Location to be determined.

The Board of Trustees will hold its annual retreat sometime during the week of June 16-20, 2003. This notice will be updated upon finalization of plans. No public comment will be received.

Calendar of Events

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

VIRGINIA CODE COMMISSION

May 21, 2003 - 10 a.m. -- Open Meeting
General Assembly, 9th and Broad Streets, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to (i) review status of 2003 Code Commission legislation; (ii) review title revision outlines for Titles 3.1 (Agriculture, Horticulture and Food) and 37.1 (Institutions for the Mentally Ill; Mental Health Generally) of the Code of Virginia; (iii) review background and issues relating to Title 1 (General Provisions); (iv) appoint task forces for title revisions, if needed; (v) set meeting schedule for remainder of the year; and (vii) conduct any other business to come before the commission. A brief public comment period will be provided at the end of the meeting.

Contact: Jane Chaffin, Registrar of Regulations, Virginia Code Commission, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625, e-mail jchaffin@leg.state.va.us.

VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

June 2, 2003 - 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: Lisa Wallmeyer, Assistant Director, Virginia Freedom of Information Advisory Council, 910 Capitol St., General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 225-3056, FAX (804) 371-0169, toll-free (866) 448-4100, e-mail foiaacouncil@leg.state.va.us.

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

† **June 9, 2003 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿

A staff briefing on health planning agencies, fiscal analysis, and DIT rate adjustment.

Contact: Philip A. Leone, Director, Joint Legislative Audit and Review Commission, General Assembly Bldg., 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

CHRONOLOGICAL LIST

OPEN MEETINGS

May 19

Contractors, Board for
† Education, Board of
- Advisory Board for Teacher Education and Licensure
Housing and Community Development, Board of

May 20

† Conservation and Recreation, Department of
- Grayson Highlands State Park Master Plan Advisory Committee
Corrections, Board of
- Correctional Services Committee
- Liaison Committee
† Environmental Quality, Department of
- Ground Water Protection Steering Committee
Higher Education for Virginia, State Council of
- Executive Committee
Housing Development Authority, Virginia
- Board of Commissioners
Retirement System, Virginia
- Optional Retirement Plan Advisory Committee
Waste Management Facility Operators, Board for

May 21

† Aging, Commonwealth Council on
- Housing Subcommittee
† Agriculture and Consumer Services, Department of
- Virginia Cattle Industry Board
Cemetery Board
Code Commission, Virginia
Community Colleges, State Board for
- Academic and Student Affairs Committee
- Audit Committee
- Budget and Finance Committee
- Executive Committee
- Facilities Committee
- Personnel Committee
Compensation Board
Corrections, Board of
- Administration Committee
Environmental Quality, Department of
† Health, Department of
- Sewage Handling and Disposal Advisory Committee
Higher Education for Virginia, State Council of
Medicine, Board of
- Informal Conference Committee
Milk Commission, State
Museum of Fine Arts, Virginia
- Communications and Marketing Committee
- Education and Programs Committee
- Exhibitions Committee
- Expansion Committee
- Planning Committee
† Protection and Advocacy, Board for
Real Estate Board
Sewage Handling and Disposal Appeal Review Board
Treasury Board
Veterinary Medicine, Board of

May 22

- † Aging, Commonwealth Council on
 - Health Care System Subcommittee
 - Opportunities for Older Persons to Contribute to the Community Subcommittee
- Community Colleges, State Board for
- Museum of Fine Arts, Virginia
 - Buildings and Grounds Committee
 - Collections Committee
 - Finance Committee
 - Board of Trustees
- Pharmacy, Board of
 - Special Conference Committee
- Real Estate Board

May 23

- People with Disabilities, Virginia Board for

May 27

- Alcoholic Beverage Control Board
- Education, Board of
 - Advisory Committee on Adult Education and Literacy
- Marine Resources Commission
- Small Business Financing Authority, Virginia

May 28

- At-Risk Youth and Families, Comprehensive Services for
 - State Executive Council
- Contractors, Board for
- Education, Board of
- Medicine, Board of
 - Informal Conference Committee
- † Water Control Board, State

May 29

- † Medicine, Board of
 - Informal Conference Committee
- Real Estate Board

May 30

- Counseling, Board of

May 31

- Conservation and Recreation, Department of
 - Virginia Cave Board

June 2

- † Conservation and Recreation, Department of
 - Leesylvania State Park Master Plan Advisory Committee
 - New River Trail State Park Master Plan Advisory Committee
- Freedom of Information Advisory Council, Virginia
- † Mental Health, Mental Retardation and Substance Abuse Services, Department of
- † Professional and Occupational Regulation, Board for

June 3

- † Conservation and Recreation, Department of
 - Fairy Stone State Park Master Plan Advisory Committee
- Contractors, Board for
- † Environmental Quality, Department of
- Nursing, Board of
 - Special Conference Committee

June 4

- Asbestos, Lead, and Home Inspectors, Virginia Board for
- † Water Control Board, State

June 5

- † Aging, Commonwealth Council on
 - Public Relations Committee

- Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for

- † Fire Services Board, Virginia
- Medicine, Board of
- Technology Services, Council on
 - Executive Committee
- † Workforce Council, Virginia

June 6

- Art and Architectural Review Board
- † Fire Services Board, Virginia
 - Administration and Policy Committee
 - Fire Education and Training Committee
 - Fire Prevention and Control Committee

June 7

- Blind and Vision Impaired, Department for the
 - Statewide Rehabilitation Council for the Blind
- † Fire Services Board, Virginia

June 9

- Alcoholic Beverage Control Board
- † Legislative Audit and Review Commission, Joint
- Museum of Natural History, Virginia
 - Executive Committee
- Nursing, Board of
 - Special Conference Committee
- † Rehabilitative Services, Department of
 - Commonwealth Neurotrauma Initiative Advisory Board

June 10

- Contractors, Board for
- Nursing, Board of
 - Special Conference Committee

June 11

- † Environmental Quality, Department of
- † Interagency Coordinating Council, Virginia
- Jamestown-Yorktown Foundation
 - Steering Committee
- Medicine, Board of
 - Informal Conference Committee
- Technology Services, Council on
 - Change Management Workgroup

June 12

- Health, Department of
 - Biosolids Use Regulations Advisory Committee

June 13

- † Labor and Industry, Department of
 - Safety and Health Codes Board

June 16

- † Chesapeake Bay Local Assistance Board
- Library of Virginia, The
 - Archival and Informational Services Committee
 - Collection Management Services Committee
 - Legislative and Finance Committee
 - Library Board
 - Publications and Educational Services Committee
 - Public Library Development Committee
 - Records Management Committee

- Real Estate Board
- Retirement System, Virginia
 - Board of Trustees

June 17

- Contractors, Board for
- Old Dominion University

Calendar of Events

- Board of Visitors

June 18

† Environmental Quality, Department of

† Lottery Board, State

Museum of Fine Arts, Virginia

- Expansion Committee

Polygraph Examiners Advisory Board

† Social Services, State Board of

Transportation Board, Commonwealth

June 19

Design-Build/Construction Management Review Board

Labor and Industry, Department of

- Virginia Apprenticeship Council

Museum of Fine Arts, Virginia

- Executive/Finance Committee

Public Guardian and Conservator Advisory Board, Virginia

† Social Services, State Board of

Technology Services, Council on

- Security Workgroup

Transportation Board, Commonwealth

† Water Control Board, State

Waterworks and Wastewater Works Operators, Board for

June 20

Health Professions, Department of

- Intervention Program Committee

Social Services, Department of

- Family and Children's Trust Fund

June 23

Alcoholic Beverage Control Board

† Conservation and Recreation, Department of

- Leesylvania State Park Master Plan Advisory Committee

June 24

Contractors, Board for

Marine Resources Commission

Nursing, Board of

- Special Conference Committee

June 25

At-Risk Youth and Families, Comprehensive Services for

Education, Board of

Medicine, Board of

- Informal Conference Committee

Nursing, Board of

- Special Conference Committee

June 26

Nursing, Board of

- Special Conference Committee

July 1

Contractors, Board for

July 2

† Water Control Board, State

July 8

† Child Fatality Review Team, State

July 9

Contractors, Board for

Juvenile Justice, State Board of

Medicine, Board of

- Informal Conference Committee

Technology Planning, Department of

- Wireless E-911 Services Board

Technology Services, Council on

- Change Management Workgroup

† Water Control Board, State

July 11

Art and Architectural Review Board

Social Services, Department of

July 12

Social Services, Department of

July 14

Alcoholic Beverage Control Board

Nursing, Board of

July 15

Contractors, Board for

July 16

Medicine., Board of

- Informal Conference Committee

Nursing, Board of

July 17

Design-Build/Construction Management Review Board

Nursing, Board of

Technology Services, Council on

- Security Workgroup

July 22

Contractors, Board for

July 23

Education, Board of

† Nursing Home Administrators, Board of

- Special Conference Committee

July 24

† Agriculture and Consumer Services, Department of

- Virginia Small Grains Board

July 25

Health, State Board of

July 28

Alcoholic Beverage Control Board

July 29

Contractors, Board for

Geology, Board for

July 30

At-Risk Youth and Families, Comprehensive Services for

July 31

Medicine, Board of

- Informal Conference Committee

Real Estate Board

August 1

Art and Architectural Review Board

August 5

Contractors, Board for

† Jamestown-Yorktown Foundation

- Steering Committee

August 6

† Contractors, Board for

August 7

† Technology Services, Council on

- Executive Committee

August 11

† Alcoholic Beverage Control

August 12

Contractors, Board for

August 13

† Environmental Quality, Department of

- Litter Control and Recycling Fund Advisory Board

† Technology Services, Council on

- Change Management Workgroup

August 15

† Health Professions, Department of
- Intervention Program Committee

PUBLIC HEARINGS

May 19

† Social Services, Department of

May 20

† Social Services, Department of
Water Control Board, State

May 21

Milk Commission, State

May 22

† Social Services, Department of

May 29

† Social Services, Department of

June 10

† Waste Management Board, Virginia

June 11

† Waste Management Board, Virginia

June 12

Criminal Justice Services Board

June 18

† Environmental Quality, Department of