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# CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED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printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 2003 VAC Supplement includes final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
<b>Title 4. Conservation and Natural Resources</b>			
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 15-30-50	Amended	19:19 VA.R. 2818	7/1/03
4 VAC 15-40-230	Amended	19:19 VA.R. 2818	7/1/03
4 VAC 15-40-282	Added	19:19 VA.R. 2818	7/1/03
4 VAC 15-40-283	Added	19:19 VA.R. 2818	7/1/03
4 VAC 15-40-284	Added	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-10	Amended	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-20	Amended	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-25	Amended	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-30	Repealed	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-70	Amended	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-71	Added	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-80	Amended	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-81	Added	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-90	Amended	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-91	Added	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-110	Amended	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-120	Amended	19:19 VA.R. 2820	7/1/03
4 VAC 15-60-20	Amended	19:19 VA.R. 2820	7/1/03
4 VAC 15-90-10	Amended	19:19 VA.R. 2821	7/1/03
4 VAC 15-90-20	Amended	19:19 VA.R. 2821	7/1/03
4 VAC 15-90-21	Amended	19:19 VA.R. 2821	7/1/03
4 VAC 15-90-70	Amended	19:19 VA.R. 2821	7/1/03
4 VAC 15-90-80	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-90	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-100	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-110	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-120	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-121	Added	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-141	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-160	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-170	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-190	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-195	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-200	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-210	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-220	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-230	Amended	19:19 VA.R. 2823	7/1/03

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 15-90-231	Added	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-240	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-241	Added	19:19 VA.R. 2823	7/1/03
4 VAC 15-140-20	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-140-40	Repealed	19:19 VA.R. 2823	7/1/03
4 VAC 15-160-10	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-160-20	Repealed	19:19 VA.R. 2824	7/1/03
4 VAC 15-160-31	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-200-10	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-210-30	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-210-40	Repealed	19:19 VA.R. 2824	7/1/03
4 VAC 15-210-51	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-230-20	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-230-30	Repealed	19:19 VA.R. 2824	7/1/03
4 VAC 15-230-60	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-230-70	Repealed	19:19 VA.R. 2824	7/1/03
4 VAC 15-240-31	Amended	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-40	Amended	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-50	Amended	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-80	Amended	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-81	Added	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-90	Amended	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-91	Added	19:19 VA.R. 2825	7/1/03
4 VAC 15-260-120	Amended	19:19 VA.R. 2826	7/1/03
4 VAC 15-290-115	Amended	19:19 VA.R. 2826	7/1/03
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	--
4 VAC 25-150-120	Amended	19:18 VA.R. 2663	7/1/03

# Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 25-160-30	Amended	19:18 VA.R. 2664	7/1/03
<b>Title 6. Criminal Justice and Corrections</b>			
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
<b>Title 8. Education</b>			
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
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
<b>Title 9. Environment</b>			
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 20-60-17	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-18	Amended	19:12 VA.R. 1891	3/26/03
9 VAC 20-60-40	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-70	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-124	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-261	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-262	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-264	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-265	Amended	19:18 VA.R. 2668	7/1/03
9 VAC 20-60-270	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-305	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-315	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-328	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-420	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-440	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-450	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-490	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-1260	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-1280	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-1285	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-1370	Amended	19:18 VA.R. 2672	7/1/03
9 VAC 20-60-1380	Amended	19:18 VA.R. 2672	7/1/03
9 VAC 20-60-1390	Amended	19:18 VA.R. 2672	7/1/03
9 VAC 20-60-1420	Amended	19:18 VA.R. 2672	7/1/03
9 VAC 20-90-10	Amended	19:18 VA.R. 2672	7/1/03
9 VAC 20-90-20	Repealed	19:18 VA.R. 2672	7/1/03
9 VAC 20-90-30 through 9 VAC 20-90-100	Amended	19:18 VA.R. 2672-2675	7/1/03
9 VAC 20-90-110	Added	19:18 VA.R. 2675	7/1/03
9 VAC 20-90-120	Added	19:18 VA.R. 2675	7/1/03

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 20-110-10 through 9 VAC 20-110-40	Amended	19:19 VA.R. 2826-2827	7/2/03
9 VAC 20-110-90	Amended	19:19 VA.R. 2827	7/2/03
9 VAC 20-110-100	Amended	19:19 VA.R. 2828	7/2/03
9 VAC 20-110-110	Amended	19:19 VA.R. 2828	7/2/03
9 VAC 20-110-115	Repealed	19:19 VA.R. 2828	7/2/03
9 VAC 20-110-121	Amended	19:19 VA.R. 2828	7/2/03
9 VAC 20-110-122	Amended	19:19 VA.R. 2828	7/2/03
9 VAC 20-130 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 20-170-10 through 9 VAC 20-170-60	Added	19:19 VA.R. 2829-2833	7/2/03
9 VAC 20-170-70	Added	19:18 VA.R. 2678	<sup>1</sup>
9 VAC 20-170-80 through 9 VAC 20-170-190	Added	19:19 VA.R. 2833-2839	7/2/03
9 VAC 20-170-195	Added	19:18 VA.R. 2679	<sup>1</sup>
9 VAC 20-170-270 through 9 VAC 20-170-420	Added	19:19 VA.R. 2842-2862	7/2/03
9 VAC 25-20-10	Amended	19:18 VA.R. 2680	7/1/03
9 VAC 25-20-110	Amended	19:18 VA.R. 2681	7/1/03
9 VAC 25-20-120	Amended	19:18 VA.R. 2681	7/1/03
9 VAC 25-20-130	Amended	19:18 VA.R. 2681	7/1/03
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 25-120 (Forms)	Amended	19:18 VA.R. 2739	--
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	<sup>2</sup>
9 VAC 25-260-155	Amended	18:24 VA.R. 3289	<sup>2</sup>
9 VAC 25-260-310	Amended	18:20 VA.R. 2659	<sup>2</sup>
9 VAC 25-260-390	Amended	18:20 VA.R. 2661	<sup>2</sup>
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
9 VAC 25-720-50	Erratum	19:18 VA.R. 2746-2747	--

<sup>1</sup> Section suspended in 19:18 VA.R. 2680.

<sup>2</sup> 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 25-720-80	Erratum	19:18 VA.R. 2747	--
9 VAC 25-720-120	Erratum	19:18 VA.R. 2747	--
9 VAC 25-720-130	Erratum	19:18 VA.R. 2747	--
9 VAC 25-730	Repealed	19:14 VA.R. 2090	4/23/03
<b>Title 11. Gaming</b>			
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
<b>Title 12. Health</b>			
12 VAC 5-31-610	Added	19:3 VA.R. 493	<sup>3</sup>
12 VAC 5-31-620	Added	19:3 VA.R. 494	<sup>3</sup>
12 VAC 5-31-730	Added	19:3 VA.R. 516	<sup>3</sup>
12 VAC 5-31-940	Added	19:3 VA.R. 503	<sup>3</sup>
12 VAC 5-31-1030	Added	19:3 VA.R. 504	5/6/03 <sup>4</sup>
12 VAC 5-31-1140	Added	19:3 VA.R. 505	5/6/03 <sup>4</sup>
12 VAC 5-90-80 emer	Amended	19:13 VA.R. 1971	2/11/03-2/10/04
12 VAC 5-90-80 emer	Amended	19:18 VA.R. 2737	4/24/03-4/23/04
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 30-20-80	Amended	19:18 VA.R. 2682	7/1/03
12 VAC 30-20-150	Amended	19:18 VA.R. 2682	7/1/03
12 VAC 30-20-160	Amended	19:18 VA.R. 2683	7/1/03
12 VAC 30-50-140	Amended	19:18 VA.R. 2684	7/1/03
12 VAC 30-50-150	Amended	19:18 VA.R. 2685	7/1/03
12 VAC 30-50-160	Amended	19:18 VA.R. 2686	7/1/03
12 VAC 30-50-460	Repealed	19:18 VA.R. 2686	7/1/03
12 VAC 30-60-70	Amended	19:18 VA.R. 2687	7/1/03
12 VAC 30-70-221	Amended	19:18 VA.R. 2699	7/1/03
12 VAC 30-70-281	Amended	19:18 VA.R. 2699	7/1/03
12 VAC 30-70-351	Amended	19:18 VA.R. 2699	7/1/03
12 VAC 30-80-20	Amended	19:18 VA.R. 2699	7/1/03

<sup>3</sup> Section withdrawn in 19:16 VA.R. 2393.

<sup>4</sup> Section readopted in 19:16 VA.R. 2393.

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 13. Housing</b>			
12 VAC 30-80-40	Amended	19:18 VA.R. 2701	7/1/03
12 VAC 30-90-41	Amended	19:18 VA.R. 2702	7/1/03
12 VAC 30-90-257	Added	19:18 VA.R. 2702	7/1/03
12 VAC 30-110-1210	Repealed	19:18 VA.R. 2689	7/1/03
12 VAC 30-110-1350 through 12 VAC 30-110-1410	Added	19:18 VA.R. 2703	6/19/03
12 VAC 30-120-50	Amended	19:18 VA.R. 2690	7/1/03
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
12 VAC 30-120-490	Amended	19:18 VA.R. 2692	7/1/03
12 VAC 30-120-500	Amended	19:18 VA.R. 2693	7/1/03
12 VAC 30-120-520 through 12 VAC 30-120-550	Amended	19:18 VA.R. 2694-2699	7/1/03
12 VAC 30-130-50	Amended	19:18 VA.R. 2699	7/1/03
12 VAC 35-11-10 through 12 VAC 35-11-90	Amended	19:19 VA.R. 2864-2865	7/2/03
12 VAC 35-11-15	Added	19:19 VA.R. 2864	7/2/03
12 VAC 35-11-100	Repealed	19:19 VA.R. 2864	7/2/03
12 VAC 35-11-110	Added	19:19 VA.R. 2865	7/2/03
12 VAC 35-40-10 through 12 VAC 35-40-340	Repealed	19:19 VA.R. 2865	8/1/03
12 VAC 35-45-10 through 12 VAC 35-45-200	Added	19:19 VA.R. 2865-2866	8/1/03
<b>Title 13. Housing</b>			
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
<b>Title 14. Insurance</b>			
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	--
<b>Title 15. Judicial</b>			
15 VAC 5-80-50	Amended	19:17 VA.R. 2579	4/11/03
<b>Title 16. Labor and Employment</b>			
16 VAC 15-10-10	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-20	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-40	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-50	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-80	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-90	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-100	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 25-50-20	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 25-50-150	Amended	19:19 VA.R. 2867	7/2/03



## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
16 VAC 25-50-340	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 25-50-440	Amended	19:19 VA.R. 2868	7/2/03
16 VAC 25-50-445	Added	19:19 VA.R. 2868	7/2/03
16 VAC 30-50-30	Amended	19:18 VA.R. 2703	7/1/03
<b>Title 18. Professional and Occupational Licensing</b>			
18 VAC 5-21-20	Amended	19:12 VA.R. 1895	3/26/03
18 VAC 15-40-10 through 18 VAC 15-40-190	Added	19:18 VA.R. 2706-2712	7/1/03
18 VAC 25-10-10 through 18 VAC 25-10-50	Amended	19:19 VA.R. 2868	7/3/03
18 VAC 25-10-90	Amended	19:19 VA.R. 2868	7/3/03
18 VAC 41-20-10 through 18 VAC 41-20-280	Added	19:18 VA.R. 2712-2714	7/1/03
18 VAC 60-20-90	Amended	19:18 VA.R. 2714	6/18/03
18 VAC 60-20-106	Added	19:18 VA.R. 2714	6/18/03
18 VAC 65-20-70	Amended	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-130	Amended	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-140	Amended	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-150	Repealed	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-151	Added	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-152	Added	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-153	Added	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-154	Added	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-500	Amended	19:19 VA.R. 2869	7/2/03
18 VAC 76-30-10 through 18 VAC 76-30-120	Added	19:19 VA.R. 2869-2870	7/2/03
18 VAC 85-20-225	Added	19:18 VA.R. 2715	6/18/03
18 VAC 85-20-280	Amended	19:19 VA.R. 2870	7/2/03
18 VAC 85-20-285	Added	19:19 VA.R. 2871	7/2/03
18 VAC 85-20-290	Amended	19:19 VA.R. 2871	7/2/03
18 VAC 85-20-300	Amended	19:19 VA.R. 2871	7/2/03
18 VAC 85-20-310 through 18 VAC 85-20-390	Added	19:18 VA.R. 2719-2720	6/18/03
18 VAC 85-40-10	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-35	Added	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-40	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-45	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-50	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-55	Added	19:18 VA.R. 2717	6/18/03
18 VAC 85-40-60	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-61	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-65	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-66	Added	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-80	Repealed	19:19 VA.R. 2873	7/2/03
18 VAC 85-50-10	Amended	19:18 VA.R. 2722	6/18/03
18 VAC 85-50-40	Amended	19:18 VA.R. 2722	6/18/03
18 VAC 85-50-59	Added	19:18 VA.R. 2722	6/18/03
18 VAC 85-50-101	Amended	19:18 VA.R. 2722	6/18/03
18 VAC 85-50-110	Amended	19:18 VA.R. 2722	6/18/03
18 VAC 85-50-115	Amended	19:18 VA.R. 2722	6/18/03
18 VAC 85-80-65	Added	19:18 VA.R. 2717	6/18/03
18 VAC 85-101-10	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-25	Added	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-30 through 18 VAC 85-101-60	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-61	Added	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-80	Repealed	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-90	Repealed	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-100	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-130	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-140	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-150	Amended	19:19 VA.R. 2873	7/2/03

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 85-101-151	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-160	Repealed	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-145	Added	19:18 VA.R. 2717	6/18/03
18 VAC 85-110-145	Added	19:18 VA.R. 2718	6/18/03
18 VAC 85-120-85	Added	19:18 VA.R. 2718	6/18/03
18 VAC 90-20-271	Added	19:18 VA.R. 2722	6/18/03
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 90-30-10	Amended	19:19 VA.R. 2874	7/2/03
18 VAC 90-30-70	Amended	19:19 VA.R. 2874	7/2/03
18 VAC 90-30-90	Amended	19:19 VA.R. 2874	7/2/03
18 VAC 95-20-10	Amended	19:19 VA.R. 2874	7/2/03
18 VAC 95-20-175	Amended	19:19 VA.R. 2875	7/2/03
18 VAC 95-20-200	Amended	19:19 VA.R. 2875	7/2/03
18 VAC 95-20-220	Amended	19:19 VA.R. 2876	7/2/03
18 VAC 95-20-230	Amended	19:19 VA.R. 2876	7/2/03
18 VAC 95-20-290	Repealed	19:19 VA.R. 2876	7/2/03
18 VAC 95-20-300	Amended	19:19 VA.R. 2876	7/2/03
18 VAC 95-20-310	Amended	19:19 VA.R. 2876	7/2/03
18 VAC 95-20-330	Amended	19:19 VA.R. 2877	7/2/03
18 VAC 95-20-340	Amended	19:19 VA.R. 2877	7/2/03
18 VAC 95-20-380	Amended	19:19 VA.R. 2877	7/2/03
18 VAC 95-20-390	Amended	19:19 VA.R. 2877	7/2/03
18 VAC 105-20-75	Added	19:19 VA.R. 2877	7/2/03
18 VAC 110-20-75	Added	19:19 VA.R. 2878	7/2/03
18 VAC 110-20-170	Amended	19:19 VA.R. 2878	7/2/03
18 VAC 110-20-330	Amended	19:19 VA.R. 2878	7/2/03
18 VAC 110-20-411	Amended	19:19 VA.R. 2878	7/2/03
18 VAC 115-30-10	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-30	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-40	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-45	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-50	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-60	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-61	Added	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-62	Added	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-70	Repealed	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-90	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-110	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-140	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 130-20-10	Amended	19:18 VA.R. 2724	7/1/03
18 VAC 130-20-30	Amended	19:18 VA.R. 2728	7/1/03
18 VAC 130-20-40	Amended	19:18 VA.R. 2729	7/1/03
18 VAC 130-20-50	Amended	19:18 VA.R. 2729	7/1/03
18 VAC 130-20-60	Amended	19:18 VA.R. 2730	7/1/03
18 VAC 130-20-70	Amended	19:18 VA.R. 2730	7/1/03
18 VAC 130-20-110	Amended	19:18 VA.R. 2730	7/1/03
18 VAC 130-20-170	Amended	19:18 VA.R. 2731	7/1/03
18 VAC 130-20-180	Amended	19:18 VA.R. 2731	7/1/03
18 VAC 130-20-200	Amended	19:18 VA.R. 2733	7/1/03
18 VAC 130-20-210	Amended	19:18 VA.R. 2733	7/1/03
18 VAC 130-20-220	Amended	19:18 VA.R. 2733	7/1/03
18 VAC 130-20-230	Amended	19:18 VA.R. 2734	7/1/03

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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 135-40-10	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-20	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-30	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-40	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-50	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-60	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-70	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-80	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-90	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-110	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-120	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-130	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-140	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-150	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-160	Amended	19:19 VA.R. 2881	7/2/03
18 VAC 135-40-170 through 18 VAC 135-40-410	Repealed	19:19 VA.R. 2881	7/2/03
18 VAC 135-40-420	Amended	19:19 VA.R. 2881	7/2/03
18 VAC 135-40-430	Amended	19:19 VA.R. 2881	7/2/03
18 VAC 135-40-440 through 18 VAC 135-40-530	Repealed	19:19 VA.R. 2882	7/2/03
18 VAC 140-20-30	Amended	19:14 VA.R. 2145	4/23/03
<b>Title 20. Public Utilities and Telecommunications</b>			
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
<b>Title 22. Social Services</b>			
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 30-20-90	Amended	19:18 VA.R. 2736	6/18/03
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
22 VAC 30-20-160	Amended	19:14 VA.R. 2164	4/24/03

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## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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
22 VAC 40-220-10	Repealed	19:19 VA.R. 2882	7/2/03
22 VAC 40-220-20	Repealed	19:19 VA.R. 2882	7/2/03
22 VAC 40-293-10 emer	Added	19:19 VA.R. 2883	7/1/03-6/30/04
22 VAC 40-293-20 emer	Added	19:19 VA.R. 2883	7/1/03-6/30/04
<b>Title 24. Transportation and Motor Vehicles</b>			
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

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# NOTICES OF INTENDED REGULATORY ACTION

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## Symbol Key

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

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## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled **9 VAC 5-40, Existing Stationary Sources (Rev. G03)**. The purpose of the proposed action is to develop a regulation concerning consumer products that will contribute to the achievement of the necessary VOC emissions reductions to stay within the budget limit in order to safeguard federal approval of transportation projects in Northern Virginia. Consumer products that may be regulated include, but are not limited to, adhesives, adhesive removers, aerosol products (like cooking and dusting sprays), air freshener, antiperspirants and deodorants, facial toners and astringents, waxes and polishes (for cars, floors, etc.), tile cleaners, tar removers, bug sprays, rug cleaners, charcoal lighter fluid, disinfectants, cosmetics, and soaps. (See 19:19 VA.R. 2782-2785 June 2, 2003, for more detailed information on this regulatory action.)

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

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

Public comments may be submitted until 5 p.m. on July 3, 2003.

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

VA.R. Doc. No. R03-197; Filed May 7, 2003, 12:39 p.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled **9 VAC 5-91, Regulations for the Control of Motor Vehicle Emissions (Rev. MJ)**. The purpose of the proposed action is to amend the current regulation which conforms to federal requirements for on-road testing by expanding the regulatory provisions to meet the state law. The new regulatory amendments would (i) revise the existing provisions affecting the on-road testing (remote sensing) of emissions from motor vehicles located in or primarily operated in Northern Virginia (including out of area commuters) and the subsequent testing of those motor vehicles; and (ii) establish a program to subsidize repair costs of some vehicles identified by remote sensing. (See 19:19 VA.R. 2785-2787 June 2, 2003, for more detailed information on this regulatory action.)

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

Statutory Authority: §§ 46.2-1176 and 46.2-1187.3 of the Code of Virginia, Clean Air Act (§ 182), and 40 CFR Part 51, Subpart S.

Public comments may be submitted until 5 p.m. on July 3, 2003.

**Contact:** Mary L. Major, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, or e-mail [mimajor@deq.state.va.us](mailto:mimajor@deq.state.va.us).

VA.R. Doc. No. R03-196; Filed May 7, 2003, 12:39 p.m.

### 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 25-260, Water Quality Standards**. The State Water Control Board (board) proposes to amend the state's Antidegradation Policy (9 VAC 25-260-30), part of the Water Quality Standards, by designating a section of Ragged Island Creek for special protection as an Exceptional Water (9 VAC 25-260-30 A 3 c). The Exceptional Waters category of the Antidegradation Policy allows the board to designate waters that display exceptional environmental settings and either exceptional aquatic communities or exceptional recreational opportunities for added protection. Once designated, the Antidegradation Policy provides that no water quality degradation would be allowed in the Exceptional Waters. The only exception would be temporary, limited impact activities. By ensuring that no water quality degradation is allowed to occur in waters with exceptional environmental settings and either exceptional recreational opportunities or exceptional aquatic communities, the board is protecting these special waters at their present quality for use and enjoyment by future generations of Virginians. (See 19:19 VA.R. 2787-2789 June 2, 2003, for more detailed information on this regulatory action.)

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

Statutory Authority: § 62.1-44.15 of the Code of Virginia, Clean Water Act (33 USC 1251 et seq.) and 40 CFR Part 131.

Public comments may be submitted until 5 p.m. on July 25, 2003.

**Contact:** Jean W. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4113, FAX (804) 698-4522, or e-mail [jwgregory@deq.state.va.us](mailto:jwgregory@deq.state.va.us).

VA.R. Doc. No. R03-199; Filed May 9, 2003, 1:59 p.m.

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# Notices of Intended Regulatory Action

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## 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 25-260, Water Quality Standards**. The State Water Control Board (board) proposes to amend the state's Antidegradation Policy (9 VAC 25-260-30), part of the Water Quality Standards, by designating a section of Little Stony Creek for special protection as an Exceptional Water (9 VAC 25-260-30 A 3 c). The Exceptional Waters category of the Antidegradation Policy allows the board to designate waters that display exceptional environmental settings and either exceptional aquatic communities or exceptional recreational opportunities for added protection. Once designated, the Antidegradation Policy provides that no water quality degradation would be allowed in the Exceptional Waters. The only exception would be temporary, limited impact activities. By ensuring that no water quality degradation is allowed to occur in waters with exceptional environmental settings and either exceptional recreational opportunities or exceptional aquatic communities, the board is protecting these special waters at their present quality for use and enjoyment by future generations of Virginians. (See 19:19 VA.R. 2789-2790 June 2, 2003, for more detailed information on this regulatory action.)

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

Statutory Authority: § 62.1-44.15 of the Code of Virginia, Clean Water Act (33 USC 1251 et seq.) and 40 CFR Part 131.

Public comments may be submitted until 5 p.m. on July 25, 2003.

**Contact:** Jean W. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4113, FAX (804) 698-4522, or e-mail [jwgregory@deq.state.va.us](mailto:jwgregory@deq.state.va.us).

VA.R. Doc. No. R03-200; Filed May 9, 2003, 1:59 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled **9 VAC 25-260, Water Quality Standards**. The State Water Control Board (board) proposes to amend the state's Antidegradation Policy (9 VAC 25-260-30), part of the Water Quality Standards, by designating Lake Drummond and portions of Brown Mountain Creek, Laurel Fork, North Fork of the Buffalo River, Pedlar River, Ramseys Draft, and Whitetop Laurel Creek as Exceptional Waters (9 VAC 25-260-30 A 3 c). The Exceptional Waters category of the Antidegradation Policy allows the board to designate waters that display exceptional environmental settings and either exceptional aquatic communities or exceptional recreational opportunities for added protection. Once designated, the Antidegradation Policy provides that no water quality degradation would be allowed in the Exceptional Waters. The only exception would be temporary, limited impact activities. By ensuring that no water quality degradation is allowed to occur in waters with exceptional environmental settings and either exceptional recreational opportunities or exceptional aquatic communities,

the board is protecting these special waters at their present quality for use and enjoyment by future generations of Virginians. (See 19:19 VA.R. 2790-2791 June 2, 2003, for more detailed information on this regulatory action.)

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

Statutory Authority: § 62.1-44.15 of the Code of Virginia, Clean Water Act (33 USC 1251 et seq.) and 40 CFR Part 131.

Public comments may be submitted until 5 p.m. on July 25, 2003.

**Contact:** Jean W. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4113, FAX (804) 698-4522, or e-mail [jwgregory@deq.state.va.us](mailto:jwgregory@deq.state.va.us).

VA.R. Doc. No. R03-202; Filed May 9, 2003, 2 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled **9 VAC 25-260, Water Quality Standards**. The State Water Control Board (board) proposes to amend the state's Antidegradation Policy (9 VAC 25-260-30), part of the Water Quality Standards, by designating a section of Bottom Creek for special protection as an Exceptional Water (9 VAC 25-260-30 A 3 c). The Exceptional Waters category of the Antidegradation Policy allows the board to designate waters which display exceptional environmental settings and either exceptional aquatic communities or exceptional recreational opportunities for added protection. Once designated, the Antidegradation Policy provides that no water quality degradation would be allowed in the Exceptional Waters. The only exception would be temporary, limited impact activities. By ensuring that no water quality degradation is allowed to occur in waters with exceptional environmental settings and either exceptional recreational opportunities or exceptional aquatic communities, the board is protecting these special waters at their present quality for use and enjoyment by future generations of Virginians. (See 19:19 VA.R. 2791-2792 June 2, 2003, for more detailed information on this regulatory action.)

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

Statutory Authority: § 62.1-44.15 of the Code of Virginia, Clean Water Act (33 USC 1251 et seq.) and 40 CFR Part 131.

Public comments may be submitted until 5 p.m. on July 25, 2003.

**Contact:** Jean W. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4113, FAX (804) 698-4522, or e-mail [jwgregory@deq.state.va.us](mailto:jwgregory@deq.state.va.us).

VA.R. Doc. No. R03-201; Filed May 9, 2003, 2 p.m.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to

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# Notices of Intended Regulatory Action

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consider adopting regulations entitled **9 VAC 25-780, Local and Regional Water Supply Planning**. The regulatory action will address the need for improved local and regional water supply planning. The recent drought highlighted the need to require that localities be prepared to plan for and implement contingency plans during unusual climatic events. The goal of the new regulation is to establish a basic set of criteria that each local or regional water supply plan must contain so that they may plan for and provide adequate water to their citizens in a manner that balances the need for environmental protection and future growth.

Need: Providing a safe and adequate supply of drinking water is essential to public health and welfare. The need for water supply planning regulations became apparent with the culmination of four years of drought conditions in the late summer of 2002. Reservoirs and streams in the state experienced record low levels during this time and as a result, some local water supplies were within days of complete failure. The lack of preparedness by some Virginia communities during this drought period highlighted the need for a state role in ensuring that drinking water is available and that the need for drinking water supply is appropriately balanced with the needs for other beneficial in-stream and off-stream uses. On August 30, 2002, the Governor issued Executive Order 33 declaring a State of Emergency due to extreme drought conditions throughout the Commonwealth. This State of Emergency persisted throughout the summer and into the early winter months. As a result of this declaration, certain nonessential outdoor water uses were prohibited.

Issues to be addressed during this process include evaluating existing local and regional supply plans, determining the nature of the preferred water supply plan and planning process, planning for future supplies, maintaining beneficial uses, and determining the nature and extent of the State Water Control Board review process.

Substance: These proposed regulations will establish standards for local and regional water supply planning and establish a process for review of said plans by the State Water Control Board.

Alternatives: Alternatives considered are limited. The General Assembly directed the development of regulations for this purpose.

Public Participation: The board is seeking comments on the intended regulatory action, including (i) ideas to assist in the development of a proposal, (ii) the costs and benefits of the alternatives stated in this notice or other alternatives and (iii) impacts of the regulation on farm or forest lands. Anyone wishing to submit written comments for the public comment file may do so at the public meeting, by mail, or by email to [swkudlas@deq.state.va.us](mailto:swkudlas@deq.state.va.us). Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the close of the comment period.

A public meeting will be held and notice of the meeting can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Participatory Approach: The board is using the participatory approach to develop a proposal through an established advisory committee. The Water Policy Technical Advisory Committee will be working over the next eight months to develop draft regulations to meet the requirements of § 62.1-44.38:1.

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

Statutory Authority: § 62.1-44.38:1 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on July 21, 2003.

**Contact:** Scott Kudlas, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4456, FAX (804) 698-4522, or e-mail [swkudlas@deq.state.va.us](mailto:swkudlas@deq.state.va.us).

VA.R. Doc. No. R03-214; Filed May 28, 2003, 10:29 a.m.

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Audiology and Speech-Language Pathology intends to consider amending regulations entitled **18 VAC 30-20, Regulations of the Board of Audiology and Speech-Language Pathology**. The purpose of the proposed action is to address the need of the Board of Audiology and Speech-Language Pathology to increase fees to cover expenses for essential functions of approving applicants for licensure, investigation of complaints against licensees, and adjudication of disciplinary cases required for public safety and security in the Commonwealth.

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 26 (§ 54.1-2600 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on July 2, 2003.

**Contact:** Elizabeth Young, Executive Director, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9111, FAX (804) 662-9523, or e-mail [elizabeth.young@dhp.state.va.us](mailto:elizabeth.young@dhp.state.va.us).

VA.R. Doc. No. R03-206; Filed May 14, 2003, 10:01 a.m.

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# Notices of Intended Regulatory Action

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## BOARD FOR GEOLOGY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Geology intends to consider amending regulations entitled **18 VAC 70-20, Board for Geology Regulations**. The purpose of the proposed action is to make general clarifying amendments to existing language, eliminate definitions contained in statute, ensure consistency with state law, review renewal and reinstatement requirements, review fees for compliance with the Callahan Act (§ 54.1-113 of the Code of Virginia) and make other changes that may result from the board's periodic review of the regulations.

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, and 54.1-1403 of the Code of Virginia.

Public comments may be submitted until July 18, 2003.

**Contact:** Joseph Kossan, Assistant Administrator, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-7507, FAX (804) 367-6128, or e-mail geology@dpor.state.va.us.

VA.R. Doc. No. R03-195; Filed May 2, 2003, 12:27 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 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.

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## 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 amending regulations entitled **22 VAC 40-25, Auxiliary Grants Program: Levels of Care and Rate Setting**. The purpose of the proposed action is to clarify reimbursement procedures and issues regarding oversight of residents' funds by an assisted living facility or adult foster care home. In addition, the term "adult care residence" will be replaced with "assisted living facility" throughout.

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 and 63.2-800 of the Code of Virginia.

Public comments may be submitted until July 16, 2003.

**Contact:** Jayne Flowers, Human Services Program Consultant, Department of Social Services, Division of Licensing Programs, 730 E. Broad St., 7th Floor,



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# Notices of Intended Regulatory Action

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Richmond, VA 23219, telephone (804) 692-1263, FAX (804) 786-8372 or e-mail [jyf900@dss.state.va.us](mailto:jyf900@dss.state.va.us).

VA.R. Doc. No. R03-210; Filed May 23, 2003, 2:18 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider repealing regulations entitled **22 VAC 40-110, 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, VA 23219, telephone (804) 692-1748, FAX (804) 692-2370 or e-mail [dss7@dss.state.va.us](mailto: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](mailto: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](mailto: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,

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# Notices of Intended Regulatory Action

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

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

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider adopting regulations entitled **22 VAC 40-293, Locality Groupings**. The purpose of the proposed action is to establish new regulations related to locality groupings. Currently, localities are placed in groupings that determine the payment levels for Temporary Assistance for Needy Families. Procedures to change locality groupings have never been regulated. These regulations provide the rules for these changes, including the data to be provided, the requirement that funds be available as determined by the commissioner, and the ability to change data sources upon agreement of the board.

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 of the Code of Virginia.

Public comments may be submitted until July 2, 2003.

**Contact:** Mark L. Golden, TANF Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1731, FAX (804) 225-2321, or e-mail [mxg2@dss.state.va.us](mailto:mxg2@dss.state.va.us).

VA.R. Doc. No. R03-203; Filed May 9, 2003, 2:10 p.m.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled **22 VAC 40-745, Assessment in Adult Care Residences**. The purpose of the proposed action is to bring the regulation into compliance with changes in the Department of Social Services' regulation on licensure of assisted living facilities and with the Department of Medical Assistance Services' administrative policy for reimbursement of assisted living services. In addition, the term "adult care residence" will be replaced with "assisted living facility" throughout, including in the regulation's title.

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 and 63.2-1804 of the Code of Virginia.

Public comments may be submitted until July 16, 2003.

**Contact:** Marjorie L. Marker, Adult Services Program Consultant, Department of Social Services, Division of Licensing Programs, 730 E. Broad St., 7th Floor, Richmond, VA 23219, telephone (804) 692-1262, FAX (804) 786-8372 or e-mail [maj2@dss.state.va.us](mailto:maj2@dss.state.va.us).

VA.R. Doc. No. R03-211; Filed May 23, 2003, 2:17



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# PROPOSED REGULATIONS

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For information concerning Proposed Regulations, see Information Page.

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## 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.

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## TITLE 12. HEALTH

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**Title of Regulation:** 12 VAC 30-50. Medical and Remedial Amount, Duration, and Scope of Services (amending 12 VAC 30-50-130, 12 VAC 30-50-226, 12 VAC 30-50-420, 12 VAC 30-50-430, and 12 VAC 30-50-510).

**12 VAC 30-60. Standards Established and Methods Used to Assure High Quality of Care (amending 12 VAC 30-60-61, 12 VAC 30-60-143, and 12 VAC 30-60-147).**

**12 VAC 30-130. Amount, Duration and Scope of Selected Services (amending 12 VAC 30-130-565; repealing 12 VAC 30-130-550 and 12 VAC 30-130-570).**

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

**Public Hearing Date:** N/A

Public comments may be submitted until August 15, 2003.  
(See Calendar of Events section  
for additional information)

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**Basis:** Section 32.1-325 of the Code of Virginia grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. Pursuant to the regulatory review requirements of Executive Order 21(02), Periodic Review of Existing Regulations, DMAS, in collaboration with DMHMRSAS, reviewed its controlling regulations for its community mental health services. A number of issues were identified in discussions with a dedicated work group comprised of state agency staff, providers, and affected consumers.

**Purpose:** The regulations for the community mental health and substance abuse treatment services have not been revised since 1997. Several issues have been identified that need revision, such as duplicative language, and impracticable and unnecessary requirements for service provision. These proposed changes are expected to protect the health of citizens by easing access to these services. These changes will also benefit the welfare of the service providers by removing administrative barriers to the rendering of these services.

The sections of the State Plan for Medical Assistance that are affected by this proposed regulatory action are: the Amount, Duration, and Scope of Services (Attachment 3.1 A&B, Supplement 1 (12 VAC 30-50-130, 50-226)) and Case

Management for Services (Attachment 3.1 A&B, Supplement 2 (12 VAC 30-50-420-, 50-430, 50-510)); Methods and Standards to Assure High Quality of Care (Attachment 3.1-C (12 VAC 30-60-61, 60-143, 60-147)); as well as state only regulations (12 VAC 30-130-550, 130-565, 130-570).

**Substance:** The following changes are being promulgated to improve the services delivered to recipients and to improve clarity for service providers:

1. References to DMHMRSAS licensing requirements are being removed as they are duplicative, occurring twice in the services and provider qualification regulations;
2. References to 24-hour response capability for providers are being removed from 12 VAC 30-130-570 and 12 VAC 30-130-565 as this requirement unduly restricts providers to only public providers and prohibits private providers from rendering the same service;
3. References to the requirement for serving individuals, regardless of ability to pay, are being removed from 12 VAC 30-130-570 as this can also have the effect of restricting providers to only public providers;
4. References to who can perform an evaluation and assessment for substance abuse services are being moved from 12 VAC 30-130-570 to 12 VAC 30-130-565 as it is currently misplaced; and
5. References regarding mental retardation are being removed from 12 VAC 30-130-570. In 2000, CMS required that all mental retardation services be moved to the mental retardation waiver program rather than State Plan covered services. Removal of this reference was overlooked when the other changes were made.

Individual services are revised as follows (input was obtained from the DMAS-sponsored workgroup):

1. Case Management: Eliminating the requirement that case management services must be provided in order to receive MH Support Services. Also, the limitations regarding who can provide case management services for Mental Health Support Services will be eliminated.
2. Mental Health Support Services:
  - a. Adding the minimum staff qualifications regarding who may deliver mental health support services; a Qualified Mental Health Professional (QMHP) may perform the assessment, sign the Individual Service Plan (ISP), and supervise the care, a paraprofessional may also deliver the service.
  - b. Removing the requirement for "a history of hospitalization" from the service eligibility criteria;
  - c. Changing the monthly limitation of 31 units (1 unit = 1 to 3 hours) to a yearly limit of 372 hours to allow for more intense initial service delivery; and

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d. Adding language clarifying that MH Support Services may be delivered to maintain the recipient in the community.

3. Day Treatment/Partial Hospitalization:

a. Adding language clarifying that it can be delivered to maintain the recipient in the community; and

b. Revising the service definition.

4. Psychosocial Rehabilitation:

a. Removing "for adults" from the service title; and

b. Adding review requirements for certain services, requiring services review by a licensed mental health professional at specified intervals to insure proper service utilization.

5. Crisis Intervention Services: Adding pre-screeners or QMHPs as providers.

6. Intensive Community Treatment: Clarification of the rationale regarding why services in the clinic must be documented.

7. Intensive In Home:

a. Adding clarifying language regarding which services may be rendered in the community;

b. Adding the statement "services are directed toward the treatment of the eligible child" to 12 VAC 30-50-130;

c. Changing the minimum requirement from five hours of service per week to three hours per week and requiring documentation of the need for more intensive services when provided in outpatient clinics;

d. Removing the specifications for caseload size and requiring sufficient staff to be available to meet the identified needs of the child; and

e. Adding to 12 VAC 30-60-61 that the Intensive In-Home services provider be licensed by DMHMRSAS as an intensive in-home provider.

**Issues:** The proposed regulations are intended to keep consumers in the community thereby avoiding more expensive hospitalizations. The advantage of these proposed regulations is improvement in the ease of delivering services. Unnecessary regulations are being removed. It is anticipated that provider efficiency will improve with reducing regulatory requirements. There are no anticipated disadvantages to the public or the Commonwealth.

**Fiscal Impact:** There are no anticipated additional costs to the proposed regulations. These changes may, in fact, reduce costs by keeping individuals out of hospitals; however, any resulting reductions would not be realized immediately but may be realized over several years of operation of these revised regulations.

**Department of Planning and Budget's Economic Impact Analysis:** The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 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. The proposed regulations will (i) remove limitations on a pregnant women's access to substance abuse services, (ii) eliminate the requirement that a physician must supervise the nurse case manager, (iii) delete the prior psychiatric hospitalization requirement for mental health support services eligibility, (iv) change the mental health support service limit from a monthly limit to a yearly limit, (v) decrease the minimum number of service hours required for intensive in-home treatment services from at least five hours to three hours per week, and (vi) require support and rehabilitation service providers to more frequently review the patients' individual service plans. The proposed changes are intended to improve service delivery and access.

Estimated economic impact. These regulations apply to Medicaid reimbursements for community mental health rehabilitation services. These rules are requirements for mental health providers to qualify for reimbursement for the services they provide. The facility standards, licensing requirements, and some provider employee qualifications, etc. are established elsewhere by other government entities. These rules contain the requirements Medicaid providers must meet to be reimbursed to provide mental health services. Many of the requirements included in these regulations conform the provider qualifications to the licensure requirements set forth by the Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS).

Although significant revisions are proposed, the majority of the changes are intended to conform the Medicaid requirements to certain federal requirements and the DMHMRSAS regulations. Further, many of these changes clarify the current policy. These proposed changes are not anticipated to have an effect in current practice, but are expected to improve the clarity and enforceability of the requirements, both of which could result in some economic benefits.

Of the remaining changes, several will likely have significant effects on current practice. Among these, the proposal to remove lifetime limitations currently imposed on substance abuse treatment services provided for pregnant women in a residential or outpatient (day treatment) setting appears to be the most significant. Currently, there are lifetime service limitations (330 days for residential and 440 days for outpatient) on substance abuse treatment services provided to pregnant women. Additionally, these services must be received continuously during only one course of treatment. Thus, if the service, once initiated, is interrupted only once, the recipient pregnant woman loses her eligibility. According to the Department of Medical Assistance Services, providers

state that this limit is overly restrictive and limits access to the services. In fiscal year (FY) 2001, \$101,808 was spent for residential substance abuse treatment for 19 pregnant women and \$8,311 was spent for day substance abuse treatment for 11 pregnant women.

The proposed changes will remove the lifetime limit restrictions. Under the proposed regulations, qualified pregnant women will be eligible for up to 300 days of residential treatment and 400 days of outpatient treatment per pregnancy, which could be interrupted without any effect on the ability to access this service. Thus, this change will most likely increase the utilization of these services because the coverage may be provided with more than one pregnancy, because the duration of the service provided under this change may exceed the current life time service limit, and because breaks in the service (dropping out of the treatment program) will not constitute the loss of the coverage for the recipient's entire life.

The proposed regulations will also expand one of the eligibility criteria for access to residential and outpatient substance abuse treatment services for pregnant women who were in jail or prison. Under current regulations, in order to access such services, the drug use or alcohol use must have occurred within six weeks of referral for this service. As a result, if a woman was incarcerated for longer than six-weeks prior to the referral, and was not in a substance abuse treatment program in the jail or prison, she would not qualify for services. Under the proposed rules, the time frame allowed will start from six weeks prior to incarceration rather than six weeks prior to the referral. Thus, a number of additional pregnant women who abused drugs or alcohol prior to their imprisonment would qualify for these services, which will increase the number of Medicaid recipients that will be approved to receive this service.

These changes are directed toward reducing substance abuse among pregnant women by increasing access to services. The prevalence of substance abuse is significant among pregnant women reaching about 5% nationally.<sup>1</sup> The research shows that, this prevalence is associated with significant adverse health effects for newborns and mothers and has adverse implications on employment outcomes, education expenditures, and criminal activity. The research also shows that although no significant differences could be found between residential and outpatient substance abuse treatment outcomes, both types of these services are generally effective in treating these women. Despite the fact that the cost of residential treatment is typically higher than outpatient treatment (by a magnitude of almost six times in the referenced study), every dollar spent on residential treatment is found to save about \$4 in other medical costs.<sup>2</sup> Other research in this area lends support to the finding that the medical benefits of substance abuse treatment services

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<sup>1</sup> Howell, Heiser, Harrington, 1998, "A Review of Recent Findings on Substance Abuse Treatment for Pregnant Women," *Journal of Substance Abuse Treatment*, v. 6, no. 3, pp. 195-219.

<sup>2</sup> French, Salome, Carney, 2002, "Using the DATCAP and ASI to Estimate the Costs and Benefits of Residential Addiction Treatment in the State of Washington," *Social Science & Medicine*, v. 55, pp. 2267-2282.

significantly exceed the costs of providing these services.<sup>3</sup> Finally, available research indicates that the benefits from reduced criminal activity alone are sufficient to pay for the costs of treatment programs in several settings including residential only, outpatient only, and residential and outpatient combined.<sup>4</sup>

The expected increase in utilization of residential and outpatient substance abuse treatment services due to the proposed changes will certainly increase the Medicaid payments to substance abuse providers, almost half of which (49%) will be financed by the Commonwealth. The source of the remainder of the necessary funds will be the federal funding agency. However, as discussed, the benefits of these services are significant and include potential cost savings in future inpatient and outpatient hospital care for the mother, in prenatal and newborn care for the children, and in care for the children with developmental delays. Thus, the net fiscal effect will likely be a reduction in overall Medicaid expenditures. According to the federal Substance Abuse and Mental Services Administration, residential substance abuse treatment reduces the risk of premature delivery by 70%, the risk of low birth-weight by 84%, and the risk of infant mortality by 67% relative to the risks among untreated abusers. Studies also report a significant reduction in alcohol and drug use, in criminal activity, as well as improvements in economic well-being and improvements in parental status during the six months following treatment compared to six months prior to the substance abuse; all of which represent additional benefits of the treatment services. Given the available research findings, it appears that the benefits of expanded substance abuse services would easily outweigh the costs associated with providing these services.

Another change related to residential and outpatient substance abuse treatment services is the removal of the requirement that a physician supervise the nurse case manager while performing her/his substance abuse treatment tasks. In Virginia, nurses are licensed and in addition, may be certified to perform substance abuse treatment case management services. However, to qualify for Medicaid reimbursement, currently, a physician must medically supervise the provision of services. Given that the nurses are licensed by the Virginia State Board of Nursing and qualified to independently provide case management services, no significant change in the quality of case management services provided to patients is expected by removing the physician supervision requirement. A benefit of this proposed change is eliminating some administrative costs in terms of less productive physician time needed to provide the required

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<sup>3</sup> Svikis, et al, 1997, "Cost-Effectiveness of Treatment for Drug-Abusing Pregnant Women," *Drug and Alcohol Dependence*, v. 45, pp. 105-113.

French, McCollister, Cacciola, Durell, Stephens, 2002, "Benefit-Cost Analysis of Addiction Treatment in Arkansas: Specialty and Standard Residential Programs for Pregnant and Parenting Women," *Substance Abuse*, v. 23, no. 1, pp. 31-51.

Barnett and Swindle, 1997, "Cost-Effectiveness of Inpatient Substance Abuse Treatment," v. 32, no. 5, pp. 615-629.

<sup>4</sup> Daley, et al., 2000, "The Costs of Crime and the Benefits of Substance Abuse Treatment for Pregnant Women," *Journal of Substance Abuse Treatment*, v. 19, pp. 445-458.

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supervision. Also, because of the reduction in required physician supervision time, physicians will be provided incentives to treat Medicaid patients. Thus, more doctors may be willing to provide services to Medicaid recipients and the proposed regulations may increase access to substance abuse services.

Another proposed change for the receipt of mental health support services removes the requirement that the recipient must have a history of psychiatric hospitalization. Mental health support services include assistance and monitoring with activities of daily living for people with severe mental disorders. For example, the support services include help with maintaining personal hygiene, maintaining adequate nutrition and hydration, taking prescribed medication as ordered, or managing finances provided to people with severe depression, schizophrenia, and bipolar disorders. Also, the current Medicaid payment limit is 31 hours of support services per month. In FY 2001, Medicaid paid \$5.3 million to providers for these support services. The main goal of these in-home support services is to avert potential hospitalizations and to keep these recipients in their communities.

The removal of the prior psychiatric hospitalization requirement will expand the eligible population for the mental health support services and will increase the number of recipients who could receive this service. Thus, the Medicaid expenditures for these services are most likely to increase. This potential increase in spending represents the additional costs of this change. The main benefit, however, is averting potential hospitalizations. Availability of the support services to an expanded population will likely reduce the number of psychiatric hospitalizations that would likely have occurred. Thus, future Medicaid expenditures for psychiatric hospitalizations will probably decrease. Additionally, among the potential benefits is the economic value to the society and the affected recipients associated with keeping these individuals in their homes and communities. In short, the net economic effect of this change will depend on whether every additional dollar spent on mental health support services would produce more than a dollar benefit in terms of lower hospital costs and keeping recipients in their homes and communities.

The proposed regulations will also re-establish the mental health support service limitation in terms of 372 hours per year rather than 31 hours per month. Note that the net annual service limit will remain the same. However, this change will increase the flexibility in the timing of the provision of these services. This change is to address possible needs of a recipient whose medical condition requires more intensive services in the early stages of providing this service. With this change, the recipient will be able to use the service as the medical condition warrants. While this change will afford the flexibility to provide more than 31 hours of support services in a month in the early stages of treatment, it will also expose recipients with continued extensive need to the risk of not receiving any support services in later months of treatment. For example, there exists a chance for a recipient to reach the annual limit in the first nine months of the year and not qualify for any services during the last quarter of the year. In short, the net effect of providing a uniformly distributed service throughout the year compared to providing the same service

clustered at times within the same year is not clear. Services rendered must be medically necessary, but there could be an increase in utilization of this service since this change will preserve unused hours in a month to be used later

The proposed changes will also reduce the minimum number of hours required to provide intensive in-home treatment services for children from at least five hours a week to three hours a week. In FY 2001, Medicaid paid approximately \$7.2 million for in-home treatment of 1,620 children. Currently, providers are not allowed to provide in-home treatment services to children if the service need is less than five hours a week. With this change, children with a minimum need of three hours weekly for in-home services will qualify for Medicaid reimbursement. Thus, an increase in the number of children utilizing these services and a corresponding increase in Medicaid expenditures for in-home services are expected. On the other hand, these services will also likely divert some of the children from more costly potential hospitalizations and residential treatment and keep them in their homes and communities. Thus, the net economic effect of this change will also depend on whether every additional dollar spent on in-home treatment services for children produces more than a dollar benefit in terms of lower hospital costs plus the economic value of keeping children in their homes and communities.

With another change, more frequent re-authorization of mental health support services and psychological rehabilitation services will be required. Currently, providers may authorize mental health support services for a recipient up to six consecutive months and may authorize psychological rehabilitations up to a year, which in effect allows providers to review the individual service plans only once in every six months and once every year, respectively. The proposed amendments will reduce the maximum authorization period to three months for support services and to six months for psychological rehabilitation services. As a result, the providers will have to review the individual service plans at least once every three months for support services and every six months for rehabilitation services, and based on the review, re-authorize services as needed.

More frequent review of individual service plans will likely introduce additional costs to the providers in terms of staff time and possibly in terms of other administrative costs to create and maintain additional data elements or paperwork. However, more frequent reviews will necessitate that the provider stay current about the patient's status and more closely track the changes in patient's medical condition. As a result, changing service needs may be identified earlier. Dispensing more appropriate services early on may improve the treatment success, which would benefit the patient and increase the efficiency of every dollar spent for treatment in terms of improved health outcomes.

**Businesses and Entities Affected.** The proposed regulations apply to approximately 90 community mental health service providers and approximately 27,600 Medicaid recipients.

**Localities Particularly Affected.** The proposed regulations apply through out the Commonwealth.

Projected Impact on Employment. We can expect to see an increase in labor demand in the areas of substance abuse treatment, mental health support, intensive in-home services while the labor demand in inpatient hospital services area will probably decrease.

Effects on the Use and Value of Private Property. The proposed changes will likely positively affect the value of privately owned substance abuse treatment, mental health support, intensive in-home service businesses while there is likely to be a negative effect on private inpatient hospital services care businesses.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Agency concurs with the Economic Impact Analysis prepared by the Department of Planning and Budget regarding the regulations concerning the Medicaid reimbursed Community Mental Health Rehabilitative Services.

Summary:

*The proposed amendments (i) eliminate the requirement that providers make services available 24-hours per day and accept all patients regardless of their ability to pay; (ii) remove the requirement that case management services be coupled with mental health support services; (iii) add needed minimum staff qualifications; (iv) remove the requirement for a history of hospitalizations from the service eligibility criteria; (v) clarify that mental health support services may be rendered in order to maintain recipients in their communities; (vi) revise services definitions; (vii) clarify and revise provider qualifications; (viii) modify annual service limits as appropriate; and (ix) modify provider licensing requirements as appropriate.*

**12 VAC 30-50-130. Skilled nursing facility services, EPSDT, and family planning.**

A. Skilled nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

B. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.

1. Payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities, and the accompanying attendant physician care, 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.

2. Routine physicals and immunizations (except as provided through EPSDT) are not covered except that well-child examinations in a private physician's office are covered for foster children of the local social services departments on specific referral from those departments.

3. Orthoptics services shall only be reimbursed if medically necessary to correct a visual defect identified by an EPSDT examination or evaluation. The department shall place appropriate utilization controls upon this service.

4. Consistent with the Omnibus Budget Reconciliation Act of 1989 § 6403, early and periodic screening, diagnostic, and treatment services means the following services: screening services, vision services, dental services, hearing services, and such other necessary health care, diagnostic services, treatment, and other measures described in Social Security Act § 1905(a) to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services and which are medically necessary, whether or not such services are covered under the State Plan and notwithstanding the limitations, applicable to recipients ages 21 and over, provided for by the Act § 1905(a).

5. Community mental health services.

a. Intensive in-home services to children and adolescents under age 21 shall be time-limited interventions provided typically but not solely in the residence of a child who is at risk of being moved into an out-of-home placement or who is being transitioned to home from out-of-home placement due to a documented medical need of the child. These services provide crisis treatment; individual and family counseling; and communication skills (e.g., counseling to assist the child and his parents to understand and practice appropriate problem solving, anger management, and interpersonal interaction, etc.); case management activities and coordination with other required services; and 24-hour emergency response. These services shall be limited annually to 26 weeks.

b. Therapeutic day treatment shall be provided in ~~sessions of~~ two or more hours per day in order to provide therapeutic interventions. Day treatment programs, limited annually to 780 units, provide evaluation; medication; education and management; opportunities to learn and use daily living skills and to enhance social and interpersonal skills (e.g., problem solving, anger management, community responsibility, increased impulse control, and appropriate peer relations, etc.); and individual, group and family psychotherapy.

6. Inpatient psychiatric services shall be covered for individuals younger than age 21 for medically necessary stays for the purpose of diagnosis and treatment of mental health and behavioral disorders identified under EPSDT when such services are rendered by:

a. A psychiatric hospital or an inpatient psychiatric program in a hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations; or a psychiatric facility that is accredited by the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities, the Council on Accreditation of Services for Families and Children or the Council on Quality and Leadership.

b. Inpatient psychiatric hospital admissions at general acute care hospitals and freestanding psychiatric

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hospitals shall also be subject to the requirements of 12 VAC 30-50-100, 12 VAC 30-50-105, and 12 VAC 30-60-25. Inpatient psychiatric admissions to residential treatment facilities shall also be subject to the requirements of Part XIV (12 VAC 30-130-850 et seq.) of this chapter.

c. Inpatient psychiatric services are reimbursable only when the treatment program is fully in compliance with 42 CFR Part 441 Subpart D, as contained in 42 CFR 441.151 (a) and (b) and 441.152 through 441.156. Each admission must be preauthorized and the treatment must meet DMAS requirements for clinical necessity.

C. Family planning services and supplies for individuals of child-bearing age.

1. Service must be ordered or prescribed and directed or performed within the scope of the license of a practitioner of the healing arts.

2. Family planning services shall be defined as those services that delay or prevent pregnancy. Coverage of such services shall not include services to treat infertility nor services to promote fertility.

## 12 VAC 30-50-226. Community mental health services.

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

*"Certified prescriber" means an employee of the local community services board or its designee who is skilled in the assessment and treatment of mental illness and who has completed a certification program approved by DMHMRSAS.*

*"Clinical experience" means practical experience in providing direct services to individuals with mental illness or mental retardation or the provision of direct geriatric services or special education services. Experience may include supervised internships, practicums, and field experience.*

"Code" means the Code of Virginia.

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

"DMHMRSAS" means Department of Mental Health, Mental Retardation and Substance Abuse Services consistent with Chapter 1 (§ 37.1-39 et seq.) of Title 37.1 of the Code of Virginia.

*"Human services field" means social work, gerontology, psychology, psychiatric rehabilitation, special education, sociology, counseling, vocational rehabilitation, and human services counseling or other degrees deemed equivalent by DMAS.*

"Individual" means the patient, client, or recipient of services set out herein.

"Individual service plan" or "ISP" means a comprehensive and regularly updated statement specific to the individual being treated containing, but not necessarily limited to, his treatment or training needs, his goals and measurable objectives to meet the identified needs, services to be provided with the

recommended frequency to accomplish the measurable goals and objectives, and estimated timetable for achieving the goals and objectives. ~~Such~~—The provider shall include the individual in the development of the ISP. To the extent that the individual's condition requires assistance for participation, assistance shall be provided. The ISP shall be ~~maintained up to date~~ updated as the needs and progress of the individual changes.

*"Licensed Mental Health Professional" or "LMHP" means an individual licensed in Virginia as a physician, a clinical psychologist, a professional counselor, a clinical social worker, or a psychiatric clinical nurse specialist.*

*"Qualified mental health professional" or "QMHP" means a clinician in the health professions who is trained and experienced in providing psychiatric or mental health services to individuals who have a psychiatric diagnosis. If the QMHP is also one of the defined licensed mental health professionals, the QMHP may perform the services designated for the Licensed Mental Health Professionals unless it is specifically prohibited by their licenses. These QMHPs may be either a:*

1. Physician who is a doctor of medicine or osteopathy and is licensed in Virginia;

2. Psychiatrist who is a doctor of medicine or osteopathy, specializing in psychiatry and is licensed in Virginia;

3. Psychologist who has a master's degree in psychology from an accredited college or university with at least one year of clinical experience;

4. Social worker who has a master's or bachelor's degree from a school of social work accredited or approved by the Council on Social Work Education and has at least one year of clinical experience;

5. Registered nurse who is licensed as a registered nurse in the Commonwealth and has at least one year of clinical experience; or

6. Mental health worker who has at least:

a. A bachelor's degree in human services or a related field from an accredited college and who has at least one year of clinical experience;

b. Registered Psychiatric Rehabilitation Provider (RPRP) registered with the International Association of Psychosocial Rehabilitation Services (IAPSRs) as of January 1, 2001;

c. A bachelor's degree from an accredited college in an unrelated field with an associate's degree in a human services field. The individual must also have three years clinical experience;

d. A bachelor's degree from an accredited college and certification by the International Association of Psychosocial Rehabilitation Services (IAPSRs) as a Certified Psychiatric Rehabilitation Practitioner (CPRP);

e. A bachelor's degree from an accredited college in an unrelated field that includes at least 15 semester credits



(or equivalent) in a human services field. The individual must also have three years clinical experience; or

f. Four years clinical experience.

"Qualified paraprofessional in mental health" or "QPPMH" means an individual who meets at least one of the following criteria:

1. Registered with the International Association of Psychosocial Rehabilitation Services (IAPSRs) as an Associate Psychiatric Rehabilitation Provider (APRP), as of January 1, 2001;

2. Has an associate's degree in one of the following related fields (social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, human services counseling) and has at least one year of experience providing direct services to persons with a diagnosis of mental illness;

3. An associate's or higher degree, in an unrelated field and at least three years experience providing direct services to persons with a diagnosis of mental illness, gerontology clients, or special education clients. The experience may include supervised internships, practicums and field experience.

4. A minimum of 90 hours classroom training in behavioral health and 12 weeks of experience under the direct personal supervision of a QMHP providing services to persons with mental illness and at least one year of clinical experience (including the 12 weeks of supervised experience).

5. College credits (from an accredited college) earned toward a bachelor's degree in a human service field that is equivalent to an associate's degree and one year's clinical experience.

6. Licensure by the Commonwealth as a practical nurse with at least one year of clinical experience.

B. Mental health services. The following services, with their definitions, shall be covered: day treatment/partial hospitalization, psychosocial rehabilitation, crisis services, intensive community treatment (ICT), and mental health supports. Staff travel time shall not be included in billable time for reimbursement.

1. Day treatment/partial hospitalization services shall be provided in sessions of two or more consecutive hours per day, which may be scheduled multiple times per week, to groups of individuals in a nonresidential setting. These services, limited annually to 780 units, include the major diagnostic, medical, psychiatric, psychosocial and psychoeducational treatment modalities designed for individuals who require coordinated, intensive, comprehensive, and multidisciplinary treatment but who do not require inpatient treatment. One unit of service shall be defined as a minimum of two but less than four hours on a given day. Two units of service shall be defined as at least four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day.

a. Day treatment/partial hospitalization services shall be time limited interventions that are more intensive than outpatient services and are required to stabilize an individual's psychiatric condition. The services are delivered when the individual is at risk of psychiatric hospitalization or is transitioning from a psychiatric hospitalization to the community.

b. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from mental, behavioral, or emotional illness that results in significant functional impairments in major life activities. Individuals must meet at least two of the following criteria on a continuing or intermittent basis:

(1) Experience difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of hospitalization or homelessness or isolation from social supports;

(2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;

(3) Exhibit behavior that requires repeated interventions or monitoring by the mental health, social services, or judicial system; or

(4) Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or recognize significantly inappropriate social behavior.

c. Individuals shall be discharged from this service when they are no longer in an acute psychiatric state and other less intensive services may achieve psychiatric stabilization.

d. Admission and services for time periods longer than 90 calendar days must be authorized based upon a face-to-face evaluation by a physician, psychiatrist, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, or psychiatric clinical nurse specialist.

2. Psychosocial rehabilitation shall be provided in sessions of at least two or more consecutive hours per day to groups of individuals in a nonresidential setting. These services, limited annually to 936 units, include assessment, education to teach the patient about his the diagnosed mental illness and appropriate medications to avoid complication and relapse, opportunities to learn and use independent living skills and to enhance social and interpersonal skills within a supportive and normalizing program structure and environment. One unit of service is defined as a minimum of two but less than four hours on a given day. Two units are defined as at least four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day.

a. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from mental, behavioral, or emotional illness that results in significant functional impairments in major life activities. Services are provided to individuals: (i) who without these services would be unable to remain in the community or (ii) who

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meet at least two of the following criteria on a continuing or intermittent basis:

- (1) Experience difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of psychiatric hospitalization, homelessness, or isolation from social supports;
- (2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;
- (3) Exhibit such inappropriate behavior that repeated interventions by the mental health, social services, or judicial system are necessary; or
- (4) Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or significantly inappropriate social behavior.

3. Crisis intervention shall provide immediate mental health care, available 24 hours a day, seven days per week, to assist individuals who are experiencing acute psychiatric dysfunction requiring immediate clinical attention. This service's objectives shall be to prevent exacerbation of a condition, to prevent injury to the client or others, and to provide treatment in the context of the least restrictive setting. Crisis intervention activities, ~~limited annually to 180 hours,~~ shall include assessing the crisis situation, providing short-term counseling designed to stabilize the individual, providing access to further immediate assessment and follow-up, and linking the individual and family with ongoing care to prevent future crises. Crisis intervention services may include office visits, home visits, preadmission screenings, telephone contacts, and other client-related activities for the prevention of institutionalization.

*a. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from an acute crisis of a psychiatric nature that puts the individual at risk of psychiatric hospitalization. Individuals must meet at least two of the following criteria at the time of admission to the service:*

- (1) Experience difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of psychiatric hospitalization, homelessness, or isolation from social supports;
- (2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;
- (3) Exhibit such inappropriate behavior that immediate interventions by mental health, social services, or the judicial system are necessary; or
- (4) Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or significantly inappropriate social behavior.

*b. The annual limit for crisis intervention is 720 units per year. A unit shall equal 15 minutes.*

4. Intensive community treatment (ICT), initially covered for a maximum of 26 weeks based on an initial assessment with continuation reauthorized for an additional 26 weeks annually based on written assessment and certification of need by a qualified mental health provider (QMHP), shall be defined as medical psychotherapy, psychiatric assessment, and medication management offered to outpatients outside the clinic, hospital, or office setting for individuals who will not or cannot be served in the clinic setting. *The annual unit limit shall be 130 units with a unit equaling one hour. To qualify for ICT, the individual must meet at least one of the following criteria:*

*a. The individual must be at high risk for psychiatric hospitalization or becoming or remaining homeless due to mental illness or require intervention by the mental health or criminal justice system due to inappropriate social behavior.*

*b. The individual has a history (three months or more) of a need for intensive mental health treatment or treatment for serious mental illness and chemical addiction and demonstrates a resistance to seek out and utilize appropriate treatment options.*

*(1) An assessment that documents eligibility and the need for this service must be completed prior to the initiation of services. This assessment must be maintained in the individual's records.*

*(2) A service plan must be initiated at the time of admission and must be fully developed within 30 days of the initiation of services.*

5. Crisis stabilization services for nonhospitalized individuals shall provide direct mental health care to individuals experiencing an acute psychiatric crisis which may jeopardize their current community living situation. Authorization may be for up to a 15-day period per crisis episode following a documented face-to-face assessment by a QMHP which is reviewed and approved by ~~a licensed physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, or a certified psychiatric registered nurse an LMHP~~ within 72 hours. The maximum limit on this service is up to eight hours (with a unit being one hour) per day up to 60 days annually. The goals of crisis stabilization programs shall be to avert hospitalization or rehospitalization, provide normative environments with a high assurance of safety and security for crisis intervention, stabilize individuals in psychiatric crisis, and mobilize the resources of the community support system and family members and others for on-going maintenance and rehabilitation. The services must be documented in the individual's records as having been provided consistent with the ISP in order to receive Medicaid reimbursement. The crisis stabilization program shall provide to recipients, as appropriate, psychiatric assessment including medication evaluation, treatment planning, symptom and behavior management, and individual and group counseling. This service may be provided in any of the following settings, but shall not be limited to: (i) the home of a recipient who lives with family or other primary caregiver; (ii) the home of a recipient who lives independently; or (iii) community-based programs

licensed by DMHMRSAS to provide residential services but which are not institutions for mental disease (IMDs). This service shall not be reimbursed for (i) recipients with medical conditions that require hospital care; (ii) recipients with primary diagnosis of substance abuse; or (iii) recipients with psychiatric conditions that cannot be managed in the community (i.e., recipients who are of imminent danger to themselves or others). Services must be documented through daily notes and a daily log of times spent in the delivery of services. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from an acute crisis of a psychiatric nature that puts the individual at risk of psychiatric hospitalization. Individuals must meet at least two of the following criteria at the time of admission to the service:

- a. Experience difficulty in establishing and maintaining normal interpersonal relationships to such a degree that the individual is at risk of psychiatric hospitalization, homelessness, or isolation from social supports;
- b. Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;
- c. Exhibit such inappropriate behavior that immediate interventions by the mental health, social services, or judicial system are necessary; or
- d. Exhibit difficulty in cognitive ability such that the individual is unable to recognize personal danger or significantly inappropriate social behavior.

6-5. Mental health support services shall be defined as training and supports to enable individuals to achieve and maintain community stability and independence in the most appropriate, least restrictive environment. These services may be authorized for six consecutive months. ~~Continuation of services may be authorized at six-month intervals or following any break in service by a QMHP based on a documented assessment and documentation of continuing need. The monthly limit on services shall be 31 units.~~ This program shall provide the following services in order to be reimbursed by Medicaid: training in or reinforcement of functional skills and appropriate behavior related to the individual's health and safety, activities of daily living, and use of community resources; assistance with medication management; and monitoring health, nutrition, and physical condition.

a. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from a condition due to mental, behavioral, or emotional illness that results in significant functional impairments in major life activities. Services are provided to individuals who without these services would be unable to remain in the community. The individual must have two of the following criteria on a continuing or intermittent basis:

- (1) Have difficulty in establishing or maintaining normal interpersonal relationships to such a degree that the individual is at risk of psychiatric hospitalization or homelessness or isolation from social supports;

(2) Require help in basic living skills such as maintaining personal hygiene, preparing food and maintaining adequate nutrition or managing finances to such a degree that health or safety is jeopardized;

(3) Exhibit such inappropriate behavior that repeated interventions by the mental health, social services, or judicial system are necessary; or

(4) Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or recognize significantly inappropriate social behavior.

b. The individual must demonstrate functional impairments in major life activities. This may include individuals with a dual diagnosis of either mental illness and mental retardation, or mental illness and substance abuse disorder.

c. The yearly limit for mental health support services is 372 units. A unit equals one hour.

## 12 VAC 30-50-420. Case management services for seriously mentally ill adults and emotionally disturbed children.

A. Target Group: The Medicaid eligible individual shall meet the DMHMRSAS definition for "serious mental illness," or "serious emotional disturbance in children and adolescents."

1. An active client for case management shall mean an individual for whom there is a plan of care in effect which requires regular direct or client-related contacts or communication or activity with the client, family, service providers, significant others and others including at least one face-to-face contact every 90 days. Billing can be submitted for an active client only for months in which direct or client-related contacts, activity or communications occur.

2. There shall be no maximum service limits for case management services ~~except case management services for individuals residing in institutions or medical facilities. For these individuals, reimbursement for case management shall be limited to thirty days immediately preceding discharge. Case management for institutionalized individuals may be billed for no more than two pre-discharge periods in 12 months shall not be billed for individuals who are in institutions for mental disease.~~

B. Services will be provided to the entire state.

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: Mental health services. Case management services assist individual children and adults, in accessing needed medical, psychiatric, social, educational, vocational, and other supports essential to meeting basic needs. Services to be provided include:

1. Assessment and planning services, to include developing an Individual Service Plan (does not include performing medical and psychiatric assessment but does include referral for such assessment);

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2. Linking the individual to services and supports specified in the individualized service plan;
3. Assisting the individual directly for the purpose of locating, developing or obtaining needed services and resources;
4. Coordinating services and service planning with other agencies and providers involved with the individual.
5. Enhancing community integration by contacting other entities to arrange community access and involvement, including opportunities to learn community living skills, and use vocational, civic, and recreational services;
6. Making collateral contacts with the individuals' significant others to promote implementation of the service plan and community adjustment;
7. Follow-up and monitoring to assess ongoing progress and to ensure services are delivered; and
8. Education and counseling which guides the client and develops a supportive relationship that promotes the service plan.

## E. Qualifications of Providers:

1. Services are not comparable in amount, duration, and scope. Authority of § 1915(g)(1) of the Act is invoked to limit case management providers for individuals with mental retardation and individuals with serious/chronic mental illness to the Community Services Boards only to enable them to provide services to serious/chronically mentally ill or mentally retarded individuals without regard to the requirements of § 1902(a)(10)(B) of the Act.

2. To qualify as a provider of services through DMAS for rehabilitative mental health case management, the provider of the services must meet certain criteria. These criteria shall be:

~~a. The provider must guarantee that clients have access to emergency services on a 24 hour basis;~~

~~b. The provider must demonstrate the ability to serve individuals in need of comprehensive services regardless of the individual's ability to pay or eligibility for Medicaid reimbursement;~~

~~e.a. The provider must have the administrative and financial management capacity to meet state and federal requirements;~~

~~d.b. The provider must have the ability to document and maintain individual case records in accordance with state and federal requirements;~~

~~e. c. The services shall be in accordance with the Virginia Comprehensive State Plan for Mental Health, Mental Retardation and Substance Abuse Services; and~~

~~f.d. The provider must be certified as a mental health case management agency licensed as a provider of case management services by the DMHMRSAS; and~~

*e. Persons providing case management services must have knowledge of:*

*(1) Services, systems, and programs available in the community including primary health care, support services, eligibility criteria and intake processes, generic community resources, and mental health, mental retardation, and substance abuse treatment programs;*

*(2) The nature of serious mental illness, mental retardation, and substance abuse depending on the population served, including clinical and developmental issues;*

*(3) Different types of assessments, including functional assessments, and their uses in service planning;*

*(4) Treatment modalities and intervention techniques, such as behavior management, independent living skills training, supportive counseling, family education, crisis intervention, discharge planning, and service coordination;*

*(5) The service planning process and major components of a service plan;*

*(6) The use of medications in the care or treatment of the population served; and*

*(7) All applicable federal and state laws, state regulations, and local ordinances.*

*f. Persons providing case management services must have skills in:*

*(1) Identifying and documenting an individual's needs for resources, services, and other supports;*

*(2) Using information from assessments, evaluations, observation, and interviews to develop individual service plans;*

*(3) Identifying services and resources within the community and established service system to meet the individual's needs; and documenting how resources, services, and natural supports, such as family, can be utilized to achieve an individual's personal habilitative/rehabilitative and life goals; and*

*(4) Coordinating the provision of services by public and private providers.*

*g. Persons providing case management services must have abilities to:*

*(1) Work as team members, maintaining effective inter- and intra-agency working relationships;*

*(2) Work independently, performing position duties under general supervision; and*

*(3) Engage and sustain ongoing relationships with individuals receiving services.*

3. Providers may bill Medicaid for mental health case management only when the services are provided by qualified mental health case managers. ~~The case manager must possess a combination of mental health work experience or relevant education which indicates that the individual possesses the following knowledge, skills, and~~

abilities. The incumbent must have at entry level the following knowledge, skills and abilities. These must be documented or observable in the application form or supporting documentation or in the interview (with appropriate documentation).

a. Knowledge of:

- (1) the nature of serious mental illness in adults and serious emotional disturbance in children and adolescents
- (2) treatment modalities and intervention techniques, such as behavior management, independent living skills training, supportive counseling, family education, crisis intervention, discharge planning and service coordination
- (3) different types of assessments, including functional assessment, and their uses in service planning
- (4) consumers' rights
- (5) local community resources and service delivery systems, including support services (e.g. housing, financial, social welfare, dental, educational, transportation, communication, recreational, vocational, legal/advocacy), eligibility criteria and intake processes, termination criteria and procedures, and generic community resources (e.g. churches, clubs, self-help groups)
- (6) types of mental health programs and services
- (7) effective oral, written and interpersonal communication principles and techniques
- (8) general principles of record documentation
- (9) the service planning process and major components of a service plan

b. Skills in:

- (1) interviewing
- (2) observing, recording and reporting on an individual's functioning
- (3) identifying and documenting a consumer's needs for resources, services and other supports
- (4) using information from assessments, evaluations, observation and interviews to develop service plans
- (5) identifying services within the community and established service system to meet the individual's needs
- (6) formulating, writing and implementing individualized service plans to promote goal attainment for persons with serious mental illness and emotional disturbances
- (7) negotiation with consumers and service providers
- (8) coordinating the provision of services by diverse public and private providers
- (9) identifying community resources and organizations and coordinating resources and activities

- (10) using assessment tools (e.g. level of function scale, life profile scale)

e. Abilities to:

- (1) demonstrate a positive regard for consumers and their families (e.g. treating consumers as individuals, allowing risk taking, avoiding stereotypes of people with mental illness, respecting consumers' and families' privacy, believing consumers are valuable members of society)
- 2) be persistent and remain objective
- (3) work as a team member, maintaining effective inter- and intra-agency working relationships
- (4) work independently, performing position duties under general supervision
- (5) communicate effectively, verbally and in writing
- (6) establish and maintain ongoing supportive relationships

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~~ shall not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

H. Case management services may not be billed concurrently with intensive community treatment services, treatment foster care case management services or intensive in-home services for children and adolescents.

## **12 VAC 30-50-430. Case management services for youth at risk of serious emotional disturbance.**

A. Target Group: Medicaid eligible individuals who meet the DMHMRSAS definition of youth at risk of serious emotional disturbance.

1. An active client shall mean an individual for whom there is a plan of care in effect which requires regular direct or client-related contacts or communication or activity with the client, family, service providers, significant others and others including at least one face-to-face contact every 90-days. Billing can be submitted for an active client only for months in which direct or client-related contacts, activity or communications occur.
2. There shall be no maximum service limits for case management services ~~except case management services for individuals residing in institutions or medical facilities. For these individuals, reimbursement for case management shall be limited to thirty days immediately preceding discharge. Case management for institutionalized individuals may be billed for no more than two predischarge~~

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~~periods in 12 months services must not be billed for individuals who are in institutions for mental disease.~~

B. Services will be provided in the entire state.

C. Comparability of Services: Services are not comparable in amount, duration, and scope. Authority of § 1915(g)(1) of the Act is invoked to provide services without regard to the requirements of § 1902(a)(10)(B) of the Act.

D. Definition of Services: Mental health services. Case management services assist youth at risk of serious emotional disturbance in accessing needed medical, psychiatric, social, educational, vocational, and other supports essential to meeting basic needs. Services to be provided include:

1. Assessment and planning services, to include developing an Individual Service Plan;
2. Linking the individual directly to services and supports specified in the treatment/services plan;
3. Assisting the individual directly for the purpose of locating, developing or obtaining needed service and resources;
4. Coordinating services and service planning with other agencies and providers involved with the individual;
5. Enhancing community integration by contacting other entities to arrange community access and involvement, including opportunities to learn community living skills, and use vocational, civic, and recreational services;
6. Making collateral contacts which are non-therapy contacts with an individual's significant others to promote treatment and/or community adjustment;
7. Following-up and monitoring to assess ongoing progress and ensuring services are delivered; and
8. Education and counseling which guides the client and develops a supportive relationship that promotes the service plan.

E. Qualifications of Providers

1. ~~Services are not comparable in amount, duration, and scope. Authority of § 1915(g)(1) of the Act is invoked to limit case management providers, to the community services boards only, to enable them to provide services to serious/chronically mentally ill or mentally retarded individuals without regard to the requirements of § 1902(a)(10)(B) of the Act. To qualify as a provider of case management services to youth at risk of serious emotional disturbance, the provider of the services must meet certain the following criteria. These criteria shall be:~~

- ~~a. The provider must guarantee that clients have access to emergency services on a 24 hour basis;~~
- ~~b. The provider must demonstrate the ability to serve individuals in need of comprehensive services regardless of the individual's ability to pay or eligibility for Medicaid reimbursement;~~
- e.a. The provider must have the administrative and financial management capacity to meet state and federal

requirements regarding its capacity for administrative and financial management;

~~d.b. The provider must have the ability to document and maintain individual case records in accordance with state and federal requirements;~~

~~e.c. The provider must provide services shall be in accordance with the Virginia Comprehensive State Plan for Mental Health, Mental Retardation and Substance Abuse Services; and~~

~~f.d. The provider must be certified as a mental health case management agency licensed as a provider of case management services by the DMHMRSAS-; and~~

e. Persons providing case management services must have knowledge of:

(1) Services, systems, and programs available in the community including primary health care, support services, eligibility criteria and intake processes, generic community resources, and mental health, mental retardation, and substance abuse treatment programs;

(2) The nature of serious mental illness, mental retardation and/or substance abuse depending on the population served, including clinical and developmental issues;

(3) Different types of assessments, including functional assessments, and their uses in service planning;

(4) Treatment modalities and intervention techniques, such as behavior management, independent living skills training, supportive counseling, family education, crisis intervention, discharge planning, and service coordination;

(5) The service planning process and major components of a service plan;

(6) The use of medications in the care or treatment of the population served; and

(7) All applicable federal and state laws, state regulations, and local ordinances.

f. Persons providing case management services must have skills in:

(1) Identifying and documenting an individual's need for resources, services, and other supports;

(2) Using information from assessments, evaluations, observation, and interviews to develop individual service plans;

(3) Identifying services and resources within the community and established service system to meet the individual's needs; and documenting how resources, services, and natural supports, such as family, can be utilized to achieve an individual's personal habilitative/rehabilitative and life goals; and

(4) Coordinating the provision of services by diverse public and private providers.

*g. Persons providing case management services must have abilities to:*

- (1) *Work as team members, maintaining effective inter- and intra-agency working relationships;*
- (2) *Work independently performing position duties under general supervision; and*
- (3) *Engage and sustain ongoing relationships with individuals receiving services.*

2-F. Providers may bill Medicaid for mental health case management to youth at risk of serious emotional disturbance only when the services are provided by qualified mental health case managers. The case manager must possess a combination of mental health work experience or relevant education which indicates that the individual possesses the following knowledge, skills, and abilities. The incumbent must have at entry level the following knowledge, skills and abilities. These must be documented or observable in the application form or supporting documentation or in the interview (with appropriate documentation).

*a. Knowledge of:*

- (1) ~~The nature of serious mental illness in adults and serious emotional disturbance in children and adolescents~~
- (2) ~~Treatment modalities and intervention techniques, such as behavior management, independent living skills training, supportive counseling, family education, crisis intervention, discharge planning and service coordination~~
- (3) ~~Different types of assessments, including functional assessment, and their uses in service planning~~
- (4) ~~Consumer's rights~~
- (5) ~~Local community resources and service delivery systems, including support services (e.g. housing, financial, social welfare, dental, educational, transportation, communication, recreational, vocational, legal/advocacy), eligibility criteria and intake processes, termination criteria and procedures, and generic community resources (e.g. churches, clubs, self-help groups)~~
- (6) ~~Types of mental health programs and services~~
- (7) ~~Effective oral, written and interpersonal communication principles and techniques~~
- (8) ~~General principles of record documentation~~
- (9) ~~The service planning process and major components of a service plan~~

*b. Skills in:*

- (1) ~~Interviewing~~
- (2) ~~Observing, recording and reporting on an individual's functioning~~

~~(3) Identifying and documenting a consumer's needs for resources, services and other supports~~

~~(4) Using information from assessments, evaluations, observation and interviews to develop service plans~~

~~(5) Identifying services within the community and established service system to meet the individual's needs~~

~~(6) Formulating, writing and implementing individualized service plans to promote goal attainment for persons with serious mental illness and emotional disturbances~~

~~(7) Negotiating with consumers and service providers~~

~~(8) Coordinating the provision of services by diverse public and private providers~~

~~(9) Identifying community resources and organizations and coordinating resources and activities~~

~~(10) Using assessment tools (e.g. level of function scale, life profile scale)~~

*c. Abilities to:*

~~(1) Demonstrate a positive regard for consumers and their families (e.g. treating consumers as individuals, allowing risk taking, avoiding stereotypes of people with mental illness, respecting consumers' and families' privacy, believing consumers are valuable members of society)~~

~~(2) Be persistent and remain objective~~

~~(3) Work as a team member, maintaining effective inter- and intra- agency working relationships~~

~~(4) Work independently, performing position duties under general supervision~~

~~(5) Communicate effectively, verbally and in writing~~

~~(6) Establish and maintain ongoing supportive relationships~~

F-G. 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-H. 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.

*I. Case management may not be billed concurrently with intensive community treatment services, treatment foster care case management services, or intensive in-home services for children and adolescents.*

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## 12 VAC 30-50-510. Requirements and limits applicable to specific services: expanded prenatal care services.

A. Comparability of services: Services are not comparable in amount, duration and scope. Authority of § 9501(b) of COBRA 1985 allows an exception to provide service to pregnant women without regard to the requirements of § 1902(a)(10)(B).

B. Definition of services: Expanded prenatal care services will offer a more comprehensive prenatal care services package to improve pregnancy outcome. The expanded prenatal care services provider may perform the following services:

1. Patient education. Includes six classes of education for pregnant women in a planned, organized teaching environment including but not limited to topics such as body changes, danger signals, substance abuse, labor and delivery information, and courses such as planned parenthood, Lamaze, smoking cessation, and child rearing. Instruction must be rendered by Medicaid certified providers who have appropriate education, license, or certification.

2. Homemaker. Includes those services necessary to maintain household routine for pregnant women, primarily in third trimester, who need bed rest. Services include, but are not limited to, light housekeeping, child care, laundry, shopping, and meal preparation. Must be rendered by Medicaid certified providers.

3. Nutrition. Includes nutritional assessment of dietary habits, and nutritional counseling and counseling follow-up. All pregnant women are expected to receive basic nutrition information from their medical care providers or the WIC Program. Must be provided by a Registered Dietitian (R.D.) or a person with a master's degree in nutrition, maternal and child health, or clinical dietetics with experience in public health, maternal and child nutrition, or clinical dietetics.

4. Blood glucose meters. Effective on and after July 1, 1993, blood glucose test products shall be provided when they are determined by the physician to be medically necessary for pregnant women suffering from a condition of diabetes which is likely to negatively affect their pregnancy outcomes. The women authorized to receive a blood glucose meter must also be referred for nutritional counseling. Such products shall be provided by Medicaid enrolled durable medical equipment providers.

5. Residential substance abuse treatment services for pregnant and postpartum women. Includes comprehensive, intensive residential treatment for pregnant and postpartum women to improve pregnancy outcomes by eliminating the substance abuse problem. Must be provided consistent with standards established to assure high quality of care in 12 VAC 30-60-40 ~~et seq.~~ Residential substance abuse treatment services for pregnant and postpartum women shall provide intensive intervention services in residential facilities other than inpatient facilities and shall be provided to pregnant and postpartum women (up to 60 days postpartum) with serious substance abuse disorders, for the purposes of improving the pregnancy outcome, treating the substance abuse disorder, strengthening the maternal relationship with existing children and the infant, and

achieving and maintaining a sober and drug-free lifestyle. The woman may keep her infant and other dependent children with her at the treatment center. The daily rate is inclusive of all services which are provided to the pregnant woman in the program. A unit of service shall be one day. The maximum number of units to be covered ~~for one adult in her lifetime is 330 days of continuous service per pregnancy is 300 days~~, not to exceed 60 days postpartum. ~~The lifetime limit may only be provided during one course of treatment.~~ These services must be reauthorized every 90 days and after any absence of less than 72 hours which was not first authorized by the program director. The program director must document the reason for granting permission for any absences in the clinical record of the recipient. An unauthorized absence of more than 72 hours shall terminate Medicaid reimbursement for this service. Unauthorized hours absent from treatment shall be included in this lifetime service limit.

~~4.~~ This type of treatment shall provide the following types of services or activities in order to be eligible to receive reimbursement by Medicaid:

a. Substance abuse rehabilitation, counseling and treatment must include, but is not necessarily limited to, education about the impact of alcohol and other drugs on the fetus and on the maternal relationship; smoking cessation classes if needed; education about relapse prevention to recognize personal and environmental cues which may trigger a return to the use of alcohol or other drugs; and the integration of urine toxicology screens and other toxicology screens, as appropriate, to monitor intake of illicit drugs and alcohol and provide information for counseling.

b. Training about pregnancy and fetal development shall be provided at a level and in a manner comprehensible by the participating women to include, but is not necessarily limited to, the impact of alcohol and other drugs on fetal development, normal physical changes associated with pregnancy as well as training in normal gynecological functions, personal nutrition, delivery expectations, and infant nutrition.

c. Initial and ongoing assessments shall be provided specifically for substance abuse, including, but not limited to, psychiatric and psychological assessments.

d. Symptom and behavior management as appropriate for co-existing mental illness shall be provided, including medication management and ongoing psychological treatment.

e. Personal health care training and assistance shall be provided. Such training shall include:

(1) Educational services and referral services for testing, counseling, and management of HIV, provided as described in 42 USC § 300x-24(b)(6)(A) and (B), including early intervention services as defined in 42 USC § 300x-24(b)(7) and in coordination with the programs identified in 45 CFR 96.128;

(2) Educational services and referral services for testing, counseling, and management of tuberculosis,



including tuberculosis services as described in 42 USC § 300x-24(a)(2) (1992) and in coordination with the programs identified in 45 CFR 96.127; and

(3) Education services and referral services for testing, counseling, and management of hepatitis.

f. Case coordination with providers of primary medical care shall be provided, including obstetrical/gynecological services for the recipient.

g. Training in decision-making, anger management and conflict resolution shall be provided.

h. Extensive discharge planning shall be provided in collaboration with the recipient, any appropriate significant others, and representatives of appropriate service agencies.

6. ~~Day~~ Substance abuse *day* treatment for pregnant and postpartum women. Includes comprehensive, intensive day treatment for pregnant and postpartum women to improve pregnancy outcomes by eliminating the substance abuse problem. Must be provided consistent with the standards established to assure high quality of care in 12 VAC 30-60.

Substance abuse day treatment services for pregnant and postpartum women shall provide intensive intervention services at a central location lasting two or more consecutive hours per day, which may be scheduled multiple times per week, to pregnant and postpartum women (up to 60 days postpartum) with serious substance abuse problems for the purposes of improving the pregnancy outcome, treating the substance abuse disorder, and achieving and maintaining a sober and drug-free lifestyle. The pregnant woman may keep her infant and other dependent children with her at the treatment center. One unit of service shall equal two but no more than 3.99 hours on a given day. Two units of service shall equal at least four but no more than 6.99 hours on a given day. Three units of service shall equal seven or more hours on a given day. ~~The lifetime limit on this service shall be 440 400 units in a 12-month period per pregnancy, not to exceed 60 days post partum. The lifetime limit may only be provided during one course of treatment.~~ Services must be reauthorized every 90 days and after any absence of five consecutive days from scheduled treatment without staff permission. More than two episodes of five-day absences from scheduled treatment without prior permission from the program director or one absence exceeding seven days of scheduled treatment without prior permission from the program director shall terminate Medicaid funding for this service. The program director must document the reason for granting permission for any absences in the clinical record of the recipient. Unauthorized hours absent from treatment shall be included in the lifetime service limit. In order to be eligible to receive Medicaid payment the following types of services shall be provided:

a. Substance abuse rehabilitation, counseling and treatment shall be provided, including education about the impact of alcohol and other drugs on the fetus and on the maternal relationship, smoking cessation classes if needed; relapse prevention to recognize personal and environmental cues which may trigger a return to the use of alcohol or other drugs; and the integration of urine

toxicology screens and other toxicology screens, as appropriate, to monitor intake of illicit drugs and alcohol and provide information for counseling.

b. Training about pregnancy and fetal development shall be provided at a level and in a manner comprehensible by the participating women to include, but not necessarily be limited to, the impact of alcohol and other drugs on fetal development; normal physical changes associated with pregnancy, as well as training in normal gynecological functions; personal nutrition; delivery expectations; and infant nutrition.

c. Initial and ongoing assessments shall be provided specifically for substance abuse, including psychiatric and psychological assessments.

d. Symptom and behavior management as appropriate for co-existing mental illness shall be provided, including medication management and ongoing psychological treatment.

e. Personal health care training and assistance shall be provided. Such training shall include:

(1) Educational services and referral services for testing, counseling, and management of HIV, provided as described in 42 USC § 300x-24(b)(6)(A) and (B), including early intervention services as defined in 42 USC § 300x-24(b)(7) and in coordination with the programs identified in 45 CFR 96.128;

(2) Educational services and referral services for testing, counseling, and management of tuberculosis, including tuberculosis services as described in 42 USC § 300x-24(a)(2) (1992) and in coordination with the programs identified in 45 CFR 96.127; and

(3) Educational services and referral services for testing, counseling, and management of hepatitis.

f. Case coordination with providers of primary medical care shall be provided, including obstetrics and gynecology services for the recipient.

g. Training in decision-making, anger management and conflict resolution shall be provided.

h. Extensive discharge planning shall be provided in collaboration with the recipient, any appropriate significant others, as well as representatives of appropriate service agencies.

## C. Qualified providers.

1. Any duly enrolled provider which the department determines to be qualified who has signed an agreement may provide expanded prenatal care services.

2. The qualified providers will provide prenatal care services regardless of their capacity to provide any other services under the Plan.

3. Providers of substance abuse treatment services must be licensed and approved by the Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS). Substance abuse services providers shall

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be required to meet the standards and criteria established by DMHMRSAS- and the following additional requirements:

a. The provider shall ensure that recipients have access to emergency services on a 24-hour basis seven days per week, 365 days per year, either directly or via an on-call system.

b. Services must be authorized following face-to-face evaluation/diagnostic assessment conducted by one of the following professionals who must not be the same individual providing nonmedical clinical supervision:

(1) A counselor who has completed master's level training in either psychology, social work, counseling or rehabilitation who is also either certified as a substance abuse counselor by the Board of Counselors, as a certified addictions counselor by the Substance Abuse Certification Alliance of Virginia, or who holds any certification from the National Association of Alcoholism and Drug Abuse Counselors.

(2) A professional licensed by the appropriate board of the Virginia Department of Health Professions as either a professional counselor, clinical social worker, registered nurse, clinical psychologist, or physician who demonstrates competencies in all of the following areas of addiction counseling: clinical evaluation; treatment planning; referral; service coordination; counseling; client, family, and community education; documentation; professional and ethical responsibilities; or as a licensed substance abuse professional.

(3) A professional certified as either a clinical supervisor by the Substance Abuse Certification Alliance of Virginia or as a master addiction counselor by the National Association of Alcoholism and Drug Abuse Counselors.

c. A provider of substance abuse treatment services for pregnant and postpartum women must meet the following requirements for day treatment services for pregnant and postpartum women:

(1) Medical care must be coordinated by a nurse case manager who is a registered nurse licensed by the Board of Nursing and who demonstrates competency in the following areas:

- (a) Health assessment;
- (b) Mental health;
- (c) Addiction;
- (d) Obstetrics and gynecology;
- (e) Case management;
- (f) Nutrition;
- (g) Cultural differences; and
- (h) Counseling.

(2) The nurse case manager shall be responsible for coordinating the provision of all immediate primary care

and shall establish and maintain communication and case coordination between the women in the program and necessary medical services, specifically with each obstetrician providing services to the women. In addition, the nurse case manager shall be responsible for establishing and maintaining communication and consultation linkages to high-risk obstetrical units, including regular conferences concerning the status of the woman and recommendations for current and future medical treatment.

## **12 VAC 30-60-61. Services related to the Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT); community mental health services for children.**

A. Intensive in-home services for children and adolescents.

1. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from a condition due to mental, behavioral or emotional illness which results in significant functional impairments in major life activities. Individuals must meet at least two of the following criteria on a continuing or intermittent basis:

- a. Have difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of hospitalization or out-of-home placement because of conflicts with family or community.
- b. Exhibit such inappropriate behavior that repeated interventions by the mental health, social services or judicial system are necessary.
- c. Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or recognize significantly inappropriate social behavior.

2. At admission, an appropriate assessment is made and documented by the LMHP or the QMHP and approved by the LMHP, documenting that service needs can best be met through intervention provided typically but not solely in the client's residence; service must be recommended in the Individual Service Plan (ISP) which must be fully completed within 30 days of initiation of services.

3. Services must be directed toward the treatment of the eligible child and delivered primarily in the family's residence. ~~Some services may be delivered while accompanying family members to community agencies or in other locations with the child present. In some circumstances, such as lack of privacy or unsafe conditions, services may be provided in the community if supported by the needs assessment and ISP.~~

4. These services shall be used provided when out-of-home placement due to the clinical needs of the child is a risk and either put the child at risk for out-of-home placement.

a. When services that are far more intensive than outpatient clinic care are required to stabilize the child in the family situation, or

b. When the child's residence as the setting for services is more likely to be successful than a clinic.

~~5. Services are not appropriate for~~ *may not be billed when provided to a family while the child is absent from not residing in the home.*

6. Services shall also be used to facilitate the transition to home from an out-of-home placement when services more intensive than outpatient clinic care are required for the transition to be successful. The child and responsible parent/guardian must be available and in agreement to participate in the transition.

7. At least one parent or responsible adult with whom the child is living must be willing to participate in *the intensive* in-home services with the goal of keeping the child with the family.

~~8. The enrolled provider of intensive in-home services for children and adolescents~~ must be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services *as a provider of intensive in-home services.*

*9. Services must be provided by an LMHP or a QMHP as defined in 12 VAC 30-50-226. Reimbursement shall not be provided for such services when they have been rendered by a QPPMH as defined in 12 VAC 30-50-226.*

~~9-10.~~ The billing unit for intensive in-home service is one hour. Although the pattern of service delivery may vary, *intensive* in-home services is an intensive service provided to individuals for whom there is a plan of care in effect which demonstrates the need for a minimum of ~~five~~ *three* hours a week of intensive in-home service, and includes a plan for service provision of a minimum of ~~five~~ *three* hours of service delivery per client/family per week in the initial phase of treatment. It is expected that the pattern of service provision may show more intensive services and more frequent contact with the client and family initially with a lessening or tapering off of intensity toward the latter weeks of service. ~~Intensive in-home services below the five hour a week minimum may be covered. However, variations in this pattern must be consistent with the individual service plan.~~ Service plans must incorporate a discharge plan which identifies transition from intensive in-home to less intensive or nonhome based services.

~~10. The intensity of service dictates that caseload sizes should be six or fewer cases at any given time. If on review caseloads exceed this limit, the provider will be required to submit a corrective action plan designed to reduce caseload size to the required limit unless the provider can demonstrate that enough of the cases in the caseload are moving toward discharge so that the caseload standard will be met within three months by attrition. Failure to maintain required caseload sizes in two or more review periods may result in termination of the provider agreement unless the provider demonstrates the ability to attain and maintain the required caseload size.~~

*11. The provider must ensure that the maximum staff-to-caseload ratio fully meets the needs of the individual.*

*12. Since case management services are an integral and inseparable part of this service, case management services*

*may not be billed separately for periods of time when intensive in-home services are being provided.*

~~14-13.~~ Emergency assistance shall be available 24 hours per day, seven days a week.

## B. Therapeutic day treatment for children and adolescents.

1. Therapeutic day treatment is appropriate for children and adolescents who meet one of the following:

a. Children and adolescents who require year-round treatment in order to sustain behavior or emotional gains.

b. Children and adolescents whose behavior and emotional problems are so severe they cannot be handled in self-contained or resource emotionally disturbed (ED) classrooms without:

(1) This programming during the school day; or

(2) This programming to supplement the school day or school year.

c. Children and adolescents who would otherwise be placed on homebound instruction because of severe emotional/behavior problems that interfere with learning.

d. Children and adolescents who (i) have deficits in social skills, peer relations or dealing with authority; (ii) are hyperactive; (iii) have poor impulse control; (iv) are extremely depressed or marginally connected with reality.

e. Children in preschool enrichment and early intervention programs when the children's emotional/behavioral problems are so severe that they cannot function in these programs without additional services.

*2. Such services must not duplicate those services provided by the school.*

~~2-3.~~ Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from a condition due to mental, behavioral or emotional illness which results in significant functional impairments in major life activities. Individuals must meet at least two of the following criteria on a continuing or intermittent basis:

a. Have difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of hospitalization or out-of-home placement because of conflicts with family or community.

b. Exhibit such inappropriate behavior that repeated interventions by the mental health, social services or judicial system are necessary.

c. Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or recognize significantly inappropriate social behavior.

~~3-4.~~ The *enrolled* provider of therapeutic day treatment for child and adolescents services must be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services *to provide day support services.*

*5. Services must be provided by an LMHP, a QMHP or a QPPMH who is supervised by a QMHP or LMHP.*

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4-6. The minimum staff-to-youth ratio shall ensure that adequate staff is available to meet the needs of the youth identified on the ISP.

5-7. The program must operate a minimum of two hours per day and may offer flexible program hours (i.e., before ~~and/or~~ or after school ~~and/or~~ or during the summer). One unit of service is defined as a minimum of two hours but less than three hours in a given day. Two units of service shall be defined as a minimum of three but less than five hours in a given day. Three units of service shall be defined as five or more hours of service in a given day.

6-8. Time for academic instruction when no treatment activity is going on cannot be included in the billing unit.

7-9. Services shall be provided following a diagnostic assessment ~~when that is~~ authorized by the physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker or certified psychiatric nurse ~~and an LMHP~~. Services must be provided in accordance with an ISP which must be fully completed within 30 days of initiation of the service.

## 12 VAC 30-60-143. Mental health services utilization criteria.

A. Utilization reviews shall include determinations that providers meet ~~all the requirements of Virginia state regulations found in 12 VAC 30-50-95 through 12 VAC 30-50-340~~. the following requirements:

1. The provider shall meet the federal and state requirements for administrative and financial management capacity.
2. The provider shall document and maintain individual case records in accordance with state and federal requirements.
3. The provider shall ensure eligible recipients have free choice of providers of mental health services and other medical care under the Individual Service Plan.

B. Day treatment/partial hospitalization services shall be provided following a diagnostic assessment ~~when~~ and be authorized by the physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, or ~~certified psychiatric nurse, and in accordance with licensed clinical nurse specialist-psychiatric~~. An ISP which shall be fully completed by either the LMHP or the QMHP as defined at 12 VAC 30-50-226 within 30 days of service initiation.

1. The enrolled provider of day treatment/partial hospitalization shall be licensed by DMHMRSAS as providers of day treatment services.
2. Services shall be provided by an LMHP, a QMHP, or a qualified paraprofessional under the supervision of a QMHP or an LMHP as defined at 12 VAC 30-50-226.
- 2-3. The program shall operate a minimum of two continuous hours in a 24-hour period. ~~One unit of service shall be defined as a minimum of two but less than four hours on a given day. Two units of service shall be defined as at least four but less than seven hours in a given day.~~

~~Three units of service shall be defined as seven or more hours in a given day.~~

~~3- 4. Individuals shall be discharged from this service when they are no longer in an acute psychiatric state or when other less intensive services may achieve or maintain psychiatric stabilization. Admission and services longer than 90 calendar days must be authorized based upon a face-to-face evaluation by a physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, or certified psychiatric nurse.~~

4. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from a condition due to mental, behavioral or emotional illness which results in significant functional impairments in major life activities. Individuals must meet at least two of the following criteria on a continuing or intermittent basis:

- a. ~~Have difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of hospitalization or homelessness because of conflicts with family or community.~~
- b. ~~Require help in basic living skills such as maintaining personal hygiene, preparing food and maintaining adequate nutrition or managing finances to such a degree that health or safety is jeopardized.~~
- c. ~~Exhibit such inappropriate behavior that repeated interventions by the mental health, social services, or judicial system are necessary.~~
- d. ~~Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or recognize significantly inappropriate social behavior.~~

C. Psychosocial rehabilitation services shall be provided to those individuals who have experienced long-term or repeated psychiatric hospitalization, or who ~~lack daily living skills experience difficulty in activities of daily living and interpersonal skills, or whose support system is limited or nonexistent, or who are unable to function in the community without intensive intervention or when long-term services are needed to maintain the individual in the community.~~

1. Psychosocial rehabilitation services shall be provided following an assessment which clearly documents the need for services ~~and in accordance with~~. The assessment shall be completed by an LMHP, or a QMHP, and approved by a LMHP within 30 days of admission to services. An ISP which shall be fully completed by the LMHP or the QMHP within 30 days of service initiation. Every three months, the LMHP or the QMHP must review, modify as appropriate, and update the ISP.
2. Psychosocial rehabilitation services of any individual that continue more than six months must be reviewed by an LMHP who must document the continued need for the service. The ISP shall be rewritten at least annually.
- 2-3. The enrolled provider of psychosocial rehabilitation services shall be licensed by DMHMRSAS as a provider of psychosocial rehabilitation or clubhouse services.

4. ~~Psychosocial rehabilitation services may be provided by an LMHP, a QMHP, or a qualified paraprofessional under the supervision of a QMHP or an LMHP.~~

~~3-5. The program shall operate a minimum of two continuous hours in a 24-hour period. One unit of service is defined as a minimum of two but less than four hours on a given day. Two units are defined as at least four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day.~~

4- 6. Time allocated for field trips may be used to calculate time and units if the goal is to provide training in an integrated setting, and to increase the client's understanding or ability to access community resources.

~~5. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from a condition due to mental, behavioral or emotional illness which results in significant functional impairments in major life activities. Individuals must meet at least two of the following criteria on a continuing or intermittent basis:~~

~~a. Have difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of hospitalization or homelessness because of conflicts with family or community.~~

~~b. Require help in basic living skills such as maintaining personal hygiene, preparing food and maintaining adequate nutrition or managing finances to such a degree that health or safety is jeopardized.~~

~~c. Exhibit such inappropriate behavior that repeated interventions by the mental health, social services or judicial system are necessary.~~

~~d. Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or recognize significantly inappropriate social behavior.~~

D. Admission to crisis intervention services is indicated following a marked reduction in the individual's psychiatric, adaptive or behavioral functioning or an extreme increase in personal distress. ~~Crisis intervention may be the initial contact with a client.~~

1. ~~The provider of crisis intervention services~~ *provider* shall be licensed as ~~an a provider of outpatient Program services~~ by DMHMRSAS.

2. Client-related activities provided in association with a face-to-face contact are reimbursable.

3. An Individual Service Plan (ISP) shall not be required for newly admitted individuals to receive this service. Inclusion of crisis intervention as a service on the ISP shall not be required for the service to be provided on an emergency basis.

4. For individuals receiving scheduled, short-term counseling as part of the crisis intervention service, an ISP must be developed or revised to reflect the short-term counseling goals by the fourth face-to-face contact.

5. Reimbursement shall be provided for short-term crisis counseling contacts occurring within a 30-day period from

the time of the first face-to-face crisis contact. Other than the annual service limits, there are no restrictions (regarding number of contacts or a given time period to be covered) for reimbursement for unscheduled crisis contacts.

6. Crisis intervention services may be provided to eligible individuals outside of the clinic and billed, provided the provision of out-of-clinic services is clinically/programmatically appropriate. Travel by staff to provide out-of-clinic services is not reimbursable. Crisis intervention may involve contacts with the family or significant others. *If other clinic services are billed at the same time as crisis intervention, documentation must clearly support the separation of the services with distinct treatment goals.*

7. *An LMHP, a QMHP, or a certified prescriber must conduct a face-to-face assessment. If the QMHP performs the assessment, it must be reviewed and approved by an LMHP or a certified prescriber within 72 hours of the face-to-face assessment. The assessment shall document the need for and the anticipated duration of the crisis service. Crisis intervention will be provided by an LMHP, a certified prescriber, or a QMHP.*

8. *Crisis intervention shall not require an ISP.*

9. *For an admission to a freestanding inpatient psychiatric facility for individuals younger than age 21, federal regulations (42 CFR 441.152) require certification of the admission by an independent team. The independent team must include mental health professionals, including a physician. Preadmission screenings cannot be billed unless the requirement for an independent team, with a physician's signature, is met.*

10. *Services must be documented through daily notes and a daily log of time spent in the delivery of services.*

E. Case management services (pursuant to 12 VAC 30-50-226).

1. Reimbursement shall be provided only for "active" case management clients, as defined. An active client for case management shall mean an individual for whom there is a plan of care in effect which requires regular direct or client-related contacts or activity or communication with the client or families, significant others, service providers, and others including a minimum of one face-to-face client contact within a 90-day period. Billing can be submitted only for months in which direct or client-related contacts, activity or communications occur.

2. The Medicaid eligible individual shall meet the DMHMRSAS criteria of serious mental illness, serious emotional disturbance in children and adolescents, or youth at risk of serious emotional disturbance.

3. There shall be no maximum service limits for case management services. *Case management shall not be billed for persons in institutions for mental disease.*

4. The ISP must document the need for case management and be fully completed within 30 days of initiation of the service, and the case manager shall review the ISP every three months. The review will be due by the last day of the

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third month following the month in which the last review was completed. A grace period will be granted up to the last day of the fourth month following the month of the last review. When the review was completed in a grace period, the next subsequent review shall be scheduled three months from the month the review was due and not the date of actual review.

5. The ISP shall be updated at least annually.

6. *The provider of case management services shall be licensed by DMHMRSAS as a provider of case management services.*

## F. Intensive community treatment (ICT) for adults.

1. An assessment which documents eligibility and need for this service shall be completed *by the LMHP or the QMHP* prior to the initiation of services. This assessment must be maintained in the individual's records.

2. *A An individual service plan, based on the needs as determined by the assessment, must be initiated at the time of admission and must be fully developed by the LMHP or the QMHP and approved by the LMHP* within 30 days of the initiation of services.

3. *ICT may be billed if the client is brought to the facility by ICT staff to see the psychiatrist. Documentation must be present to support this intervention.*

4. *The enrolled ICT provider shall be licensed by the DMHMRSAS as a provider of intensive community services or as a program of assistive community treatment, and must provide and make available emergency services 24-hours per day, seven days per week, 365 days per year, either directly or on call.*

5. *ICT services must be documented through a daily log of time spent in the delivery of services and a description of the activities/services provided. There must also be at least a weekly note documenting progress or lack of progress toward goals and objectives as outlined on the ISP.*

## G. Crisis stabilization services.

1. This service must be authorized following a face-to-face assessment by *an LMHP, a certified prescriber, or a QMHP*. This assessment must be reviewed and approved by a licensed mental health professional within 72 hours of the assessment.

2. The assessment ~~documents~~ *must document* the need for ~~service~~ *crisis stabilization services* and anticipated duration of need.

3. The Individual Service Plan (ISP) ~~is~~ *must be* developed or revised within ~~24 hours~~ *10 business days* of the approved assessment or reassessment. *The LMHP, certified prescriber, or QMHP shall develop the ISP.*

4. Room and board, custodial care, and general supervision are not components of this service.

5. Clinic option services are not billable at the same time as crisis stabilization services *are provided with the exception of clinic visits for medication management. Medication management visits may be billed at the same time that*

*crisis stabilization services are provided but documentation must clearly support the separation of the services with distinct treatment goals.*

6. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from a condition due to an acute crisis of a psychiatric nature which puts the individual at risk of psychiatric hospitalization. ~~Individuals must meet at least two of the following criteria at the time of admission to the service:~~

~~a. Experiencing difficulty in maintaining normal interpersonal relationships to such a degree that they are at risk of hospitalization or homelessness because of conflicts with family or community;~~

~~b. Experiencing difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition or managing finances to such a degree that health or safety is jeopardized;~~

~~c. Exhibiting such inappropriate behavior that immediate interventions by mental health and other agencies are necessary; or~~

~~d. Exhibiting difficulty in cognitive ability such that the individual is unable to recognize personal danger or recognize significantly inappropriate social behavior.~~

7. *Providers of crisis stabilization shall be licensed by DMHMRSAS as providers of outpatient services.*

## H. Mental health support services.

~~1. The individual receiving mental health support services must have an active case management plan in effect which includes monitoring and assessment of the provision of mental health support services. The individual responsible for the case management plan and for the provision of case management services shall not be the provider of mental health support services nor the immediate supervisor of the staff person providing mental health support services.~~

~~2. There shall be a documented assessment/evaluation prior to the initiation or reauthorization of services. The assessment/evaluation must have been completed by a QMHP no more than 30 days prior to the initiation or reauthorization of services.~~

~~3. The ISP must be developed within 30 days of the initiation of services and must indicate the specific supports and services to be provided and the goals and objectives to be accomplished.~~

~~4. The ISP must be reviewed every three months, modified as appropriate, and must be updated and rewritten at least annually.~~

*1. At admission, an appropriate face-to-face assessment must be made and documented by the LMHP or the QMHP, indicating that service needs can best be met through mental health support services. The assessment must be performed by the LMHP, or the QMHP, and approved by the LMHP, within 30 days of the date of admission. The LMHP or the QMHP will complete the ISP within 30 days of the admission to this service. The ISP must indicate the specific supports and services to be provided and the goals*

and objectives to be accomplished. The LMHP or QMHP will supervise the care if delivered by the qualified paraprofessional.

2. Every three months, the LMHP or the QMHP must review, modify as appropriate, and update the ISP. The ISP must be rewritten at least annually.

5-3. Only direct face-to-face contacts and services to individuals shall be reimbursable.

6-4. Any services provided to the client which that are strictly academic in nature shall not be ~~reimbursable billable~~. These include, but are not limited to, such basic educational programs as instruction in reading, science, mathematics, or GED.

7-5. Any services provided to clients which that are strictly vocational in nature shall not be ~~reimbursable billable~~. However, support activities and activities directly related to assisting a client to cope with a mental illness to the degree necessary to develop appropriate behaviors for operating in an overall work environment shall be ~~reimbursable billable~~.

8-6. Room and board, custodial care, and general supervision are not components of this service.

9-7. This service is not ~~reimbursable billable~~ for individuals who reside in ~~any domiciliary care facilities such as ACRs or group homes or nursing facilities~~ where staff are expected to provide such services *under facility licensure requirements*.

10. ~~Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from a condition due to mental, behavioral or emotional illness which results in significant functional impairments in major life activities. Individuals must meet at least two of the following criteria on a continuing or intermittent basis:~~

~~a. Have difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of hospitalization or homelessness because of conflicts with family or community.~~

~~b. Require help in basic living skills such as maintaining personal hygiene, preparing food and maintaining adequate nutrition or managing finances to such a degree that health or safety is jeopardized.~~

~~c. Exhibit such inappropriate behavior that repeated interventions by the mental health, social services or judicial system are necessary.~~

~~d. Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or recognize significantly inappropriate social behavior.~~

8. *Provider qualifications. The enrolled provider of mental health support services must be licensed by DMHMRSAS as a provider of supportive in-home services. Individuals employed or contracted by the provider to provide mental health support services must have training in the characteristics of mental illness and appropriate interventions, training strategies, and support methods for persons with mental illness and functional limitations.*

9. *Mental health support services, which continue for six consecutive months, must be reviewed and renewed at the end of the six-month period of authorization by an LMHP who must document the continued need for the services.*

10. *Mental health support services must be documented through a daily log of time involved in the delivery of services and a minimum of a weekly summary note of services provided.*

## **12 VAC 30-60-147. Substance abuse treatment services utilization review criteria.**

~~A. Utilization reviews shall include a determination that providers meet all the requirements of Part VIII (12 VAC 30-130-540 et seq.) of 12 VAC 30-130.~~

~~B.A. Substance abuse residential treatment services for pregnant and postpartum women. This subsection provides for required services which must be provided to participants, linkages to other programs tailored to specific recipient needs, and program staff qualifications. The following services must be rendered to program participants and documented in their case files in order for this residential service to be reimbursed by Medicaid.~~

1. Services must be authorized following face-to-face evaluation/diagnostic assessment conducted by one of the appropriately licensed or certified professionals as specified in ~~Part VIII (12 VAC 30-130-540 et seq.) of 12 VAC 30-130~~ *12 VAC 30-50-510*.

a. To assess whether the woman will benefit from the treatment provided by this service, the professional shall utilize the Adult Patient Placement Criteria for Level III.3 (Clinically-Managed Medium-Intensity Residential Treatment) or Level III.5 (Clinically-Managed Medium/High Intensity Residential Treatment) as described in Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition, ~~4996 Revised 2001~~, published by the American Society of Addiction Medicine. Services must be reauthorized every 90 days by one of the appropriately authorized professionals, based on documented assessment using Adult Continued Service Criteria for Level III.3 (Clinically-Managed Medium-Intensity Residential Treatment) or Level III.5 (Clinically-Managed Medium-High Intensity Residential Treatment) as described in Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition, ~~4996 Revised 2001~~, published by the American Society of Addiction Medicine. In addition, services must be reauthorized by one of the authorized professionals if the patient is absent for more than 72 hours from the program without staff permission. All of the professionals must demonstrate competencies in the use of these criteria. The authorizing professional must not be the same individual providing nonmedical clinical supervision in the program.

b. Utilization reviews shall verify, but not be limited to, the presence of these 90-day reauthorizations as well as the appropriate re-authorizations after absences.

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c. Documented assessment regarding the woman's need for the intense level of services must have occurred within 30 days prior to admission.

d. The Individual Service Plan (ISP) shall be developed within one week of admission and the obstetric assessment completed and documented within a two-week period following admission. Development of the ISP shall involve the woman, appropriate significant others, and representatives of appropriate service agencies.

e. The ISP shall be reviewed and updated every two weeks.

f. Psychological and psychiatric assessments, when appropriate, shall be completed within 30 days of admission.

g. Face-to-face therapeutic contact with the woman which is directly related to her Individual Service Plan shall be documented at least twice per week.

h. While the woman is participating in this substance abuse residential program, reimbursement shall not be made for any other community mental health/mental retardation/substance abuse rehabilitative services concurrently rendered to her.

i. Documented discharge planning shall begin at least 60 days prior to the estimated date of delivery. If the service is initiated later than 60 days prior to the estimated date of delivery, discharge planning must begin within two weeks of admission. Discharge planning shall involve the woman, appropriate significant others, and representatives of appropriate service agencies. The priority services of discharge planning shall seek to assure a stable, sober, and drug-free environment and treatment supports for the woman.

2. Linkages to other services. Access to the following services shall be provided and documented in either the woman's record or the program documentation:

a. The program must have a contractual relationship with an obstetrician/gynecologist who must be licensed by the Board of Medicine of the Virginia Department of Health Professions. ~~The contract must include a provision for medical supervision of the nurse case manager.~~

b. The program must also have a documented agreement with a high-risk pregnancy unit of a tertiary care hospital to provide 24-hour access to services for the woman and ongoing training and consultation to the staff of the program.

c. In addition, the provider must provide access to the following services either through staff at the residential program or through contract:

(1) Psychiatric assessments as needed, which must be performed by a physician licensed to practice by the Virginia Board of Medicine.

(2) Psychological assessments as needed, which must be performed by a clinical psychologist licensed to

practice by the Board of Psychology of the Virginia Department of Health Professions.

(3) Medication management as needed or at least quarterly for women in the program, which must be performed by a physician licensed to practice by the Board of Medicine in consultation with the high-risk pregnancy unit, if appropriate.

(4) Psychological treatment, as appropriate, for women present in the program, with clinical supervision provided by a clinical psychologist licensed to practice by the Board of Psychology.

(5) Primary health care, including routine gynecological and obstetrical care, if not already available to the women in the program through other means (e.g., Medicaid or other Medicaid-sponsored primary health care program).

3. Program and staff qualifications. In order to be eligible for Medicaid reimbursement, the following minimum program and staff qualifications must be met:

a. The provider of treatment services shall be licensed by DMHMRSAS to provide residential substance abuse services.

b. Nonmedical clinical supervision must be provided to staff at least weekly by one of the following professionals:

(1) A counselor who has completed master's level training in either psychology, social work, counseling or rehabilitation who is also either certified as a substance abuse counselor by the Board of Licensed Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals of the Virginia Department of Health Professions or as a certified addictions counselor by the Substance Abuse Certification Alliance of Virginia, or who holds any certification from the National Association of Alcoholism and Drug Abuse Counselors.

(2) A professional licensed by the appropriate board of the Virginia Department of Health Professions as either a professional counselor, clinical social worker, registered nurse, clinical psychologist, or physician who demonstrates competencies in all of the following areas of addiction counseling: clinical evaluation; treatment planning; referral; service coordination; counseling; client, family, and community education; documentation; professional and ethical responsibilities; or as a licensed substance abuse professional.

(3) A professional certified as either a clinical supervisor by the Substance Abuse Certification Alliance of Virginia or as a master addiction counselor by the National Association of Alcoholism and Drug Abuse Counselors.

c. Residential facility capacity shall be limited to 16 adults. Dependent children who accompany the woman into the residential treatment facility and neonates born while the woman is in treatment shall not be included in the 16-bed capacity count. These children shall not receive any



treatment for substance abuse or psychiatric disorders from the facility.

d. The minimum ratio of clinical staff to women should ensure that sufficient numbers of staff are available to adequately address the needs of the women in the program.

~~C-B.~~ Substance abuse day treatment services for pregnant and postpartum women. This subsection provides for required services which must be provided to women, linkages to other programs tailored to specific needs, and program and staff qualifications.

1. The following services must be rendered and documented in case files in order for this day treatment service to be reimbursed by Medicaid:

a. Services must be authorized following a face-to-face evaluation/diagnostic assessment conducted by one of the appropriately licensed professionals as specified in ~~42 VAC 30-130-540 through 12 VAC 30-130-590~~ 12 VAC 30-50-510.

b. To assess whether the woman will benefit from the treatment provided by this service, the licensed health professional shall utilize the Adult Patient Placement Criteria for Level II.1 (Intensive Outpatient Treatment) or Level II.5 (Partial Hospitalization) as described in Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition, ~~4996 Revised 2001~~, published by the American Society of Addiction Medicine. Services shall be reauthorized every 90 days by one of these appropriately authorized professionals, based on documented assessment using Level II.1 (Adult Continued Service Criteria for Intensive Outpatient Treatment) or Level II.5 (Adult Continued Service Criteria for Partial Hospitalization Treatment) as described in Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition, ~~4996 Revised 2001~~, published by the American Society of Addiction Medicine. In addition, services shall be reauthorized by one of the appropriately authorized professionals if the patient is absent for five consecutively scheduled days of services without staff permission. All of the authorized professionals shall demonstrate competency in the use of these criteria. This individual shall not be the same individual providing nonmedical clinical supervision in the program.

c. Utilization reviews shall verify, but not be limited to, the presence of these 90-day reauthorizations, as well as the appropriate reauthorizations after absences.

d. Documented assessment regarding the woman's need for the intense level of services; the assessment must have occurred within 30 days prior to admission.

e. The Individual Service Plan (ISP) shall be developed within 14 days of admission and an obstetric assessment completed and documented within a 30-day period following admission. Development of the ISP shall involve the woman, appropriate significant others, and representatives of appropriate service agencies.

f. The ISP shall be reviewed and updated every four weeks.

g. Psychological and psychiatric assessments, when appropriate, shall be completed within 30 days of admission.

h. Face-to-face therapeutic contact with the woman which is directly related to her ISP shall be documented at least once per week.

i. Documented discharge planning shall begin at least 60 days prior to the estimated date of delivery. If the service is initiated later than 60 days prior to the estimated date of delivery, discharge planning shall seek to begin within two weeks of admission. Discharge planning shall involve the woman, appropriate significant others, and representatives of appropriate service agencies. The priority services of discharge planning shall seek to assure a stable, sober, and drug-free environment and treatment supports for the woman.

j. While participating in this substance abuse day treatment program, the only other mental health, mental retardation or substance abuse rehabilitation services which can be concurrently reimbursed shall be mental health emergency services or mental health crisis stabilization services.

2. Linkages to other services or programs. Access to the following services shall be provided and documented in the woman's record or program documentation.

a. The program must have a contractual relationship with an obstetrician/gynecologist. The obstetrician/gynecologist must be licensed by the Virginia Board of Medicine as a medical doctor. ~~The contract must include provisions for medical supervision of the nurse case manager.~~

b. The program must have a documented agreement with a high-risk pregnancy unit of a tertiary care hospital to provide 24-hour access to services for the women and ongoing training and consultation to the staff of the program.

c. In addition, the program must provide access to the following services (either by staff in the day treatment program or through contract):

(1) Psychiatric assessments, which must be performed by a physician licensed to practice by the Board of Medicine of the Virginia Department of Health Professions.

(2) Psychological assessments, as needed, which must be performed by clinical psychologist licensed to practice by the Virginia Board of Psychology.

(3) Medication management as needed or at least quarterly for women in the program, which must be performed by a physician licensed to practice by the Virginia Board of Medicine in consultation with the high-risk pregnancy unit, if appropriate.

(4) Psychological treatment, as appropriate, for women present in the program, with clinical supervision

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provided by a clinical psychologist licensed to practice by the Board of Psychology of the Virginia Department of Health Professions.

(5) Primary health care, including routine gynecological and obstetrical care, if not already available to the women in the program through other means (e.g., Medallion or other Medicaid-sponsored primary health care program).

3. Program and staff qualifications. In order to be eligible for Medicaid reimbursement, the following minimum program and staff qualifications must be met:

a. The provider of treatment services shall be licensed by DMHMRSAS to provide either substance abuse outpatient services or substance abuse day treatment services.

b. Nonmedical clinical supervision must be provided to staff at least weekly by one of the following appropriately licensed professionals:

(1) A counselor who has completed master's level training in either psychology, social work, counseling or rehabilitation who is also either certified as a substance abuse counselor by the Virginia Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals or as a certified addictions counselor by the Substance Abuse Certification Alliance of Virginia, or who holds any certification from the National Association of Alcoholism and Drug Abuse Counselors.

(2) A professional licensed by the appropriate board of the Virginia Department of Health Professions as either a professional counselor, clinical social worker, clinical psychologist, or physician who demonstrates competencies in all of the following areas of addiction counseling: clinical evaluation; treatment planning; referral; service coordination; counseling; client, family, and community education; documentation; professional and ethical responsibilities; or as a licensed substance abuse professional.

(3) A professional certified as either a clinical supervisor by the Substance Abuse Certification Alliance of Virginia or as a master addiction counselor by the National Association of Alcoholism and Drug Abuse Counselors.

c. The minimum ratio of clinical staff to women should ensure that adequate staff are available to address the needs of the women in the program.

## 12 VAC 30-130-550. Mental health services. (Repealed.)

A. ~~The following services shall be covered: intensive in-home services, therapeutic day treatment, day treatment/partial hospitalization, psychosocial rehabilitation, crisis intervention, intensive community treatment, crisis stabilization, and support services. These covered services are further defined below. For purposes of this part, staff travel time shall not be included in billable time for reimbursement.~~

~~B. Intensive in-home services for children and adolescents under age 21 shall be time-limited interventions provided typically but not solely in the residence of a child who is at risk of being moved into an out-of-home placement or who is being transitioned to home from out-of-home placement due to a documented medical need of the child. These services rendered solely to an eligible child provide crisis treatment, individual and family counseling, communication skills, case management activities and coordination with other required services, and 24-hour emergency response. These services shall be limited annually to 26 weeks. General program requirements shall be as follows:~~

~~1. The provider of intensive in-home services shall be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.~~

~~2. An appropriate assessment is made and documented that service needs can best be met through intensive in-home services; service shall be recommended on an Individual Service Plan (ISP).~~

~~3. Intensive in-home services shall be used when out-of-home placement is a risk, when services that are far more intensive than outpatient clinic care are required to stabilize the family situation, and when the recipient's residence as the setting for services is more likely to be successful than a clinic.~~

~~4. Intensive in-home services shall also be used to facilitate the return from an out-of-home placement when services more intensive than outpatient clinic care are required for the transition to be successful.~~

~~5. At least one parent or responsible adult with whom the child is living must be willing to participate in in-home services.~~

~~6. Since case management services are an integral and inseparable part of this service, case management services will not be reimbursed separately for periods of time when intensive in-home services are being reimbursed.~~

~~C. Therapeutic day treatment for children and adolescents shall be provided in sessions of two or more hours per day to children and adolescents who have diagnosed developmental and social functioning levels which are significantly disabling. This determination of significant disability should be based upon consideration of the social functioning of most children their age and which has become more disabling over time and requires significant intervention through services that are supportive and intensive offered over a protracted period of time in order to provide therapeutic interventions. Day treatment programs, limited annually to 780 units, provide evaluation; individual, group and family counseling; medication education and management; and opportunities to learn and use daily living skills and to enhance social and interpersonal skills. General program requirements shall be as follows:~~

~~1. The provider of therapeutic day treatment for child and adolescent services shall be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.~~

2. The minimum staff-to-youth ratio shall ensure that adequate staff is available to meet the needs of the youth identified on the ISP.

3. The program shall operate a minimum of two hours per day and may offer flexible program hours (i.e., before or after school or during the summer). One unit of service is defined as a minimum of two hours but less than three hours in a given day. Two units of service are defined as a minimum of three but less than five hours in a given day, and three units of service shall be defined as five or more hours of service in a given day.

4. When day treatment occurs during the school day, time solely for academic instruction (i.e., when no treatment activity is going on) cannot be included in the billing unit.

D. Day treatment/partial hospitalization services shall be provided in sessions of two or more consecutive hours per day, which may be scheduled multiple times per week, to groups of individuals in a nonresidential setting. These services, limited annually to 780 units, include the major diagnostic, medical, psychiatric, psychosocial and psychoeducational treatment modalities designed for individuals with serious mental disorders who require coordinated, intensive, comprehensive, and multidisciplinary treatment. General program requirements shall be as follows:

1. The provider of day treatment/partial hospitalization shall be licensed by DMHMRSAS.

2. The program shall operate a minimum of two continuous hours in a 24-hour period. One unit of service shall be defined as a minimum of two but less than four hours on a given day. Two units of service shall be defined as at least four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day.

3. Individuals shall be discharged from this service when they are no longer in an acute psychiatric state or when other less intensive services may achieve stabilization. Admission and services longer than 90 calendar days must be authorized based upon a face-to-face evaluation by a physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, or certified psychiatric nurse.

E. Psychosocial rehabilitation for adults shall be provided in sessions of two or more consecutive hours per day to groups of individuals in a nonresidential setting. These services, limited annually to 936 units, include assessment, education about mental illness and appropriate medication to avoid complications and relapse, opportunities to learn and use independent living skills and to enhance social and interpersonal skills, within a supportive and normalizing program structure and environment.

1. The provider of psychosocial rehabilitation shall be licensed by DMHMRSAS.

2. The program shall operate a minimum of two continuous hours in a 24-hour period. A unit of service is defined as a minimum of two but less than four hours on a given day. Two units of service are defined as at least four but less

than seven hours in a given day. Three units are defined as seven or more hours in a given day.

3. Time allocated for field trips may be used to calculate time and units of service if the goal is to provide training in an integrated setting, and to increase the recipient's understanding or ability to access community resources.

F. Crisis intervention shall provide immediate mental health care, available 24 hours a day, seven days per week, to assist individuals who are experiencing acute mental dysfunction requiring immediate clinical attention. This service's objectives shall be to prevent exacerbation of a condition, to prevent injury to the recipient or others, and to provide treatment in the context of the least restrictive setting. Crisis intervention activities, limited annually to 180 hours, shall include assessing the crisis situation, providing short-term counseling designed to stabilize the individual or the family unit, providing access to further immediate assessment and follow up, and linking the individual and family with ongoing care to prevent future crises. Crisis intervention services may include, but are not limited to, office visits, home visits, preadmission screenings, telephone contacts, and other recipient-related activities for the prevention of institutionalization. General program requirements are as follows:

1. The provider of crisis intervention services shall be licensed by DMHMRSAS.

2. Recipient-related activities provided in association with a face-to-face contact shall be reimbursable.

3. An Individual Service Plan (ISP) shall not be required for newly admitted individuals to receive this service. Inclusion of crisis intervention as a service on the ISP shall not be required for the service to be provided on an emergency basis.

4. For individuals receiving scheduled, short-term counseling as part of the crisis intervention service, an ISP shall be developed or revised to reflect the short-term counseling goals by the fourth face-to-face contact.

5. Reimbursement shall be provided for short-term crisis counseling contacts occurring within a 30-day period from the time of the first face-to-face crisis contact. Other than the annual service limits, there are no restrictions (regarding number of contacts or a given time period to be covered) for reimbursement for unscheduled crisis contacts.

6. Crisis intervention services may be provided to eligible individuals outside of the clinic and billed provided the provision of out-of-clinic services is clinically/programmatically appropriate. Crisis intervention may involve the family or significant others.

G. Intensive community treatment (ICT) shall be provided consistent with the criteria and requirements of 12 VAC 30-50-95 through 12 VAC 30-50-540.

1. The individual shall meet two or more of the following criteria, as documented by the individual's record, in order to be eligible for Medicaid coverage of this service:

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- a. ~~The individual cannot or will not be served in the clinic setting.~~
  - b. ~~The individual is at high risk for psychiatric hospitalization or for becoming or remaining homeless, or requires intervention by the mental health or criminal justice system due to inappropriate social behavior.~~
  - c. ~~The individual has a history (three months or more) of a need for intensive mental health treatment or treatment for serious mental illness and chemical addiction (MICA) and demonstrates a resistance to seek out and utilize appropriate treatment options.~~
2. ~~The recipient is certified by a licensed mental health professional as being in need of the services as defined by the Individual Service Plan.~~
3. ~~The provider shall be licensed by the DMHMRSAS to provide outpatient services in order to be reimbursed for the provision of these services. In order to qualify for a provider agreement, emergency services must be available and provide services 24 hours per day, seven days per week, 365 days per year, either directly or on call.~~
4. ~~ICT may be provided based on an initial assessment. This service may be provided for a maximum of 26 weeks with a limit of 130 units available. A unit shall equal one hour. Continuation of service may be reauthorized at 26-week intervals based on written assessment and certification of need by a qualified mental health professional (QMHP).~~
5. ~~Services must be documented through a daily log of time spent in the delivery of services and a description of the activities/services provided. There must also be at least a weekly note documenting progress or lack of progress toward goals and objectives as outlined on the ISP.~~
- H. ~~Crisis stabilization services shall be provided consistent with the criteria and requirements of 12 VAC 30-50-95 through 12 VAC 30-50-540. These services must be documented in the individual's records as having been provided consistent with the ISP in order to receive Medicaid reimbursement.~~
- 1. ~~Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from a condition due to an acute crisis of a psychiatric nature which puts the individual at risk of psychiatric hospitalization. Individuals must meet at least two of the following criteria at the time of admission to the service:~~
    - a. ~~Experiencing difficulty in maintaining normal interpersonal relationships to such a degree that they are at risk of hospitalization or homelessness because of conflicts with family or community.~~
    - b. ~~Experiencing difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition or managing finances to such a degree that health or safety is jeopardized.~~
    - c. ~~Exhibiting such inappropriate behavior that immediate interventions by mental health and other agencies are necessary.~~
  - d. ~~Exhibiting difficulty in cognitive ability such that the individual is unable to recognize personal danger or recognize significantly inappropriate social behavior.~~
2. ~~This service shall not be appropriate nor reimbursed for (i) recipients with medical conditions which require hospital care; (ii) recipients with primary diagnosis of substance abuse; or (iii) recipients with psychiatric conditions which cannot be managed in the community, i.e., recipients who are of imminent danger to themselves or others.~~
3. ~~Mental health crisis stabilization services is limited to nonhospitalized individuals and may be provided in any of the following settings, but shall not be limited to: (i) the home of a recipient who lives with family or other primary caregiver; (ii) the home of a recipient who lives independently; or (iii) community based programs licensed by DMHMRSAS to provide residential services.~~
4. ~~In order to be reimbursed for this service by Medicaid, providers shall be licensed by DMHMRSAS to provide outpatient services. If any of these services are subcontracted by the CSB, the subcontractor shall be appropriately licensed by DMHMRSAS to provide the subcontracted services.~~
5. ~~Services must be documented through daily notes and a daily log of times spent in the delivery of services.~~
- I. ~~Mental health support services shall be provided consistent with the criteria and requirements of 12 VAC 30-50-95 through 12 VAC 30-50-540.~~
- 1. ~~In order for Medicaid reimbursement to occur:~~
    - a. ~~The individual must have a history of psychiatric hospitalization.~~
    - b. ~~The individual must demonstrate functional impairments in major life activities. This may include individuals with a dual diagnosis of either mental illness and mental retardation, or mental illness and substance abuse disorder.~~
    - c. ~~Individuals must meet at least two of the following criteria on a continuing or intermittent basis:~~
      - (1) ~~Have difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of hospitalization or homelessness because of conflicts with family or community.~~
      - (2) ~~Require help in basic living skills such as maintaining personal hygiene, preparing food and maintaining adequate nutrition or managing finances to such a degree that health or safety is jeopardized.~~
      - (3) ~~Exhibit such inappropriate behavior that repeated interventions by the mental health, social services or judicial system are necessary.~~
      - (4) ~~Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or recognize significantly inappropriate social behavior.~~
  - 2. ~~Provider qualifications. The provider agency must be licensed by DMHMRSAS as a provider of supported living residential services or supportive residential services.~~

~~Individuals employed or contracted by the provider agency to provide mental health support services must have training in the characteristics of mental illness and appropriate interventions, training strategies, and support methods for persons with mental illness and functional limitations.~~

~~3. Mental health support services may be authorized for six consecutive months. Continuation of services may be authorized at six month intervals or following any break in service by a QMHP based on a documented assessment and documentation of continuing need. The monthly limit on services shall be 31 units.~~

~~4. Services must be documented through a daily log of time involved in the delivery of services and a minimum of a weekly summary note of services provided.~~

### **12 VAC 30-130-565. Substance abuse treatment services.**

A. Substance abuse treatment services shall be provided consistent with the criteria and requirements of 12 VAC 30-50-510.

B. The following criteria must be met and documented in the woman's record before Medicaid reimbursement for substance abuse residential treatment services for pregnant and postpartum women can occur:

1. The woman must agree to participate in developing her own treatment plan; to comply with the treatment plan; to participate, support, and implement the plan of care; to utilize appropriate measures to negotiate changes in her treatment plan; to fully participate in treatment; to comply with program rules and procedures; and to complete the treatment plan in full.

2. The woman must be pregnant at admission and intend to complete the pregnancy.

3. The woman must:

a. Have used alcohol or other drugs within six weeks of referral to the program; *If the woman was in jail or prison prior to her referral to this program, the alcohol or drug use must have been within six weeks prior to jail or prison;*

b. Be participating in less intensive treatment for substance abuse and be assessed as high-risk for relapse without more intensive intervention and treatment; or

c. Within 30 days of admission, have been discharged from a more intensive level of treatment, such as hospital-based inpatient or jail- or prison-based treatment for substance abuse.

4. The woman must be under the active care of a physician who is an approved Virginia Medicaid provider and has obstetrical privileges at a hospital which is an approved Virginia Medicaid provider. The woman must agree to reveal to her obstetrician her participation in substance abuse treatment and her substance abuse history and also agree to allow collaboration between the physician, the obstetrical unit of the hospital in which she plans to deliver or has delivered, and the program staff.

C. The following criteria must be met and documented in the woman's record before Medicaid reimbursement for substance abuse day treatment services for pregnant and postpartum women can occur:

1. The woman must agree to participate in developing her own treatment plan, to comply with the treatment plan, to utilize appropriate measures to negotiate changes in her treatment plan, to fully participate in treatment, to comply with program rules and procedures, and to complete the treatment plan in full.

2. The woman must be pregnant at admission and intend to complete the pregnancy.

3. The woman must:

a. Have used alcohol or other drugs within six weeks of referral to the program; *If the woman was in jail or prison prior to her referral to this program, the alcohol or drug use must have been within six weeks prior to jail or prison;*

b. Be participating in less intensive treatment for substance abuse and assessed as high-risk for relapse without more intensive intervention and treatment; or

c. Within 30 days of admission, have been discharged from a more intensive level of treatment for substance abuse, such as hospital-based or jail- or prison-based inpatient treatment or residential treatment.

4. The woman must be under the active care of a physician who is an approved Virginia Medicaid provider and who has obstetrical privileges at a hospital which is an approved Medicaid provider. The woman must agree to reveal to her obstetrician her participation in substance abuse treatment and her substance abuse history and also agree to allow collaboration between the physician and the obstetrical unit of the hospital in which she plans to deliver or has delivered, and the program staff.

### **~~12 VAC 30-130-570. Provider qualification requirements. (Repealed.)~~**

~~To qualify as a provider of services through DMAS for rehabilitative mental health services, mental retardation services, and substance abuse treatment services the provider of the services must meet certain criteria. These criteria shall be:~~

~~1. The provider shall guarantee that recipients have access to emergency services on a 24-hour basis.~~

~~2. The provider shall demonstrate the ability to serve individuals in need of comprehensive services regardless of the individual's ability to pay or eligibility for Medicaid reimbursement.~~

~~3. The provider shall have the administrative and financial management capacity to meet state and federal requirements.~~

~~4. The provider shall have the ability to document and maintain individual case records in accordance with state and federal requirements.~~

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~~5. The services shall be in accordance with the Virginia Comprehensive State Plan for Mental Health, Mental Retardation and Substance Abuse Services.~~

~~6. Services must be authorized following face-to-face evaluation/diagnostic assessment conducted by one of the following professionals:~~

~~a. A counselor who has completed master's level training in either psychology, social work, counseling or rehabilitation who is also either certified as a substance abuse counselor by the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals or as a certified addictions counselor by the Substance Abuse Certification Alliance of Virginia, or who holds any certification from the National Association of Alcoholism and Drug Abuse Counselors.~~

~~b. A professional licensed by the appropriate board of the Virginia Department of Health Professions as either a professional counselor, clinical social worker, registered nurse, clinical psychologist, or physician who demonstrates competencies in all of the following areas of addiction counseling: clinical evaluation; treatment planning; referral; service coordination; counseling; client, family, and community education; documentation; professional and ethical responsibilities; or as a licensed substance abuse professional.~~

~~c. A professional certified as either a clinical supervisor by the Substance Abuse Certification Alliance of Virginia or as a master addiction counselor by the National Association of Alcoholism and Drug Abuse Counselors.~~

~~This individual must not be same individual providing nonmedical clinical supervision in the program.~~

~~7. In addition to those requirements stated in subdivisions 4 through 6 of this section, a provider shall meet the following requirements specific to each disability area:~~

~~a. Mental health.~~

~~(1) Intensive in-home: licensure by DMHMRSAS as an intensive in-home services program.~~

~~(2) Therapeutic day treatment for children/adolescents: licensure by DMHMRSAS as a day support program.~~

~~(3) Day treatment/partial hospitalization: licensure by DMHMRSAS as a day support program.~~

~~(4) Psychosocial rehabilitation: licensure by DMHMRSAS as a day support program.~~

~~(5) Crisis intervention: licensure by DMHMRSAS as an outpatient program.~~

~~(6) Case management: certified by DMHMRSAS.~~

~~(7) Intensive community treatment: Licensure by DMHMRSAS to provide outpatient services.~~

~~(8) Crisis stabilization services: Licensure by DMHMRSAS to provide outpatient services.~~

~~(9) Mental health support services: Licensure by DMHMRSAS as a provider of supported living residential services or supportive residential services. Individuals employed or contracted by the provider agency to implement mental health support services must have training in the characteristics of mental illness and appropriate interventions, training strategies, and support methods for persons with mental illness and functional limitations.~~

~~b. Mental retardation.~~

~~(1) Case management: certified by DMHMRSAS.~~

~~(2) Mental retardation crisis stabilization community services. The provider agency must be licensed by DMHMRSAS as a provider of outpatient services or of supportive residential services or residential services. The provider agency must employ or utilize qualified mental retardation professionals, licensed mental health professionals or other qualified personnel competent to provide crisis stabilization and related activities to recipients with mental retardation who are experiencing serious psychiatric/behavioral problems.~~

~~8. In addition to those requirements stated in subdivisions 4 through 7 of this section, a provider shall meet the following requirements for residential and day treatment services for pregnant and postpartum women. For programs to be eligible to be reimbursed by Medicaid, they must meet all of the following standards:~~

~~a. Medical care must be coordinated by a nurse case manager who is a registered nurse licensed by the Board of Nursing and who demonstrates competency in the following areas:~~

~~(1) Health assessment;~~

~~(2) Mental health;~~

~~(3) Addiction;~~

~~(4) Obstetrics and gynecology;~~

~~(5) Case management;~~

~~(6) Nutrition;~~

~~(7) Cultural differences; and~~

~~(8) Counseling.~~

~~b. The nurse case manager shall be responsible for coordinating the provision of all immediate primary care and shall establish and maintain communication and case coordination between the women in the program and necessary medical services, specifically with each obstetrician providing services to the women. In addition, the nurse case manager shall be responsible for establishing and maintaining communication and consultation linkages to high-risk obstetrical units, including regular conferences concerning the status of the woman and recommendations for current and future medical treatment.~~

## DOCUMENTS INCORPORATED BY REFERENCE

Virginia Medicaid Nursing Home Manual, Department of Medical Assistance Services.

Virginia Medicaid Rehabilitation Manual, Department of Medical Assistance Services.

Virginia Medicaid Hospice Manual, Department of Medical Assistance Services.

Virginia Medicaid School Division Manual, Department of Medical Assistance Services.

*ASAM Patient Placement Criteria for the Treatment of Substance-Related Disorders, ASAM PPC-2R, Second Edition, revised 2001, American Society of Addiction Medicine.*

VA.R. Doc. No. R02-164; Filed May 20, 2003, 11:13 a.m.

## **STATE BOARD OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES**

**Title of Regulation: 12 VAC 35-180. Regulations to Assure the Protection of Participants in Human Research (amending 12 VAC 35-180-10, 12 VAC 35-180-30 through 12 VAC 35-180-110 and 12 VAC 35-180-130 through 12 VAC 35-180-150; repealing 12 VAC-35-180-20).**

**Statutory Authority: §§ 37.1-10 and 37.1-24.01 of the Code of Virginia.**

**Public Hearing Date: July 17, 2003 - 6:30 p.m.**

Public comments may be submitted until August 15, 2003.  
(See Calendar of Events section for additional information)

**Agency Contact: Mary Nash Shawver, Planning Coordinator, Office of Substance Abuse Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-0825, FAX (804) 786-4320, or e-mail mshawver@dmhmrsas.state.va.us.**

**Basis: Under § 37.1-10 of the Code of Virginia, the State Board of Mental Health, Mental Retardation and Substance Abuse Services is empowered to make, adopt and promulgate such rules and regulations as may be necessary to carry out the provisions of Title 37.1 of the Code of Virginia and other laws of the Commonwealth administered by the Commissioner or the department.**

Section 37.1-24.01 of the Code of Virginia requires the board to promulgate regulations to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research, as defined in § 32.1-162.16, to be conducted or authorized by the department, any community services boards or any facilities operated, funded, or licensed by the department.

**Purpose: Amendments to these regulations are required to address changes to the Code of Virginia regarding human research effective July 1, 2002; to reflect additional protections provided to subjects in human research required**

by HIPAA; and to reflect additional requirements included in the human rights regulations that were recently promulgated by the board. Finally, other changes have been made to ensure consistency in terminology and definitions between the Code of Virginia regarding human research and these regulations. These changes will provide consistency across several regulatory documents, thus preventing confusion in the conduct of research and the protection of human subjects.

**Substance: The proposed amendment updates the current definitions of "human research," "informed consent," "minimal risk" and "authorized representative" in order to be consistent with the current Code of Virginia and the Human Rights Regulations. Other specific revisions are proposed to comply with the requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) and other applicable federal regulations, as necessary. Another revision eliminates the requirement that the witness to the informed consent may not be involved in the conduct of the research. Finally, the elements to be considered in the review and approval of a human research study are modified.**

**Issues: The proposed changes offer several advantages to the public. Most importantly, additional protections are provided to the subjects in human research, thus reducing their exposure to risk. Second, language is simplified and certain provisions are clarified, thus reducing ambiguity and the possibility of misinterpretation.**

The proposed changes also offer several advantages to the Commonwealth and to the department. First, they bring the Human Research Regulations into compliance with the statutes on human research and the federal HIPAA regulations. Second, they provide for consistency between the Human Research Regulations and the Human Rights Regulations, thus preventing conflicting guidance in the conduct of human research. They provide for additional protections to the participants in human research and help to ensure the lawful conduct of research by the Commonwealth and department.

The only disadvantage is that it adds requirements to the conduct of human research. However, these new requirements are minimal and are not likely to discourage the conduct of research.

**Fiscal Impact: The department already has in place a process to monitor compliance with these regulations. The proposed changes will not require any new activities and, therefore, will not result in additional costs to the department or Commonwealth. Similarly, given the nature of the changes, it is not anticipated that there will be any additional costs to localities; no additional requirements are made of localities other than those already required by the new federal HIPAA regulations.**

Those affected by the regulations are the department's central office and institutions and agencies operated, funded, or licensed by the department, and those who seek to conduct human research within institutions and agencies operated, funded, or licensed by the department, whether they are affiliated with those institutions/agencies or not (e.g., university-based researchers). While these regulations apply to a large number of institutions, over the past few years there

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have typically been fewer than 15 studies initiated within the services system, with the involvement of fewer than a dozen different institutions/agencies.

Given the nature of the proposed changes, it is not anticipated that they will result in any additional costs to the affected individuals and institutions.

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. The proposed regulations will (i) establish an order of priority for obtaining consent from legally authorized representatives of human research subjects receiving services in the mental health, mental retardation, and substance abuse services system, (ii) require that if two or more persons qualify as the legally authorized representative and have equal priority, then all must provide consent, and (iii) specify the conditions under which the authorized representative may not consent for the prospective subject.

Estimated economic impact. These regulations contain rules for research involving human subjects who are receiving services in a facility operated, funded, or licensed by the Department of Mental Health, Mental Retardation, and Substance Abuse Services (the department). Difficult issues arise when humans are used as subjects in a research. On one hand, research contributes to scientific advancement, which may improve the well being of the subjects or the society as a whole. On the other hand, the subjects may be exposed to some additional risks in terms of dissemination of confidential information or potential health risks. Thus, protection is afforded to human research subjects through federal and state regulations. The class of research that may have direct health effects on human subjects (e.g., testing a new drug) is regulated by federal agencies such as Food and Drug Administration and is outside the scope of these regulations. According to the department, the types of research subject to these regulations do not pose significant direct health risks.

One of the principles of protecting human subjects is related to autonomy. It requires that subjects should be considered as autonomous agents and persons with limited autonomy are provided special protection. In practice, these goals are accomplished through informed consent process where the risks and benefits of the research are disclosed to the subject or the authorized representative. Another principle related to proposed changes is the beneficence. This principle requires that the benefits should be maximized for the subject while

minimizing the possible harm and risks resulting from the research. The proposed changes appear to have the potential to reinforce these two principles.

Although the department proposes numerous changes, most of the proposed requirements are either clarifications of the current requirements, or minor changes. These are not expected to have an effect on the current practice, but expected to improve the clarity of the regulations, which could produce some economic benefits in terms of preventing potential misinterpretations.

There are three changes proposed pursuant to changes in the Code of Virginia effective July 2002 that could be significant. One of these changes is the proposal to establish a priority order among the legally authorized representatives of the prospective research subjects. Generally, the proposed order is based on the relationship of the subject to the authorized persons and will give priority to the persons who are more closely related to potential subjects. The goal of the proposed order is to prevent a person with more distant family ties making a decision on research participation while a closer relative is available. The presumption is that a close relative would better protect the interests of the research subject, which may or may not be true in practice. This change will reduce the number of available authorized representatives from whom permission to participate may be obtained and may reduce the chance of obtaining a permission. A reduction in the number of available subjects, in turn, may slightly increase the costs associated with the research. If close relatives better protect the interests of the subject, there may be some additional benefits depending on the nature of the research.

Furthermore, if there are two or more authorized representatives with the same priority, all of them must approve the participation in the research. Similar to the previous requirement, this may also reduce the number of available subjects, increase research costs slightly, and afford additional protection.

In addition, the proposed regulations will specify the circumstances under which the authorized representative may not give consent for participation in the research. A legally authorized representative will not be able to consent participation in research if the research is contrary to the beliefs of the prospective subject, or the research involves nontherapeutic sterilization, abortion, and psychosurgery. While this change is likely to benefit the prospective subjects by affording additional protection, it may too reduce the number of human subjects who could participate in the research.

In summary, the proposed changes have the potential to provide additional protection for human subjects involved in research, reduce potential risks to them, and may increase the research costs by reducing the number of available human subjects for research.

Businesses and entities affected. The proposed regulations apply to facilities operated, funded, or licensed by the department providing mental health, mental retardation, and substance abuse services and institutions/agencies that seek to conduct human research. According to the department,



approximately 15 research projects involving human subjects are approved annually. The number of human subjects involved in these projects is not known.

Localities particularly affected. The proposed regulations apply throughout the Commonwealth.

Projected impact on employment. The proposed regulations are unlikely to have any significant effect on employment.

Effects on the use and value of private property. The proposed regulations are not likely to have an effect on the use and value of private property.

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

### Summary:

*These regulations provide the regulatory basis for the Department of Mental Health, Mental Retardation and Substance Abuse Services (department) to oversee research involving human subjects receiving services in the mental health, mental retardation, and substance abuse services system. The regulation details guidelines for the initiation of human research activities in institutions operated, funded, or licensed by the department. Additionally, it provides for local review and approval of human research activities through the establishment of research review committees. This regulation also outlines the reporting requirements of research review committees to the department.*

*The proposed amendments (i) specify an "order of priority" for obtaining consent from legally authorized representatives; (ii) require that if two or more persons qualify as the legally authorized representatives and have equal priority, then both must agree to participation; (iii) specify conditions under which a legally authorized representative may not consent for the prospective subject; (iv) specify additional items that must be considered in the review of the proposed study (e.g., risks are minimized by not exposing subject to unnecessary risks, and whether additional safeguards are in place for vulnerable populations such as children and pregnant women); (v) require compliance with the research provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), specifically those regarding use and disclosure of "protected health information" (PHI) created for research; and (vi) correct inconsistencies with the agency's Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services (12 VAC 35-115) by requiring that subjects be notified of "how the results of the study will be disseminated" and by adding "treatment" to the list of examples used to define "minimal risk."*

### 12 VAC 35-180-10. Definitions.

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

*"Affiliated with the institution" means employed by the institution or a member of a household containing an employee of the institution.*

*"Board" means the State Mental Health, Mental Retardation and Substance Abuse Services Board.*

*"Commissioner" means the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services.*

*"Department" means the Department of Mental Health, Mental Retardation and Substance Abuse Services.*

*"Health information" means any information, whether oral or recorded in any form or medium, that:*

- 1. Is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and*
- 2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual.*

*"Human research" means any systematic investigation, including research development, testing, and evaluation, utilizing human subjects, that is designed to develop or contribute to generalized knowledge. Human research shall not be deemed to include research exempt from federal research regulation pursuant to 45 CFR 46.101(b).*

*"Human ~~participant~~ subject" or "subject" means a living individual about whom an investigator (whether professional or student) conducting research obtains (i) data through intervention or interaction with the individual, or (ii) identifiable private information.*

*"Individually identifiable health information" means information that is a subset of health information, including demographic information collected from an individual, and:*

- 1. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and*
- 2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and*
  - a. That identifies the individual; or*
  - b. With respect to which there is a reasonable basis to believe the information can be used to identify the individual.*

*"Informed consent" means the knowing and voluntary agreement, without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion, of a person who is capable of exercising free power of choice. For the purposes of human research, the basic elements of information necessary for such consent shall include:*

- 1. A statement that the study involves research, and a reasonable and comprehensible explanation to the individual of the procedures or protocols to be followed, and*

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their purposes, including identification of any procedures that are experimental; the expected duration of the individual's participation; and the extent, if any, to which confidentiality of records identifying the subject will be maintained; how the results of the study will be disseminated; and if any data from the study are published, the individual will not be identified without written permission;

2. A statement of any attendant discomforts and risks reasonably to be expected and a statement that there may be other risks not identified;

3. A description of any benefits to the individual or to others reasonably to be expected;

4. A disclosure of any appropriate alternative procedures or therapies that might be advantageous for the individual;

5. An offer to answer and answers to any inquiries by any individual concerning the procedures and protocols;

6. A statement that (i) participation is voluntary, (ii) refusal to participate will involve no penalty or loss of benefits to which the individual is otherwise entitled, and (iii) the individual may withdraw his consent and discontinue participation at any time without penalty or loss of benefits to which he is otherwise entitled;

7. An explanation of whom to contact for answers to pertinent questions about the research and research subject's rights, and whom to contact in the event of a research-related injury;

8. For research involving more than minimal risk, an explanation as to whether any compensation or medical care is available if injury occurs and, if so, what they consist of, or where further information may be obtained; and

9. An explanation of any costs or compensation that may accrue to the person or medical care that is available and, if applicable, the availability of third party reimbursement for the proposed procedures or protocols.

"Institution" or "agency" means any community services board or any facility or program operated, funded, or licensed by the department.

"Interaction" includes communication or interpersonal contact between investigator and participant subject.

"Intervention" includes both physical procedures by which data are gathered (for example, venipuncture) and manipulations of the participant subject or participant's subject's environment that are performed for research purposes.

~~"Interaction" includes communication or interpersonal contact between investigator and participant.~~

~~"Private information" includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a medical record). Private information must be individually identifiable (i.e., the identity of the participant is or may readily be ascertained by~~

~~the investigator or associated with the information) in order for obtaining the information to constitute research involving human participants.~~

~~"Human research" means any systematic investigation which utilizes human participants who may be exposed to physical or psychological injury as a consequence of participation and which departs from the application of established and accepted therapeutic methods appropriate to meet the participant's needs.~~

~~"Institution" means any community services board or any facility or program operated, funded, or licensed by the department.~~

"Legally authorized representative" means in the following specified order of priority, (i) the parent or parents having custody of a prospective participant subject who is a minor, (ii) the agent appointed under an advance directive as defined in § 54.1-2982 of the Code of Virginia, executed by the prospective subject, provided the advanced directive authorizes the agent to make decisions regarding the prospective subject's participation in human research, (iii) the legal guardian of a prospective participant subject, (iv) the spouse of a prospective subject, except where a suit for divorce has been filed and the divorce decree is not yet final, (v) an adult child of the prospective subject, (vi) a parent of the prospective subject when the subject is an adult, (vii) an adult brother or sister of the prospective subject, or (viii) any person or judicial or other body authorized by law or regulation to consent on behalf of a prospective participant subject to such person's subject's participation in the particular human research. For the purposes of this definition, any person authorized by law or regulation to consent on behalf of a prospective participant subject to his participation in the particular human research shall include an attorney-in-fact appointed under a durable power of attorney, to the extent the power grants the authority to make such a decision. The attorney-in-fact shall not be employed by the person, institution or agency conducting the human research and shall not be authorized to consent to nontherapeutic medical research. No official or employee of the institution or agency conducting or authorizing the research shall be qualified to act as a legally authorized representative.

"Minimal risk" means that the risks of harm anticipated in the proposed research are not greater, considering probability and magnitude, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or , tests, or treatments.

"Nontherapeutic research" means human research in which there is no reasonable expectation of direct benefit to the physical or mental condition of the participant human subject.

~~"Private information" includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information that has been provided for specific purposes by an individual and that the individual can reasonably expect will not be made public (for example, a medical record). Private information must be individually identifiable (i.e., the identity of the participant subject is or may readily be ascertained by the investigator or associated with the information) in order for the~~

obtaining of the information to constitute research involving human subjects.

"Protected health information (PHI)" means individually identifiable health information that is created or received by or on behalf of the institution or agency that is maintained or transmitted in any medium, including electronic media. PHI excludes individually identifiable health information in:

1. Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 USC § 1232g;
2. Records described at 20 USC § 1232g(a)(4)(B)(iv) (educational records not otherwise covered under the Family Educational Rights Privacy Act in subdivision 1 of this definition); or
3. Employment records held by a covered entity in its role as an employer.

"Research" means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to general knowledge. Activities which meet this definition constitute research for purposes of this chapter, whether or not they are supported or funded under a program which is considered research for other purposes. For example, some "demonstration" and "service" programs may include research activities.

~~"Voluntary informed consent" means the knowing consent of an individual so situated as to be able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress or other form of constraint or coercion. With regard to the conduct of human research, the basic elements of information necessary to such consent shall include:~~

- ~~1. A statement that the study involves research, and a reasonable and comprehensible explanation to the individual of the procedures to be followed and their purposes, including identification of any procedures which are experimental; the expected duration of the individual's participation; a statement describing the extent, if any, to which confidentiality of records identifying the participant will be maintained; and if any data from this study are published, the individual will not be identified without his written permission;~~
- ~~2. A description of any attendant discomforts and risks reasonably to be expected and a statement that there may be other risks not yet identified;~~
- ~~3. A description of any benefits to the individual or to others reasonably to be expected;~~
- ~~4. A disclosure of any appropriate alternative procedures or therapies that might be advantageous for the individual;~~
- ~~5. An offer to answer and answers to any inquiries by any individual concerning the procedure;~~
- ~~6. A statement that participation is voluntary, refusal to participate will involve no penalty or loss of benefits to which the individual is otherwise entitled, and the individual may discontinue participation at any time without penalty or loss of benefits to which he is otherwise entitled;~~

~~7. An explanation of whom to contact for answers to pertinent questions about the research and research participants' rights, and whom to contact in the event of a research-related injury;~~

~~8. For research involving more than minimal risk, an explanation as to whether any compensation or medical care is available if injury occurs and, if so, what they consist of or where further information may be obtained; and~~

~~9. An explanation of any costs or compensation which may accrue to the person and, if applicable, the availability of third party reimbursement for the proposed procedures or protocols.~~

**12 VAC 35-180-20. Authority. (Repealed.)**

~~This chapter is promulgated under the authority of §§ 37.1-24.01 and 37.1-10-6 of the Code of Virginia, to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia.~~

**12 VAC 35-180-30. Applicability.**

This chapter shall apply to the Department of Mental Health, Mental Retardation and Substance Abuse Services and to; any community services board; and to any facility operated, funded or licensed by the department which conducts or which proposes to conduct or authorize research which uses human participants *subjects*.

**12 VAC 35-180-40. Policy.**

A. No human research may be conducted without informing the participant or his legally authorized representative in writing of the risks, procedures, and discomforts of the research *obtaining the informed consent of the subject or his legally authorized representative*. The *informed* consent of the participant *subject* or his legally authorized representative to participate in the research must be documented in writing and supported by the signature of a witness ~~not involved in the conduct of the research, except as provided for in 12 VAC 35-180-100 F of this chapter~~. Arrangements shall be made for those who need special assistance in understanding the consequences of participating in the research.

B. Each human research activity shall be approved by a committee composed of representatives of varied backgrounds who shall assure the competent, complete, and professional review of human research activities.

C. Nontherapeutic research using ~~institutionalized participants~~ *subjects receiving care in a residential or hospital setting* is prohibited unless it is determined by the research review committee that such nontherapeutic research will ~~not~~ present *greater than minimal risk no more than a minor increase over minimal risk to the human subject*.

D. The individual conducting the research shall be required to notify all ~~participants~~ *subjects* of research of the risks caused by the research which are discovered after the research has concluded.

**12 VAC 35-180-50. Certification process.**

A. Institutions seeking to conduct or sponsor human research are required to submit statements to the department assuring

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that all human research activities will be reviewed and approved by a *an internal or external* research review committee. Institutions shall report annually to the commissioner giving assurance that a committee exists and is functioning. These reports ~~should~~ *shall* include a list of committee members, their qualifications for service on the committee, their institutional affiliation and a copy of the minutes of committee meetings.

B. Prior to the initiation of a human research project, institutions shall also send to the commissioner a description of the research project to be undertaken, which shall include a statement of the criteria for inclusion of a ~~participant~~ *subject* in the research project, a description of what will be done to the ~~participants~~ *subjects*, and a copy of the informed consent statement.

C. Each person engaged in the conduct of human research or proposing to conduct human research shall ~~associate~~ *affiliate* himself with ~~any~~ *an* institution or agency having a committee, and such human research as he conducts or proposes to conduct shall be subject to review and approval by the committee in the manner set forth in ~~this section~~ *these regulations*.

D. The commissioner may inspect the records of the committee.

E. The chairman of the committee shall report as soon as possible to the head of the institution and to the commissioner any violation of the research protocol which led the committee to either suspend or terminate the research.

## **12 VAC 35-180-60. Composition of research review committees.**

A. Each committee shall have at least five members, appointed by the head of the institution or agency, with varying backgrounds to ~~provide~~ *ensure the competent, complete and adequate professional review of human research* activities commonly conducted by the institution. The committee shall be sufficiently qualified through the maturity, experience, and diversity of its members, including consideration of race, gender and cultural background, to promote respect for its advice and counsel in safeguarding the rights and welfare of ~~participants~~ *subjects* in human research. In addition to possessing the professional competence necessary to review specific *research* activities, the committee must be able to ascertain the acceptability of applications and proposals in terms of institutional commitments and regulations, applicable law, standards of professional conduct and practice, and community attitudes. If a committee regularly reviews research that has an impact on an institutionalized or other vulnerable category of ~~participants~~ *subjects*, including residents of mental health or mental retardation facilities, the committee shall have in its membership one or more individuals who are primarily concerned with the welfare of these ~~participants~~ *subjects* and who have appropriate experience to serve in that capacity.

B. No committee shall consist ~~entirely of men or entirely of women~~, or entirely of members of one profession, and at least one member must be an individual whose primary concerns are in nonscientific areas (e.g., lawyers, ethicists, members of the clergy).

C. Each committee shall include at least one member who is not otherwise affiliated with the institution or agency and who is not part of the immediate family of a person who is affiliated with the institution or agency.

D. No member of a committee shall participate in the committee's initial or continuing review of any project in which the member is directly involved or for which he has administrative approval authority, except to provide information requested by the committee. The committee has responsibility for determining whether a member has a conflicting interest. The committee member shall be replaced in the case of conflicting interests resulting in a decrease of the committee below five persons.

E. A committee may, at its discretion, invite individuals with competence in special areas to assist in the review of complex issues which require expertise beyond or in addition to that available on the committee. These individuals may not vote with the committee.

F. A quorum of the committee shall consist of a majority of its members including at least one member whose primary concerns are in nonscientific areas.

G. The committee and the institution or agency shall establish procedures and rules of operation necessary to fulfill the requirements of this chapter.

## **12 VAC 35-180-70. Elements of each committee's review process.**

A. No human research shall be conducted or authorized by such institution or agency unless such committee has reviewed and approved the proposed human research project giving consideration to:

1. The adequacy of the description of the potential benefits and risks involved and the adequacy of the methodology of the research;
2. The degree of the risk, and, if the research is nontherapeutic, whether it presents greater than minimal risk;
3. Whether the rights and welfare of the ~~participants~~ *subjects* are adequately protected;
4. Whether the risks to the ~~participants~~ *subjects* are outweighed by the potential benefits to them;
5. *Whether the risks to subjects are minimized by using procedures that are consistent with sound research design and that do not unnecessarily expose subjects to risk and, whenever appropriate, by using procedures already being performed on the subjects for diagnostic or treatment purposes;*
6. *When some or all of the subjects are likely to be incapable of making an informed decision regarding consent or are otherwise vulnerable to coercion or undue influence, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons, whether additional safeguards have been included in the study to protect the rights and welfare of these subjects;*

~~5-7.~~ Whether the ~~voluntary~~ informed consent is to be obtained by methods that are adequate and appropriate and whether the written consent form is adequate and appropriate in both content and language for the particular research and for the particular ~~participants~~ *subjects* of the research;

~~6-~~ 8. Whether the persons proposing to supervise or conduct the particular human research are appropriately competent and qualified;

~~7-~~ 9. Whether criteria for selection of ~~participants~~ *subjects* are equitable, especially in research regarding the future development of mental or physical illness; and

~~8-~~ 10. Whether the research conforms with such other requirements as the board may establish; and

~~9.~~ Whether appropriate studies in nonhuman systems have been conducted prior to the involvement of human ~~participants~~.

B. Each committee shall review approved projects to ensure conformity with the approved proposal at least annually.

C. Research must be approved by the committee ~~which~~ *that* has jurisdiction over the ~~participant~~ *subject*. When cooperating institutions conduct some or all of the research involving some or all of the ~~participants~~ *subjects*, each cooperating institution is responsible for safeguarding the rights and welfare of human ~~participants~~ *subjects* and for complying with this chapter, except that in complying with this chapter institutions may enter into joint review, rely upon the review of another qualified committee, or make similar arrangements aimed at avoiding duplication of effort. Such arrangements may be made by the committee chairperson with the approval of a majority of the members present at a meeting of the committee. *If a given institution or agency does not have a research review committee, this arrangement shall be approved by the chief executive officer of the institution, or his designee.*

D. The committee shall consider research proposals within 45 days after submission to the committee's chairman. In order for the research to be approved, it shall receive the approval of a majority of those members present at a meeting in which a quorum exists. A committee shall notify investigators and the institution in writing of its decision to approve or disapprove the proposed research activity, or of modifications required to secure committee approval.

E. The committee shall develop a written description of the procedure to be followed by a ~~participant~~ *subject* who has a complaint about a research project in which he is participating or has participated.

F. Any ~~participant~~ *subject* who has a complaint about a research project in which he is participating or has participated shall be referred to the chairperson of the committee who shall refer it to the committee to determine if there has been a violation of the protocol.

G. The committee shall require periodic reports *to ensure that the project is being carried out in conformity with the proposal.* The frequency of such reports should reflect the nature and degree of risk of each research project.

*H. The committee shall ensure compliance with the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-19) regarding the use and disclosure of PHI created for research. In particular, authorization shall be obtained for the use and disclosure of PHI created for the purpose of research, except as otherwise permitted by 45 CFR 164.512(i).*

**12 VAC 35-180-80. Kinds of research exempt from committee review.**

Research activities in which the only involvement of human ~~participants~~ *subjects* will be in one or more of the following categories are exempt from this chapter unless the research is covered by other sections of this chapter:

1. Research conducted in established or commonly accepted educational settings, involving commonly used educational practices, such as:

a. Research on regular and special education instructional strategies; or

b. Research on the effectiveness of or the comparison among instructional techniques, curriculum or classroom management methods.

2. Research involving solely the use and analysis of the results of ~~standardized psychological~~, educational tests, *whether cognitive*, diagnostic, aptitude, or achievement tests, if information ~~taken the data from these sources is~~ *such tests are* recorded in such a manner so that ~~participants~~ *subjects* cannot be reasonably identified, directly or through identifiers linked to the ~~participants~~ *subjects*.

3. Research involving survey or interview procedures, unless: ~~a.~~ responses are recorded in such a manner that ~~participants~~ *the subjects* can be identified, directly or through identifiers linked to the ~~participants~~ *subjects*; and:

(1) a. The ~~participant's~~ *subject's* responses, if they became known outside the research, could reasonably place the ~~participant~~ *subject* at risk of criminal or civil liability or be damaging to the ~~participant's~~ *subject's* financial standing, employability, or reputation; or

(2) b. The research deals with sensitive aspects of the ~~participant's~~ *subject's* own behavior, such as sexual behavior, drug or alcohol use, or illegal conduct ~~or family planning.~~

4. Research involving solely the observation (including observation by ~~participants~~ *subjects*) of public behavior, unless: ~~a.~~ observations are recorded in such a manner that ~~participants~~ *subjects* can be identified, directly or through identifiers linked to the ~~participants~~ *subjects*, and either:

(1) a. The observations recorded about the individual, if they became known outside the research, could reasonably place the ~~participant~~ *subject* at risk of criminal or civil liability or be damaging to the ~~participant's~~ *subject's* financial standing, or employability, or reputation; or

(2) b. The research deals with sensitive aspects of the ~~participant's~~ *subject's* own behavior such as ~~illegal~~

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~~conduct, drug use, sexual behavior, or use of alcohol drug or alcohol use, or illegal conduct.~~

5. Research involving solely the collection or study of existing data, documents, records, or pathological or diagnostic specimens, if these sources are publicly available or if the information taken from these sources is recorded in such a manner that ~~participants~~ *subjects* cannot be identified, directly or through identifiers linked to the ~~participants~~ *subjects*.

6. Research involving solely a combination of any of the activities described in this section.

## 12 VAC 35-180-90. Expedited review procedures for certain kinds of research involving no more than minimal risk.

A. The committee may conduct an expedited review of a human research project which involves no more than minimal risk to the ~~participants~~ *subjects* if (i) another institution's or agency's human research review committee has reviewed and approved the project or (ii) the review involves only minor changes in previously approved research and the changes occur during the approved project period. Under an expedited review procedure, the review may be carried out by the committee chairperson and one or more experienced reviewers designated by the chairperson from among members of the committee. In reviewing the research, the reviewers may exercise all of the ~~authorities~~ *authority* of the committee except that the reviewers may not disapprove the research. A research activity may be disapproved only after review in accordance with the nonexpedited procedure set forth in 12 VAC 35-180-70 ~~of this chapter~~.

B. Each committee which uses an expedited review procedure shall adopt a method for keeping all members advised of research proposals which have been approved under the procedure.

C. Research activities involving no more than minimal risk and in which the only involvement of human ~~participants~~ *subjects* will be in one or more of the following categories (carried out through standard methods) may be reviewed by the research review committee through the expedited review procedure.

1. Collection of hair and nail clippings, in a nondisfiguring manner; nonpermanent teeth *at a time of natural loss or if patient care indicates a need for extraction*; and permanent teeth if patient care indicates a need for extraction.

2. Collection of excreta and external secretions including sweat, uncannulated saliva, placenta removed at delivery, and amniotic fluid at the time of rupture of the membrane prior to or during labor.

3. Recording of data from ~~participants~~ *subjects* 18 years of age or older using noninvasive procedures routinely employed in clinical practice. This includes the use of physical sensors that are applied either to the surface of the body or at a distance and do not involve input of matter or significant amounts of energy into the ~~participant~~ *subject* or an invasion of the ~~participant's~~ *subject's* privacy. It also includes such procedures as weighing, testing sensory acuity, electrocardiography, electroencephalography, thermography, detection of naturally occurring radioactivity,

diagnostic echography, and electroretinography. It does not include exposure to electromagnetic radiation outside the visible range (for example, x-rays, microwaves).

4. Collection of blood samples by venipuncture *or less invasive procedures*, in amounts not exceeding 450 milliliters in an eight-week period and no more often than two times per week, from ~~participants~~ *subjects* 18 years of age or older and who are in good health and not pregnant.

5. Collection of both supra-gingival and subgingival dental plaque and calculus, provided the procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques.

6. Voice recordings made for research purposes such as investigations of speech defects.

7. Moderate exercise by healthy volunteers.

8. The study of existing data, documents, records, pathological specimens, or diagnostic specimens.

9. Research on individual or group behavior or characteristics of individuals, such as studies of perception, cognition, game theory, or test development, where the investigator does not manipulate ~~participants'~~ *subjects'* behavior and the research will not involve stress to ~~participants~~ *subjects*.

10. Research on drugs or devices for which an investigational new drug exemption or an investigational device exemption is not required.

## 12 VAC 35-180-100. Informed consent.

A. No human research may be conducted in this Commonwealth in the absence of ~~voluntary~~ informed consent subscribed to in writing by the ~~participant~~ *subject* or by the ~~participant's~~ *subject's* legally authorized representative except as provided for in subsection F of this section. *If the subject is capable of making an informed decision, then it shall be subscribed to in writing by the subject and witnessed. If the subject is incapable of making an informed decision, as defined in § 54.1-2982 of the Code of Virginia, at the time consent is required, then it shall be subscribed to in writing by the person's legally authorized representative and witnessed.* If the ~~participant~~ *subject* is a minor otherwise capable of rendering ~~voluntary~~ informed consent, the consent shall be subscribed to by both the minor and his legally authorized representative. An investigator shall seek such consent only under circumstances that provide the prospective ~~participant~~ *subject* or the representative sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence. The information that is given to the ~~participant~~ *subject* or the representative shall be in language understandable to the ~~participant~~ *subject* or the representative.

*If two or more persons who qualify as legally authorized representatives have equal decision-making priority under this chapter inform the principal investigator or attending physician that they disagree as to participation of the prospective subject in human research, the subject shall not be enrolled in the human research that is the subject of the consent.*

B. No individual shall participate in research unless this requirement is met for each individual. The giving of *informed* consent by a legally authorized representative shall be subject to the provisions of subsection C of this section. No ~~voluntary~~ informed consent shall include any language through which the ~~participant~~ *subject* waives or appears to waive any of his legal rights, including any release of any individual, institution or agency or any agents thereof from liability for negligence. Notwithstanding *the informed* consent by a legally authorized representative, no person shall be forced to participate in any human research *if the investigator conducting the human research knows that participation in the research is protested by the prospective subject. In the case of persons suffering from organic brain disease causing progressive deterioration of cognition for which there is no known cure or medically accepted treatment, the implementation of experimental courses of therapeutic treatment to which the legally authorized representative has given informed consent shall not constitute the use of force.* Each ~~participant~~ *subject* shall be given a copy of the signed consent form required by 12 VAC 35-180-40 A ~~of this chapter~~, except as provided for in ~~12 VAC 35-180-100 F~~ *subsection F of this section.*

C. No legally authorized representative may consent to nontherapeutic research unless it is determined by the committee that such nontherapeutic research will present no more than a minor increase over minimal risk to the ~~participant~~ *subject*. *A legally authorized representative may not consent to participation in human research on behalf of a prospective subject if the legally authorized representative knows, or upon reasonable inquiry ought to know, that any aspect of the human research protocol is contrary to the religious beliefs or basic values of the prospective subject, whether expressed orally or in writing. A legally authorized representative may not consent to participation in human research involving nontherapeutic sterilization, abortion, psychosurgery, or admission for research purposes to a facility or hospital as defined in § 37.1-1 of the Code of Virginia.* No nontherapeutic research shall be performed without the consent of the ~~participant~~ *subject*.

D. The committee may approve a consent procedure which does not include, or which alters some or all of the elements of informed consent set forth in 12 VAC 35-180-10 ~~of this chapter~~, or waive the requirements to obtain informed consent provided the committee finds and documents that:

1. The research involves no more than minimal risk to the ~~participants~~ *subjects*;
2. The *omission*, waiver or alteration will not adversely affect the rights and welfare of the ~~participants~~ *subjects*;
3. The research could not practicably be carried out without the *omission*, waiver or alteration; and
4. Whenever appropriate, the ~~participants~~ *will subjects shall* be provided with additional pertinent information after participation.

E. Except as provided in subsection F of this section, the consent form may be either of the following:

1. A written consent document that embodies the elements of informed consent required by 12 VAC 35-180-10 ~~of this~~

~~chapter~~. This form may be read to the ~~participant~~ *subject* or the ~~participant's~~ *subject's* legally authorized representative, but in any event, the investigator shall give either the ~~participant~~ *subject* or the *legally authorized* representative adequate opportunity to read it before it is signed; or

2. A short form written consent document stating that the elements of informed consent required by 12 VAC 35-180-10 ~~of this chapter~~ have been presented orally to the ~~participant~~ *subject* or the ~~participant's~~ *subject's* legally authorized representative. When this method is used, there shall be a witness to the oral presentation. Also, the committee shall approve a written summary of what is to be said to the ~~participant~~ *subject* or the *legally authorized* representative. Only the short form itself is to be signed by the ~~participant~~ *subject* or the representative. However, the witness shall sign both the short form and a copy of the summary, and the person actually obtaining consent shall sign a copy of the summary. A copy of the summary shall be given to the ~~participant~~ *subject* or the representative, in addition to a copy of the short form.

F. The committee may waive the requirement for the investigator to obtain a *signed written informed* consent form for some or all ~~participants~~ *subjects* if it finds that the only record linking the ~~participant~~ *subject* and the research would be the consent document and the principal risk would be potential harm resulting from a breach of confidentiality. Each ~~participant~~ *subject shall* be asked whether the ~~participant~~ *subject* wants documentation linking the ~~participant~~ *subject* with the research, and the ~~participant's~~ *subject's* wishes *will* ~~shall~~ govern. In cases where the documentation requirement is waived, the committee may require the investigator to provide ~~participants~~ *subjects* with a written statement *regarding explaining* the research.

**12 VAC 35-180-110. Committee records.**

A. An institution *or agency*, or when appropriate a committee, shall prepare and maintain adequate documentation of committee activities, including the following:

1. Copies of all research proposals reviewed, scientific evaluations, if any, that accompany the proposals, approved sample consent documents, progress reports submitted by investigators, and reports of injuries to ~~participants~~ *subjects*.
2. Minutes of committee meetings which shall be in sufficient detail to show attendance at the meetings; actions taken by the committee; the vote on these actions including the number of members voting for, against, and abstaining; the basis for requiring changes in or disapproving research; and a written summary of the discussion of controverted issues and their resolution.
3. Records of continuing review activities.
4. Copies of all correspondence between the committee and the investigators.
5. A list of committee members.
6. Written procedures for the committee.
7. Statements of significant new findings provided to ~~participants~~ *subjects*.

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# Proposed Regulations

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B. The records required by this chapter shall be retained for at least three years, and records relating to research which is conducted shall be retained for at least three years after completion of the research. All records shall be accessible for inspection and copying by authorized employees or agents of the department at reasonable times and in a reasonable manner.

## **12 VAC 35-180-130. Role of the department, commissioner, and the board.**

A. The commissioner shall establish and maintain records of institutional assurances, annual reports, and summary descriptions of research projects to be reviewed by the board.

B. The commissioner shall review communications from committees reporting violations of research protocols which led to suspension or termination of the research to ensure that appropriate steps have been taken for the protection of the rights of human research ~~participants~~ *subjects*. The board shall be kept informed.

C. The commissioner shall arrange for the printing and dissemination of copies of this chapter.

## **12 VAC 35-180-140. Applicability of state policies.**

Nothing in this chapter shall be construed as limiting in any way the rights of ~~participants~~ *subjects* in research under regulations promulgated by the board in response to § 37.1-84.1 of the Code of Virginia.

## **12 VAC 35-180-150. Applicability of federal policies.**

Human research at institutions *or agencies* which are subject to policies and regulations for the protection of human ~~participants~~ *subjects* promulgated by any agency of the federal government shall be exempt from this chapter. Such institutions *or agencies* shall notify the commissioner and the board annually of their compliance with the policies and regulations of federal agencies.

VA.R. Doc. No. R02-153; Filed May 16, 2003, 9:52 a.m.

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## **TITLE 14. INSURANCE**

### **STATE CORPORATION COMMISSION**

**REGISTRAR'S NOTICE:** The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

**Title of Regulation:** **14 VAC 5-71. Rules Governing Viatical Settlement Providers and Viatical Settlements Brokers (amending 14 VAC 5-71-10, 14 VAC 5-71-20, 14 VAC 5-71-40, 14 VAC 5-71-60, 14 VAC 5-71-70, and 14 VAC 5-71-90; adding 14 VAC 5-71-31, 14 VAC 5-71-35, 14 VAC 5-71-91, 14 VAC 5-71-92, and 14 VAC 5-71-93; repealing 14 VAC 5-71-30, and 14 VAC 5-71-80).**

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

**Public Hearing Date:** Hearing will be scheduled if requested. Public comments may be submitted until July 30, 2003.

**Agency Contact:** Jarrett D. Goodwin, Principal Insurance Analyst, State Corporation Commission, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9365, FAX (804) 371-9511, or e-mail jgoodwin@scc.state.va.us.

### **Summary:**

*The purpose of the proposed revisions is to conform rules concerning the viatical settlement contracts, providers, and brokers subject to regulation by the State Corporation Commission Bureau of Insurance pursuant to Chapter 717 of the 2003 Acts of Assembly (HB 2613). This legislation, effective July 1, 2003, repeals Chapter 57 (§ 38.2-5700 et seq.) of Title 38.2 of the Code of Virginia and enacts in its stead provisions designated for a new Chapter 60 (§ 38.2-6000 et seq.) in Title 38.2 of the Code of Virginia. Proposed amendments of existing rules focus the purpose, revise definitions to conform to and support statutory definitions that become effective July 1, 2003, revise standards for the evaluation of reasonable payments, clarify reporting requirements for both viatical settlement brokers and viatical settlement providers, and conform the general rules at 14 VAC 5-71-90 to the new statutory requirements. The proposal also technically edits 14 VAC 5-71-40.*

*A new 14 VAC 5-71-31 addresses licensing standards, including requirements for initial licensing and renewal applications and also provisions for suspension, revocation, and termination of a license. The new section incorporates statutory provisions from § 38.2-6002 of the Code of Virginia, establishes licensing fees, and recognizes multiple mechanisms for financial accountability.*

*A new 14 VAC 5-71-35 sets forth contract and disclosure requirements.*

*New rules proposed for 14 VAC 5-71-91, 14 VAC 5-71-92, and 14 VAC 5-71-93 address advertising, prohibited practices of viatical settlement providers and viatical settlement brokers, and insurance company practices.*

*The proposals also will repeal the licensing, disclosure, and annual notification and modification provisions of 14 VAC 5-71-30 and 14 VAC 5-71-80.*

AT RICHMOND, MAY 27, 2003

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2003-00104

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



ORDER TO TAKE NOTICE

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

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

The Bureau of Insurance has submitted to the Commission proposed revisions to Chapter 71 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers," which amend the rules at 14 VAC 5-71-10, 14 VAC 5-71-20, 14 VAC 5-71-40, 14 VAC 5-71-60, 14 VAC 5-71-70, and 14 VAC 5-71-90, propose new rules at 14 VAC 5-71-31, 14 VAC 5-71-35, 14 VAC 5-71-91, 14 VAC 5-71-92, and 14 VAC 5-71-93, and repeal the rules at 14 VAC 5-71-30 and 14 VAC 5-71-80.

The proposed revisions reflect the enactment of Chapter 717 (HB 2613) of the 2003 Acts of Assembly, which, effective July 1, 2003, repeals Chapter 57 (§ 38.2-5700 et seq.) of Title 38.2 of the Code of Virginia and enacts provisions designated for Chapter 60 (§ 38.2-6000 et seq.) of Title 38.2 of the Code of Virginia, both entitled the Viatical Settlements Act.

The Commission is of the opinion that the proposed revisions submitted by the Bureau of Insurance should be considered for adoption with an effective date of August 4, 2003.

IT IS THEREFORE ORDERED THAT:

(1) The proposed revisions to the "Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers," which amend the rules at 14 VAC 5-71-10, 14 VAC 5-71-20, 14 VAC 5-71-40, 14 VAC 5-71-60, 14 VAC 5-71-70, and 14 VAC 5-71-90, propose new rules at 14 VAC 5-71-31, 14 VAC 5-71-35, 14 VAC 5-71-91, 14 VAC 5-71-92, and 14 VAC 5-71-93, and repeal the rules at 14 VAC 5-71-30 and 14 VAC 5-71-80, be attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed revisions shall file such comments or hearing request on or before July 30, 2003, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2003-00104.

(3) If no written request for a hearing on the proposed revisions is filed on or before July 30, 2003, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revisions, may adopt the revisions proposed by the Bureau of Insurance.

(4) AN ATTESTED COPY hereof, together with a copy of the proposed revisions, shall be sent by the Clerk of the

Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the proposed adoption of the revisions to the rules by mailing a copy of this Order, together with the proposed revisions, to all viatical settlement providers and viatical settlement brokers licensed by the Commission, and certain interested parties designated by the Bureau of Insurance.

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

(6) On or before May 30, 2003, the Commission's Division of Information Resources shall make available this Order and the attached proposed revisions on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

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

**14 VAC 5-71-10. Purpose.**

A. The purpose of this chapter (14 VAC 5-71) is to implement the Viatical Settlements Act, Chapter ~~57 60~~ (§ ~~38.2-5700 38.2-6000~~ et seq.) of Title 38.2 of the Code of Virginia.

~~B. This chapter is designed to:~~

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

~~2. Provide required standards of disclosure;~~

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

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

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

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

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# Proposed Regulations

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

~~D. Sales of fractional interests in a life insurance policy or interests in a pool of such policies shall constitute the sale of a "security" as that term is defined in the Virginia Securities Act, Chapter 5 (§ 13.1-501 et seq.) of Title 13.1 of the Code of Virginia.~~

## 14 VAC 5-71-20. Definitions.

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

*"Chronically ill" means (i) being unable to perform at least two activities of daily living, which shall include eating, toileting, transferring, bathing, dressing or continence, (ii) requiring substantial supervision by another person to protect the individual from threats to health and safety due to severe cognitive impairment, or (iii) having a level of disability similar to that described in clause (i) as determined by the U.S. Secretary of Health and Human Resources as required by § 38.2-6000 of the Code of Virginia.*

*"Commission" means the Virginia State Corporation Commission.*

*"Insured" means the person covered under the life insurance policy or certificate being considered for viatication.*

*"Legal entity" means an entity, other than a natural person, that has sufficient existence in legal contemplation that it can function legally, sue or be sued, and make decisions through agents, as in the case of a corporation. Legal entity includes a partnership, limited partnership, limited liability company, corporation, or other legally functioning business entities, other than a sole proprietorship.*

*"Licensee under this chapter" means a person licensed by the commission as a viatical settlement provider or viatical settlement broker, as may be reasonably construed from the content in which the term appears.*

*"Life expectancy" means the number of months the individual insured under the life insurance policy or certificate to be viaticated can be expected to live as determined by the viatical settlement provider considering medical records and appropriate experiential data.*

*"NAIC" means the National Association of Insurance Commissioners.*

*"Net death benefit" means the amount of the life insurance policy or certificate to be viaticated less any outstanding debts or liens.*

*"Patient identifying information" means an insured's address, telephone number, facsimile number, electronic mail address, photograph or likeness, employer, employment status, social security number, or any other information that is likely to lead to the identification of the insured.*

*"Policy" means an individual or group policy, group certificate, contract or arrangement of life insurance affecting the rights of a resident of this Commonwealth or bearing a reasonable*

*relation to this Commonwealth, regardless of whether delivered or issued for delivery in this Commonwealth.*

*"Terminally ill" means having an illness or sickness that can reasonably be expected to result in death in 24 months or less.*

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

~~*"Viatical settlement broker" means any a person who, for licensed in Virginia pursuant to § 38.2-1865.1 of the Code of Virginia, that on behalf of another and for a fee, commission or other valuable consideration, offers or advertises the availability of viatical settlements; introduces viators to viatical settlement providers, or offers or attempts to negotiate viatical settlements between a viator and one or more viatical settlement providers; however, "A viatical settlement broker" may act as agent for a viatical settlement provider or on behalf of the viator, provided that a viatical settlement broker shall not be deemed to act exclusively for the viator unless, pursuant to written agreement between the parties, the viatical settlement broker agrees (i) to disclose fully all interests in the viatical settlement contract and relationship with the viatical settlement provider including its affiliates and appointed or contracted agents, and (ii) that compensation for services as a viatical settlement broker shall be paid directly and only by the viator. The term does not include an attorney, certified public accountant, or a financial planner who accredited by a nationally recognized accreditation agency, who is retained to represent the viator and whose compensation is not paid directly or indirectly by the viatical settlement provider and who is retained to represent the viator or viatical settlement purchaser.*~~

~~*"Viatical settlement contract" means a written agreement between a viatical settlement provider and a person who owns a life insurance policy or who owns or is covered under a group policy insuring the life of a person who has a catastrophic or life threatening illness or condition; under the terms of the agreement, the viatical settlement provider will pay establishing the terms under which compensation or other valuable consideration anything of value will be paid, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the viator's assignment, transfer, sale, devise or bequest of the death benefit or ownership of any portion of the insurance policy or certificate to the viatical settlement provider of insurance. A viatical settlement contract also includes a contract for a loan or other financing transaction with a viator secured primarily by an individual or group life insurance policy, other than a loan by a life insurance company pursuant to the terms of the life insurance contract, or a loan secured by the cash value of the policy. A viatical settlement contract includes an agreement to transfer ownership or change the beneficiary designation at a later date regardless of the date that compensation is paid to the viator. "Viatical settlement contracts" do not include accelerated death benefit provisions*~~

governed by 14 VAC 5-70, contained in life insurance policies, whether issued with the original policy or as a rider.

"Viatical settlement provider" means a person, *other than the viator*, that ~~conducts the business of viatical settlements directly or indirectly as agent or attorney in fact for one or more persons entering~~ enters into or attempting to enter into effectuates a viatical settlement contract. "Viatical settlement provider" does not include: (i) ~~any~~ a bank, savings bank, savings institution and loan association, credit union or other licensed lending institution which that takes an assignment of a life insurance policy as collateral for a loan; (ii) the issuer of a life insurance policy which makes a policy loan on a policy that it has issued, permits surrender of the policy or pays other policy benefits, including providing accelerated death benefits governed by 14 VAC 5-70 and pursuant to the contract, or (iii) ~~any individual who enters into only one agreement in a calendar year for the transfer of the death benefit or ownership of the insurance policy or certificate for any value less than the expected death benefit an authorized or eligible insurer that provides stop loss coverage to a viatical settlement provider, viatical settlement purchaser, financing entity, special purpose entity or related provider trust; (iv) a natural person who enters into or effectuates no more than one agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit; (v) a financing entity; (vi) a special purpose entity; (vii) a related provider trust; (viii) a viatical settlement purchaser; or (ix) an accredited investor or qualified institutional buyer as defined respectively in Regulation D (17 CFR 230.501 through 17 CFR 230.508), Rule 501 (17 CFR 230.501) or Rule 144A (17 CFR 230.144A) of the Securities Act of 1933, as amended, and who purchases a viaticated policy from a viatical settlement provider and does not communicate with the viator or insured who is a resident of this Commonwealth except through a licensee under this chapter.~~

"Viatical settlement purchaser" means a person who gives a sum of money as consideration for a life insurance policy or an interest in the death benefits of a life insurance policy, or a person who owns or acquires or is entitled to a beneficial interest in a trust that owns a viatical settlement contract or is the beneficiary of a life insurance policy that has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit. Viatical settlement purchaser does not include (i) a licensee under this chapter; (ii) an accredited investor or qualified institutional buyer as defined respectively in Regulation D (17 CFR 230.501 through 17 CFR 230.508), Rule 501 (17 CFR 230.501) or Rule 144A (17 CFR 230.144A) of the Securities Act of 1933, as amended; (iii) a financing entity; (iv) a special purpose entity; or (v) a related provider trust.

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

"Viator" means the owner of a life insurance policy or the holder of a certificate issued holder under a group life insurance policy insuring the life of a person with a catastrophic or life threatening illness or condition who enters

~~or seeks to enter into an agreement under the terms of which the viatical settlement provider will pay compensation or other valuable consideration, which compensation or other valuable consideration is less than the expected death benefit of the insurance policy or certificate, in return for the assignment, transfer, sale, devise or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider. "Viator" does not include a viatical settlement provider or any subsequent owner of a viaticated policy a viatical settlement contract. For the purposes of this chapter and the application of Article 6.1 (§ 38.2-1865.1 et seq.) of Chapter 18 of Title 38.2 of the Code of Virginia, a viator shall not be limited to an owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a terminal or chronic illness except where specifically addressed. Viator does not include (i) a licensee under this chapter; (ii) an accredited investor or qualified institutional buyer as defined respectively in Regulation D (17 CFR 230.501 through 17 CFR 230.508), Rule 501 (17 CFR 230.501) or Rule 144A (17 CFR 230.144A) of the Securities Act of 1933, as amended; (iii) a financing entity; (iv) a special purpose entity; or (v) a related provider trust.~~

**14 VAC 5-71-30. License requirements for viatical settlement providers. (Repealed.)**

~~A. A viatical settlement provider shall not enter into or solicit a viatical settlement contract without first obtaining a license from the commission.~~

~~B. The application shall be on a form required by the commission.~~

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

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

~~E. The commission may require such additional information as is necessary to determine whether the applicant complies with the requirements of § 38.2-5701 of the Code of Virginia.~~

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

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

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

~~VIATICAL SETTLEMENT PROVIDER/COMPANY  
NAME~~

## ~~DISCLOSURE FORM~~

### ~~VIATICATING YOUR LIFE INSURANCE POLICY?~~

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

~~We are required to inform you of the following:~~

~~Make sure you understand the facts. You should ask your insurance company to review all the possible alternatives that your life insurance policy may offer in lieu of a viatical settlement.~~

~~Compensation from a viatical settlement may be taxable. You should seek assistance from a personal tax advisor.~~

~~The proceeds from a viatical settlement may be subject to the claims of creditors.~~

~~Compensation from a viatical settlement may affect your eligibility for medical assistance or other government benefits or entitlements. You should seek advice from the appropriate government agencies.~~

~~You have the right to rescind your viatical settlement contract within 30 days of the date the agreement was signed by the parties or 15 days of the receipt of the viatical settlement proceeds, whichever occurs first.~~

~~We are required to disclose to you the date by which the viatical settlement funds will be available to you and the source of these funds.~~

~~The viatical settlement broker is presumed to represent this viatical settlement provider, unless you have obtained a prior written agreement to the contrary from the viatical settlement broker. If the viatical settlement broker represents this viatical settlement provider, he cannot seek or obtain any compensation from you.~~

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

~~Applicant's signature \_\_\_\_\_ Date \_\_\_\_\_ Signature of authorized  
representative of  
\_\_\_\_\_ viatical settlement provider~~

### **14 VAC 5-71-31. License requirements for viatical settlement providers.**

*A. No person shall act as a viatical settlement provider with a resident of this Commonwealth without first obtaining a license from the commission. The license, regardless of whether it was initially issued pursuant to § 38.2-6002 of the Code of Virginia or as provided in this section or in 14 VAC 5-71-30, shall be fully subject on and after July 1, 2003, to the provisions of Chapter 60 (§ 38.2-6000 et seq.) of Title 38.2 of the Code of Virginia and may be renewed only in accordance with the provisions of this section.*

*B. The license shall allow the licensee to operate only within the scope of its license by entering into or effectuating a viatical settlement contract. No provision of this chapter shall be deemed to authorize any viatical settlement provider to transact any business other than that of a viatical settlement provider, or to transact any business subject to regulation by the commission unless the entity is separately authorized by registration with or license issued by the commission.*

*C. The following persons are not authorized to act as viatical settlement providers in this Commonwealth or with any resident of this Commonwealth, and no such person will be licensed in this Commonwealth as a viatical settlement provider: (i) a bank, savings bank, savings and loan association, credit union, or other licensed lending institution that takes an assignment of a life insurance policy as collateral for a loan; (ii) the issuer of a life insurance policy providing accelerated death benefits governed by 14 VAC 5-70 and pursuant to the contract; (iii) an authorized or eligible insurer that provides stop loss coverage to a viatical settlement provider, viatical settlement purchaser, financing entity, special purpose entity or related provider trust; (iv) a financing entity; (v) a natural person who enters into or effectuates no more than one agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit; (vi) a special purpose entity; (vii) a related provider trust; (viii) a viatical settlement purchaser; or (ix) an accredited investor or qualified institutional buyer and purchaser of a viaticated policy.*

*D. The licensee shall be a legal entity that enters into or effectuates, or seeks to enter into or effectuate, a viatical settlement contract. The license shall authorize the licensee's partners, officers, members, and designated employees to act on behalf of the viatical settlement provider provided such individual is named in the legal entity's application for license and any application supplements.*

*E. A license issued prior to July 1, 2004, shall expire on June 30, 2004, unless the license is renewed in accordance with the provisions of this section or subject to actions of termination, suspension, or revocation prior to expiry.*

*F. 1. If at the time of renewal, a viatical settlement provider has viatical settlements where an insured, who is a resident of this Commonwealth, has not died, it shall do one of the following:*

- a. Renew or maintain its license until the earlier of: (i) the date the viatical settlement provider properly assigns, sells or otherwise transfers the viatical settlements; or (ii) the date that all such insureds have died; or*

b. Appoint, in writing, a viatical settlement provider or viatical settlement broker that is licensed in this Commonwealth to make all inquiries to the viator, or the viator's designee, regarding health status of the insured or any other matters. A copy of the appointment, acknowledged by the appointed provider or broker should be filed with the commission.

2. No viatical settlement provider shall fail to renew or seek to otherwise terminate its license without certifying to the commission that it has ceased doing business in this Commonwealth and is in compliance with the requirements of subdivision 1 of this subsection. The commission may require documentation supportive of the certification.

G. A license expiring on June 30 may be renewed effective July 1 for a one-year period ending on June 30 of the following year if the required renewal application and nonrefundable renewal fee have been received and the license is not terminated, suspended, or revoked at the time of renewal.

H. Initial and renewal applications shall be submitted to the Bureau of Insurance in a form acceptable to the commission. Forms are available through the website for the Bureau of Insurance, at <http://www.state.va.us/scc/division/boi>.

I. Initial applications for licenses that are to be issued on or after July 1, 2003, shall be accompanied by a nonrefundable application fee of \$500. A licensee may request renewal by submitting a renewal application and renewal fee of \$300 on or before March 1 of the year in which the license shall expire. Failure to submit a renewal application and fee within the prescribed time shall result in the imposition of penalties or other appropriate regulatory action. Notice of the requirements for renewal will be mailed by the Bureau of Insurance to each licensee's mailing address as shown in the records of the Bureau of Insurance or will be posted on the website for the Bureau of Insurance, at <http://www.state.va.us/scc/division/boi>.

J. Each application shall fully and clearly disclose the identity of the applicant by complying with the provisions of this subsection.

1. An application for initial licensure shall identify all of the applicant's affiliates, directors, partners, and officers, and also each stockholder, member or employee having, owning or holding a 10% or greater interest in the applicant or an affiliate of the applicant. A renewal application shall update or confirm the accuracy of the information filed with the initial application and any intervening renewal applications or 30-day reports required by 14 VAC 5-71-70.

2. The commission may require the applicant to disclose the identity of all stockholders, members, and employees.

3. The applicant shall name and fully identify any individual, including any director, partner, officer, member or designated employee, that is to be authorized to act on behalf of the applicant under the license.

4. The commission, in the exercise of its discretion, may refuse to issue a license in the name of a legal entity if not satisfied that all directors, officers, employees, stockholders, partners, members thereof, or other individuals who may materially influence the applicant's conduct meet the

standards of this chapter and Chapter 60 (§ 38.2-6000 et seq.) of Title 38.2 of the Code of Virginia.

K. Each application shall include evidence of the applicant's financial accountability acceptable to the commission in accordance with the provisions of this subsection.

1. A surety bond in the amount of \$100,000, in a form approved by the commission, shall be acceptable evidence of the applicant's financial accountability provided (i) the surety bond is for the use and benefit only of the Commonwealth of Virginia and any person having a cause of action against the principal arising out of breaches of laws set forth in this chapter or Chapter 60 (§ 38.2-6000 et seq.) of Title 38.2 of the Code of Virginia; (ii) the surety is licensed in this Commonwealth to transact the business of suretyship; and (iii) the surety is neither directly nor indirectly under the same ownership or management as the principal on the bond.

2. The requirement of a surety bond may be waived for a licensee that (i) has and maintains an errors and omissions insurance policy in the sum of not less than \$100,000 per occurrence and \$1 million for all occurrences within one year or (ii) makes and maintains a deposit of not less than \$100,000 with the State Treasurer that complies in form and amount with the requirements of § 38.2-1045 A of the Code of Virginia.

3. No such policy or bond shall be terminated and no such deposit shall be withdrawn without 30 days' prior written notice to the licensee and the commission. Termination or withdrawal without the required notice and approval of the commission shall be grounds for suspension or revocation of, or refusal to renew, a license.

L. A nonresident applicant, as a condition precedent to receiving or holding a license and in addition to all other licensing requirements, shall designate a resident of this Commonwealth as the person upon whom any process, notice, or order required or permitted by law to be served upon such nonresident viatical settlement provider may be served.

1. The licensee shall promptly notify the clerk of the commission in writing of every change in its designated agent for service of process.

2. Whenever a nonresident viatical settlement provider transacting business in this Commonwealth fails to appoint or maintain a registered agent in this Commonwealth, or whenever its registered agent cannot with reasonable diligence be found at the registered office, the clerk of the commission shall be an agent of the nonresident upon whom service may be made in accordance with § 12.1-19.1 of the Code of Virginia.

M. The commission may require such additional information as is necessary to make the findings required by subsection N of this section and to otherwise determine whether the applicant complies with the requirements of § 38.2-6002 of the Code of Virginia.

N. Upon the filing of the initial application for licensure and the payment of the nonrefundable application fee, the commission shall make such investigation of each applicant as the

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commission may determine to be appropriate and issue a license if it finds that the applicant: (i) has provided a detailed plan of operation; (ii) is competent and trustworthy; (iii) indicates its intention to act in good faith within the confines of the license; (iv) has a good business reputation; (v) if an individual, has had experience, training or education that qualifies him for licensure; (vi) if a resident partnership, limited liability company, or corporation, has recorded the existence of the partnership, limited liability company, or corporation pursuant to law; (vii) if a corporation, has specific authority to act as a viatical settlement provider in its charter; (viii) if a nonresident partnership, limited liability company, or corporation, has furnished proof of its authority to transact business in Virginia; and (ix) has provided an anti-fraud plan that meets the requirements of § 38.2-6011 E 2 of the Code of Virginia.

O. The commission may suspend, revoke, refuse to issue, or refuse to renew the license of a viatical settlement provider if the commission finds that the applicant or licensee has (i) made any material misrepresentation in the application; (ii) been guilty of fraudulent or dishonest practices; (iii) been subject to a final administrative action or has otherwise been shown to be untrustworthy or incompetent to act as a viatical settlement provider; (iv) demonstrated a pattern of unreasonable payments to viators; (v) been convicted of a felony or any misdemeanor involving fraud or moral turpitude; (vi) entered into any viatical settlement contract that has not been approved pursuant to this chapter; (vii) failed to honor contractual obligations set out in a viatical settlement contract; (viii) demonstrated or represented that it no longer meets the requirements for initial licensure; (ix) assigned, transferred, or pledged a viaticated policy to a person other than a viatical settlement provider licensed in this Commonwealth, a viatical settlement purchaser, an accredited investor, or a qualified institutional buyer as defined, respectively, in Regulation D (17 CFR 230.501 through 17 CFR 230.508), Rule 501 (17 CFR 230.501) or Rule 144A (17 CFR 230.144A) of the Securities Act of 1933, as amended, a financing entity, a special purpose entity, or a related provider trust; (x) violated any provisions of this chapter, Chapter 60 (§ 38.2-6000 et seq.) of Title 38.2 of the Code of Virginia or other applicable provisions of Title 38.2 or rules promulgated thereunder, or has in its employ or organization any officer, partner, member, or key management personnel who has violated provisions of this chapter, Chapter 60 of Title 38.2 or other applicable provisions of Title 38.2; or (xi) renewed or requested renewal of its license before implementing the anti-fraud initiatives required by § 38.2-6011 E of the Code of Virginia.

P. No applicant to whom a license is refused after a hearing, nor any licensee whose license is revoked, shall apply again for a license under this chapter until after the expiration of a period of five years from the date of the commission's order, or such other period of time as the commission may specify in its order.

Q. A licensed insurer shall be prohibited from transacting the business of a viatical settlement provider.

## **14 VAC 5-71-35. Viatical settlement contracts and disclosure statements.**

A. No viatical settlement contract, including attached riders, amendments or endorsements, and including any application used in connection with the viatical settlement contract, shall be used in this Commonwealth on or after July 1, 2003, unless the contract and the riders, amendments, endorsements and any applications have been filed with and approved by the commission.

B. Except as provided in subdivision C 1 of this section, no disclosure statement form shall be provided to a viator in this Commonwealth on or after July 1, 2003, unless the form has been filed with and approved by the commission.

C. Before asking a viator or insured to sign any document, a licensee under this chapter shall provide the viator or the insured, or both, if the viator and the insured are different individuals, with a copy of the disclosure required by § 38.2-6007 A of the Code of Virginia.

1. A disclosure form containing wording identical to that in subdivision 2 of this subsection is deemed approved for use in Virginia in satisfaction of the § 38.2-6007 A requirements and need not be filed. In accordance with § 38.2-6007 A 8 of the Code of Virginia, disclosure to a viator shall also include distribution of a brochure describing the process of viatical settlements. The brochure entitled "Selling Your Life Insurance Policy," or its successor, developed and adopted by the NAIC shall be used unless one is developed by the commission. Unless and until a brochure is developed by the commission to satisfy the requirements of § 38.2-6007 A 8 of the Code of Virginia, the NAIC's form for the brochure is deemed approved for use in Virginia and need not be filed. Other disclosures, brochures and formats developed by the NAIC or any other source may not be used to satisfy the requirements of this section unless approved by the commission as containing substantially similar wording.

2. Whether a disclosure form contains "substantially similar" wording, as that term is used herein, shall be determined by the commission. Under no circumstances shall a disclosure form be considered to contain wording "substantially similar" unless the form addresses each and every element contained in the form contained herein.

VIATICAL SETTLEMENT PROVIDER/COMPANY  
NAME

DISCLOSURE FORM

VIATICATING YOUR\* LIFE INSURANCE POLICY?

\*"You" or "Your" as used in this disclosure form, refers to the owner of the life insurance policy, which may or may not be the person who is insured under the policy.

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



the options available to you and the consequences of viaticating your life insurance policy.

We are required to inform you of the following:

- Make sure you understand the facts. You should ask your insurance company to review all the possible alternatives that your life insurance policy may offer in lieu of a viatical settlement, including any accelerated death benefits or policy loans offered under your life insurance policy.
- Some or all of the proceeds of the viatical settlement may be taxable under federal income tax and state franchise and income taxes. You should seek assistance from a professional tax advisor.
- The proceeds from a viatical settlement may be subject to the claims of creditors.
- Compensation from a viatical settlement may adversely affect your eligibility for Medicaid or other medical assistance, government benefits, or entitlements. You should seek advice from the appropriate government agencies.
- You have the right to rescind your viatical settlement contract within 15 calendar days after you receive the viatical settlement proceeds (the rescission period).
- If the insured dies during the rescission period, the viatical settlement contract shall be deemed to have been rescinded subject to repayment of all viatical settlement proceeds, including any commissions, premiums, loans, and loan interest paid on behalf of the viator from proceeds due the viator to the viatical settlement provider or viatical settlement purchaser.
- Funds will be sent to you within three business days after your viatical settlement provider has received acknowledgement from your insurer or group administrator that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated.
- Entering into a viatical settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under your policy or certificate, to be forfeited. Assistance should be sought from a financial advisor.

Privacy Considerations

All medical, financial, or personal information solicited or obtained by a viatical settlement provider or viatical settlement broker about an insured, including the insured's identity or the identity of family members, a spouse, or a significant other may be disclosed as necessary to effect the viatical settlement between the viator and the viatical settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years.

If you are the insured, both the viatical settlement provider and the viatical settlement broker may contact you to determine your health status. This contact is limited, in the aggregate, to

once every three months if your life expectancy is more than one year, and no more than once per month if your life expectancy is one year or less. There are no limitations on contacts for purposes other than to determine the insured's health status.

Your Viatical Settlement Broker

- A viatical settlement broker is a person who on behalf of another and for a fee, commission, or other valuable consideration introduces viators to viatical settlement providers, or offers or attempts to negotiate viatical settlement contracts between a viator and one or more viatical settlement providers.
- Your viatical settlement broker can represent multiple parties in this transaction. He can represent you, a viatical settlement provider, or another third party. He cannot represent your insurance company when he is discussing viatical settlements.
- If you want the viatical settlement broker to act exclusively for you, you and the viatical settlement broker should execute a separate written agreement in which the viatical settlement broker (i) discloses fully all his interests in the viatical settlement contract and his relationships with the viatical settlement provider, including the viatical settlement provider's affiliates and appointed or contracted agents, and (ii) agrees that compensation for his services as a viatical settlement broker shall be paid directly and only by you.

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

Signature of Applicant: \_\_\_\_\_

Signature of Licensed Viatical Broker Or Viatical Settlement Provider

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

Viatical Settlement Broker: \_\_\_\_\_ [print name and address]

Viatical Settlement Provider: \_\_\_\_\_ [print name and address]

D. The disclosures required by § 38.2-6007 B of the Code of Virginia shall be made to the viator and insured by or on behalf of the viatical settlement provider no later than the date on which the viatical settlement contract is signed by all parties. All or part of the disclosures may be combined and made in conjunction with the disclosures described in subsection C of this section.

E. Viatical contracts and applications for viatical settlement, regardless of the form of transmission, shall contain the following or substantially similar statements:

1. "Any person who knowingly presents false information in an application for insurance or viatical settlement contract may be guilty of a crime and subject to prosecution."

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2. "Viatical settlement transactions between a viatical settlement broker or viatical settlement provider and a resident of this Commonwealth who is a viator or insured are subject to regulation by the State Corporation Commission acting through the Bureau of Insurance pursuant to provisions comprising Chapter 60 (§ 38.2-6000 et seq.) of Title 38.2 of the Code of Virginia. Any person damaged by the acts of a person in violation of this chapter may bring a civil action in a court of competent jurisdiction against the person committing the violation."

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

A. A viatical settlement broker shall not solicit a viatical settlement contract without first obtaining a license from the commission as set forth in § 38.2-1865.1 of the Code of Virginia.

B. A viatical settlement broker shall submit an application on a form required by the commission.

C. The application shall be accompanied by a fee of \$50. The license may be renewed annually by submitting a renewal form and payment of a fee of \$50 on or before June 1 of each year. Failure to submit a renewal form and fee within the time prescribed shall result in an automatic expiration of the license on June 30.

D. The license shall be a limited license which that allows solicitation only of viatical settlements.

E. Prelicensing examination and continuing education required of agents in §§ 38.2-1815, 38.2-1817, and 38.2-1866 of the Code of Virginia shall not apply to viatical settlement brokers.

F. The commission may require such additional information as is necessary to determine whether the applicant complies with the requirements of § 38.2-1865.1 of the Code of Virginia.

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

A. In order to assure that viators receive a reasonable compensation settlement for viaticating a life insurance policy or certificate, the following compensation for viaticating a policy shall be minimum face value percentages no less than the following payouts for insureds who are terminally or chronically ill:

Insured's Life Expectancy	Minimum Percentage of Face Value (at time of viatication and withdrawals) Less Outstanding Loans Received by Viator
Less than 6 months	80%
At least 6 but less than 12 months	70%
At least 12 but less than 18 months	65%
At least 18 but less than 24 25 months	60%
Twenty-four months or more	50%

B. If the insured's life expectancy is 25 months or more, the compensation for viaticating a policy shall be at least the greater of the cash surrender value at the time of the transaction or the accelerated death benefit in the policy.

The C. Except where the cash surrender value is paid, percentage may be reduced by 5.0% for viaticating a policy written by an insurer rated less than the highest four categories by at least two rating agencies, such as A.M. Best or other comparable rating agencies, based on the most recent publication of such rating agencies at the time of viatication.

## 14 VAC 5-71-70. Reporting requirements.

A. On or before March 1 of each calendar year, each viatical settlement provider licensed in this Commonwealth shall file an annual ~~statement report~~ of all viatical settlement transactions where the viator or an insured is a resident of this Commonwealth, ~~and a separate annual statement of all viatical settlement transactions for all states in the aggregate,~~ on a form ~~prescribed by the commission~~ containing the following information, for the previous calendar year, 4. for each life insurance policy or certificate viaticated of the viatical settlements contracted during the reporting period:

- a-1. Date of the viatical settlement contract;
2. Viator's state of residence at time of the contract;
- b-3. Life expectancy of the viator insured at the time of the contract, in months;
4. Whether the insured was determined to be (i) terminally ill or chronically ill or (ii) neither at the time of the contract;
- e-5. Face amount of the policy at the time of the contract;
- d- Outstanding policy loans (if any);
6. Net death benefit viaticated;
7. Cash surrender value of the policy at time of the contract;
8. Accelerated death benefit available from the policy; and
- e- Amount 9. Viator's compensation (amount paid by the viatical settlement provider to the viator to viaticate the policy; and).
- f. If the viator has died:
  - (1) Date of death; and
  - (2) Total insurance premiums paid by the viatical settlement provider to maintain the policy or certificate in force;
- 2- Breakdown of applications received, accepted and rejected, by disease category of insured person with a catastrophic or life threatening illness or condition;
- 3- Breakdown of policies or certificates viaticated by issuer and policy type;
- 4- Number of secondary market vs. primary market transactions;
- 5- Portfolio size; and
- 6- Amount of outside borrowings.

B. On or before March 1 of each calendar year, each viatical settlement broker licensed in this Commonwealth shall file an annual statement on a form prescribed by the commission



containing the following information for each life insurance policy or certificate viaticated during the previous calendar year:

- 1. Date of the viatical settlement contract;
- 2. Life expectancy of the viator at the time of the contract;
- 4. Amount paid by the viatical settlement provider to the viator to \_\_\_\_\_
- 5. Commission paid by the viatical settlement provider to the viatical settlement broker.

each viatical settlement provider shall certify annually to the commission the implementation of anti-fraud initiatives

fraudulent viatical settlement acts. The required annual certification shall be filed on or before March 1 of each year

Commonwealth. For persons licensed initially on or after July 1, 2003, pursuant to 14 VAC 5-71-31 or Chapter 60 (§ 38.2- certification shall be filed within 60 days of initial licensure.

C. A viatical settlement provider shall report to the commission licensure, pursuant to 14 VAC 5-71-31 J 1, concerning the licensee's identity.

change (i) in the name of the licensee, (ii) in the business or residence address of the licensee, (iii) in the identity,

or other person who is authorized to act for or on behalf of the licensee, or (iv) in affiliation that results in any person

affiliate of the licensee.

2. A change resulting in the election or appointment of a officer, member or employee that is to be authorized to act on behalf of the provider shall be reported on a form of specific form is prescribed by the commission.

3. Notices of material changes required by this section shall change.

D. A licensed viatical settlement provider convicted of a felony conviction the facts and circumstances regarding the conviction.

shall be filed with the Bureau of Insurance, marked to the attention of the Life and Health Market Regulation Division.

section shall be filed with the Bureau of Insurance, marked to the attention of the Financial Regulation Division.

**VAC 5-71 Annual notification and modification of application and annual statement forms. (Repealed.)**

The Bureau of Insurance may modify the information as necessary. Any such modifications shall be provided to all persons described in 14 VAC 5-10, in the form of an administrative letter sent by regular mail to each person's insurance. Failure by a person to receive such notice shall not be cause for exemption or grounds for noncompliance with \_\_\_\_\_-71-70.

**VAC 5-71**

A. With respect to policies containing a provision for double or additional indemnity for accidental death, the additional

by the viator prior to entering into the viatical settlement contract, or to such other beneficiary, other than the viatical

in the absence of a designation, to the estate of the viator.

B. Payment of the proceeds of a viatical settlement pursuant to 38.2-5705-C 38.2-6008 D of the Code of Virginia shall be viator or by certified check or cashier's check made payable to

C. Payment of the proceeds pursuant to a viatical settlement ~~Retention of a~~ the viatical settlement provider has purchased an annuity issued by an insurance company licensed in this payments directly to the viator or the viator's beneficiary. No shall be retained by the viatical or, is not permissible, or

~~D. A viatical settlement provider or viatical settlement broker the basis of race, age, sex, national origin, creed, religion, occupation, marital or family status or sexual orientation, or dependents.~~

~~E. A viatical settlement provider or viatical settlement broker other compensation to any viator's physician, attorney, financial planning services to the viator, or to any other person acting as an agent of the viator with respect to the viatical~~

~~F.D.~~ of the viator by the viatical settlement provider or viatical or insured occurred shall be limited, in the aggregate, three months for viators a person with a life expectancy of

viators with a life expectancy of one year or less. Such contacts shall be made only by a licensee under this The viatical settlement provider or viatical settlement broker shall explain the procedure for these contacts at the If contact

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will be or is made by both the viatical settlement broker and the viatical settlement provider, both the viatical settlement broker and the viatical settlement provider shall have and maintain a system that tracks aggregate contacts.

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

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

~~1. Advertising shall be truthful and not misleading by fact or implication.~~

~~2. If the advertiser emphasizes the speed with which the viatication will occur, the advertising must disclose the average time frame from completed application to the date of offer and from the date of the contract to receipt of the funds by the viator.~~

~~3. If the advertising emphasizes the dollar amounts available to viators, the advertising shall disclose the average purchase price as a percent of face value obtained by viators contracting with the advertiser during the immediately preceding six months.~~

E. If a viatical settlement provider enters into a viatical settlement that allows the viator to retain an interest in the policy, the viatical settlement contract shall contain the following provisions:

1. A provision that the viatical settlement provider will effect the transfer of the amount of the death benefit only to the extent or portion of the amount viaticated. Benefits in excess of the amount viaticated shall be paid directly to the viator's beneficiary by the insurance company;

2. A provision that the viatical settlement provider will, upon acknowledgment of the perfection of the transfer, either:

a. Advise the insured, in writing, that the insurance company has confirmed the viator's interest in the policy, or

b. Send the insured a copy of the instrument sent from the insurance company to the viatical settlement provider that acknowledges the viator's interest in the policy; and

3. A provision that apportions the premiums to be paid by the viatical settlement provider and the viator, provided that the contract provides premium payment terms and nonforfeiture options no less favorable, on a proportional basis, than those included in the policy.

F. In all cases where the insured is a minor child, disclosures to and permission of a parent or legal guardian satisfy the requirements of Chapter 60 (§ 38.2-6000 et seq.) of Title 38.2 of the Code of Virginia and the provisions of this chapter.

G. The requirements of this section supplement the general rules set forth in § 38.2-6008 of the Code of Virginia.

## **14 VAC 5-71-91. Advertising.**

A. As used in this section, "advertising" means any written, electronic or printed communication or any communication by

means of recorded telephone messages or transmitted on radio, television, the Internet or similar communications media, including film strips, motion pictures and videos, published, disseminated, circulated or placed before the public, directly or indirectly, for the purpose of creating an  
pursuant to a viatical settlement contract.

commission may require the submission at any time of Commonwealth. The Bureau of Insurance will provide approval of advertising material by administrative letter.

not be cause for exemption or grounds for noncompliance with

C. Every licensee under this chapter shall establish and at all dissemination, content, and form of all advertisements regardless of by whom created, designed, or presented, shall chapter shall maintain at its home or principal office a advertisement, as described in subsection A of this section, the manner and extent of distribution and a copy of the viatical shall be subject to inspection by the commission. All the

(i) a period of five years or (ii) until the filing of the next regular chapter who, after notice and hearing, is found to have order issued by the commission with respect to any provision provisions of Chapter 5 (§ 38.2-500 et seq.) of Title 38.2 of the

## **14**

A. A viatical settlement provider or viatical settlement broker entity other than the person's life insurer shall obtain from that further divulge the information without procuring the express, Notwithstanding the foregoing, if a viatical settlement provider therefore, compelled to produce records containing patient in writing at their last known addresses within five business

B. A viatical settlement broker shall not, without the written services in connection with a viatical settlement, seek or

C. A viatical settlement provider or viatical settlement broker settlements on the basis of race, age, sex, national origin,

creed, religion, occupation, marital or family status or sexual orientation, or discriminate between viators with dependents and without dependents.

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

E. Viatical settlement providers and viatical settlement brokers shall not knowingly solicit purchasers who may have treated or have been asked to treat the illness, or who could influence the treatment of the illness, of the viators whose coverage would be the subject of investment in or purchase of a viaticated policy.

**14 VAC 5-71-93. Insurance company practices.**

A. Life insurance companies authorized to do business in this Commonwealth shall respond to a request for verification of coverage from a viatical settlement provider or a viatical settlement broker within 30 calendar days of the date a request is received. The insurer shall complete and issue the verification of coverage to the viatical settlement provider or, in its response, indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation at this time regarding possible fraud or the validity of the contract, subject to the following conditions:

1. A current authorization consistent with applicable law, signed by the policy owner or certificate holder, accompanies the request.
2. In the case of an individual policy, submission of a verification of coverage form that is substantially similar to a form developed and adopted by the NAIC for such purpose or approved for such purpose by the commission, which has been completed by the viatical settlement provider or the viatical settlement broker in accordance with the instructions on the form.
3. In the case of group insurance coverage:
  - a. Submission of a verification of coverage form that is substantially similar to a form developed and adopted by the NAIC for such purpose or approved for such purpose by the commission, which has been completed by the viatical settlement provider or viatical settlement broker in accordance with the instructions on the form, and
  - b. Which has previously been referred to the group policyholder and completed to the extent the information is available to the group policyholder.

B. Nothing in this section shall prohibit a life insurance company and a viatical settlement provider or a viatical settlement broker from using another verification of coverage form that has been mutually agreed upon in writing in advance of the submission of the request.

C. A life insurance company may not charge a fee for responding to a request for information from a viatical settlement provider or viatical settlement broker in compliance

with this section in excess of any usual and customary charges to contract holders, certificate holders or insureds for similar services.

D. The life insurance company may send an acknowledgment of receipt of the request for verification of coverage to the policy owner or certificate holder and, where the policy owner or certificate holder is other than the insured, to the insured. The acknowledgment may contain a general description of any accelerated death benefit that is available under a provision of or rider to the life insurance contract.

**FORMS**

~~Requirements for Viatical Settlement Provider Companies Seeking to Do Business in Virginia, eff. 11/97.~~

~~Application for Initial License as a Viatical Settlement Provider, eff. 11/97.~~

~~SCC Bureau of Insurance Biographical Affidavit.~~

~~Application for Reservation or for Renewal of Reservation of Corporate Name, SCC631/830 (09/96).~~

~~Application for a Certificate of Authority to Transact Business in Virginia, SCC759/921 (09/96).~~

~~Application for Individual Viatical Settlement Broker License, PIN250A, eff. 11/97.~~

~~Application for Agency Viatical Settlement Broker License, PIN250B, eff. 11/97.~~

VA.R. Doc. No. R03-216; Filed May 28, 2003, 10:31 a.m.

**TITLE 21. SECURITIES AND RETAIL FRANCHISING**

**STATE CORPORATION COMMISSION**

**REGISTRAR'S NOTICE:** The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

**Title of Regulation:** 21 VAC 5-120. Virginia Trademark and Service Mark Act (amending 21 VAC 5-120-50).

**Statutory Authority:** §§ 12.1-13 and 59.1-92.19 of the Code of Virginia.

**Public Hearing Date:** Upon Request  
Public comments may be submitted until July 11, 2003

**Agency Contact:** William Rhea Shelton, Chief of Registration, Division of Securities and Retail Franchising, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9610, FAX (804) 371-9911, or e-mail rshelton@scc.state.va.us.

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# Proposed Regulations

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Summary:

*service mark applicants what is meant by "final refusal" for purposes of an application to register and (ii) eliminate the old rules and refer to specific statutory provisions that were within those parentheses.*

COMMONWEALTH OF VIRGINIA

At the relation of the

CASE NO. SEC-2003-00027

Ex Parte: In the matter of

Governing Trademarks and Service Marks

ORDER TO TAKE NOTICE

Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and 59.1-92.19 of the Trademark and Service Mark Act ("Trademark 59.1-92.1 et seq. of the Code of Virginia, provides that

necessary or appropriate for the administration and enforcement of the Trademark Act.

to § 59.1-92.19 of the Trademark Act are set forth in Title 21 of the Virginia Administrative Code.

has submitted to the Commission a proposed revision to Chapter 120 of Title 21 of the Virginia Administrative Code

which amend the rule at 21 VAC 5-120-50.

The proposed revision clarifies the process for determining finally refused.

The Division has recommended to the Commission that the effective date of September 1, 2003.

The Division also has recommended to the Commission that a consider the proposed revisions, and the Commission is of the opinion that a hearing should be held, if requested, to consider

THEREFORE, IT IS ORDERED THAT:

(1) The proposed revision to Trademark Rule 21 VAC 5-120-50 is attached hereto and made a part hereof.

All interested persons TAKE NOTICE that the

Commission's Courtroom, 2nd Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219 at 10:00 a.m.

proposed by the Division with an effective date of September 1, 2003.

On or before July 11, 2003, any person desiring to revisions shall file such comments in writing with the Clerk of the Commission, Document Control Center, P.O. Box

(4) appear and be heard at the hearing on the proposed revisions shall file written notice of his intention to do so,

opposition to the proposed revisions, with the Clerk of the Commission at the address set forth in the preceding

(5) 3) or (4) shall contain a reference to Case No. SEC-2003-00027.

AN ATTESTED COPY hereof, together with a copy of Commission to the Division in care of William Rhea Shelton, Section Chief, who forthwith shall give further notice of the

copy of this Order, together with the attached proposed revision, to all trademarks and service marks registered by

(7) forthwith shall cause a copy of this Order, together with the attached proposed revision, to be forwarded to the Virginia

Virginia Register of Regulations.

(8) On or before May 30, 2003, the Commission's Division of Information Resources shall make available this Order

website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

**21 VAC 5-120-50. Application for registration.**

division on and in full compliance with forms prescribed by the State Corporation Commission and shall include all

B. An application shall be deemed incomplete for purposes of applying for registration unless the following executed forms,

1. Executed and notarized Form TM 1, Application for Registration of a Trademark or Service Mark.

classification requested. The check ~~must~~ shall be made

3. A specimen of the mark as used by the applicant (~~see~~ \_\_\_\_\_ as defined \_\_\_\_\_).

5. Classification of the mark (~~see Classification of goods~~ \_\_\_\_\_ as defined in 21 VAC 5-120-100-.

6. Any other information the State Corporation Commission may require.

*C. Pursuant to § 59.1-92.6 of the Act, the director of the division shall make all final registration decisions. Pursuant to § 59.1-92.5 E of the Act, once the staff has made its final determination to refuse to register a mark, an applicant may file a written request with the director for a review of the staff's decision. If the director determines that a registration should be refused, the application is considered finally refused pursuant to § 59.1-92.5 E of the Code of Virginia. The applicant shall be notified of the basis for the final refusal. The final refusal may be reviewed in accordance with the commission's Rules of Practice and Procedure, 5 VAC 5-20.*

VA.R. Doc. No. R03-215; Filed May 28, 2003, 10:31 a.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 12. HEALTH

### STATE BOARD OF HEALTH

**REGISTRAR'S NOTICE:** The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations provided such regulations do not differ materially from those required by federal law or regulation. The State Board of Health 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 5-590. Waterworks Regulations (amending 12 VAC 5-590-420, 12 VAC 5-590-530, 12 VAC 5-590-550, 12 VAC 5-590-990, Appendix F and Appendix G).

**Statutory Authority:** §§ 32.1-12 and 32.1-170 of the Code of Virginia.

**Effective Date:** July 16, 2003.

#### Summary:

*The amendments eliminate unnecessary requirements, reduce the reporting burden, and promote consistent implementation of regulations concerning the control of recycle flows in conventional filtration or direct filtration treatment facilities that produce drinking water. These amendments are required by the Environmental Protection Agency to conform the Virginia Waterworks Regulations to the federal Safe Drinking Water Act regarding filter backwash recycling rules.*

**Agency Contact:** Elizabeth Crocker, Department of Health, 1500 East Main Street, Room 109, Richmond, VA 23218, telephone (804) 371-2885.

#### 12 VAC 5-590-420. Treatment technique requirement.

**REGISTRAR'S NOTICE:** Due to its length, the full text of 12 VAC 5-590-420 is not set out; however, the amendment is clearly explained here. The amendment adds new subsection K at the end of the section, which reads as follows:

*K. If spent filter backwash water, thickener supernatant, or liquids from dewatering processes are recycled, in any waterworks supplied by a surface water source and waterworks supplied by a groundwater source under the direct influence of surface water that employ conventional filtration or direct filtration treatment, then they are subject to the recycle treatment technique requirement. Under this requirement recycle flows must be returned through all the processes of the treatment system, or an alternative location approved by the state, by June 8, 2004.*

#### 12 VAC 5-590-530. Reporting.

**REGISTRAR'S NOTICE:** Due to its length, the full text of 12 VAC 5-590-530 is not set out; however, the amendment is clearly explained here. The amendment adds new subsection I near the end of the section and reletters existing subsection I as subsection J. The amendment is as follows:

I. Recycle flow reporting requirements. Any waterworks supplied by a surface water source and waterworks supplied by a groundwater source under the direct influence of surface water that employ conventional filtration or direct filtration treatment must notify the state in writing by December 8, 2003, if the system recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes. This notification must include, as a minimum:

1. *A plant schematic showing the origin of all flows that are recycled, including but not limited to spent filter backwash water, thickener supernatant, and liquids from dewatering processes. The schematic shall also specify the hydraulic conveyance used to transport all recycle flows and the location where recycle flows are reintroduced back into the treatment plant.*

2. *Typical recycle flow in gallons per minute (gpm), the highest observed plant flow experienced in the previous year (gpm), design flow for the treatment plant (gpm), and state-approved operating capacity for the plant.*

± J. Information to be included on the operation monthly report shall be determined by the division for each waterworks on an individual basis. Appendix G contains suggested monthly operation report requirements.

#### 12 VAC 5-590-550. Recordkeeping.

All waterworks shall retain within their facilities or at a convenient location near their facilities the following records for the minimum time periods specified:

A. Bacteriological Records--Five years

B. Chemical Analyses--10 years

C. Individual filter monitoring required under 12 VAC 5-590-530 C 1 b (2)--Three years; and

D. The following information shall be provided for subsections A and B of this section:

1. Date, place, and time of sampling as well as the name of the person who collected the sample;

2. Identification of sample (e.g., routine, check sample, raw water, other);

3. Date of analysis;

4. Laboratory and/or person responsible for performing analysis;

5. Analytical method/technique used; and

6. Results of the analysis.

E. Original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, commissioner determinations, and any other information required by 12 VAC 5-590-420 C 1 and 2, D, E, and F; and 12 VAC 5-590-370 B 6 a, b, and c pertaining to lead and copper. Each waterworks owner shall retain the records required by this section for no fewer than 12 years.

F. Action taken to correct violations of these regulations--three years after last action with respect to violation involved.

G. Copies of reports, summaries, or communications relating to any sanitary surveys performed--10 years following inspection.

H. Variance or exemptions granted (and records related thereto)--five years following expiration of variance or exemption.

I. Cross connection control program records--10 years.

J. *Systems that recycle flow, as stipulated in 12 VAC 5-590-420 K, must collect and retain on file recycle flow information for review and evaluation by the state beginning June 8, 2004. Information shall include, as a minimum:*

1. *Copy of the recycle notification submitted to the state under 12 VAC 5-590-530 I.*

2. *List of all recycle flows and the frequency with which they are returned.*

3. *Average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process, in minutes.*

4. *Typical filter run length and a written summary of how the filter run length is determined.*

5. *The type of treatment provided for the recycle flow.*

6. *Data on the physical dimensions of the equalization and/or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used, average dose, frequency of use, and frequency at which solids are removed, if applicable.*

J. K. All waterworks shall retain the following additional records:

1. Plant operational records
2. Water well completion reports
3. As-built engineering plans and specifications of facilities
4. Shop drawings of major equipment
5. Records of equipment repair or replacement
6. Updated map of water distribution system
7. All accident reports

## 12 VAC 5-590-990. Waterworks waste.

A. With the exception of sanitary sewage *and flows recycled through the water treatment system*, the wastes generated during the operation of water filtration plants constitute industrial wastes and are subject to the State Water Control Law (Chapter 3.1, (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia).

Industrial wastes generated by water treatment facilities include, but are not limited to, the following:

1. Filter backwash water;
2. Coagulant sludges;
3. Softening sludges;
4. Microscreening sludges;
5. Iron and manganese sludges;
6. Sludges from presedimentation units; and
7. Brine wastes.

B. After receipt of plans and specifications from the consulting engineer for the water treatment facilities, the division will advise the State Water Control Board of ~~the any proposal and to treat and discharge industrial wastes into state waters.~~ The division will submit to the State Water Control Board a letter report to include the following:

1. Capacity of the proposed treatment facilities;
2. Location of the proposed facilities;
3. Proposed final disposition of the treated waste effluent;
4. Name and address of the consulting engineer; and
5. Name and address of the owner.

C. *Except for recycle flows as described in 12 VAC 5-590-420 K, the State Water Control Board will then deal directly with the consulting engineer in reference to the proposed treatment final disposal of these wastes and, when approved, a certificate for these waste treatment facilities will be issued by the State Water Control Board. Final plans and specifications of the approved waste treatment facilities will be submitted by the consulting engineer to the division.*

D. The sanitary wastes from water treatment plants must receive treatment. Wastes from these facilities must be discharged either directly to a sanitary sewer system or to an approved individual waste disposal facility providing suitable treatment.

## APPENDIX F. CHECKLIST OF PUBLIC NOTICE CONTENTS.

**REGISTRAR'S NOTICE:** Due to its length, the full text of Appendix F is not set out; however, the amendment is clearly explained here. The amendment modifies paragraph 13 of Appendix F as follows:

13. Microbiological Contaminants (for use when there is a violation of the treatment technique requirements for filtration ~~and~~ , disinfection, *and recycle flows* in 12 VAC 5-590-420). The United States Environmental Protection Agency (EPA)

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sets drinking water standards and has determined that the presence of microbiological contaminants are a health concern at certain levels of exposure. If water is inadequately treated, microbiological contaminants in that water may cause disease. Disease symptoms may include diarrhea, cramps, nausea, and possibly jaundice, and any associated headaches and fatigue. These symptoms, however, are not just associated with disease-causing organisms in drinking water, but also may be caused by a number of factors other than your drinking water. EPA has set enforceable requirements for treating drinking water to reduce the risk of those adverse health effects. Treatment such as filtering and disinfecting the water removes or destroys microbiological contaminants. Drinking water which is treated to meet EPA requirements is associated with little to none of this risk and should be considered safe.

## APPENDIX G. MONITORING AND REPORTING.

**REGISTRAR'S NOTICE:** Due to its length, the full text of Appendix G is not set out; however, the amendment is clearly explained here. The amendment inserts the following language before "WATERWORKS FLUORIDATING" in the list of suggested operation monthly report requirements that should be reported to the appropriate field office:

### *WATERWORKS PRACTICING RECYCLE:*

*Recycle flow monitoring:*

- total flows recycled, gallons
- average and maximum return rate of combined recycle flows

VA.R. Doc. No. R03-207; Filed May 14, 2003, 11:01 a.m.

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF DENTISTRY

**Title of Regulation:** 18 VAC 60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene (amending 18 VAC 60-20-10, 18 VAC 60-20-200, 18 VAC 60-20-210, and 18 VAC 60-20-220).

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

**Effective Date:** July 16, 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 define "general supervision" of dental hygienists, prescribe the number of hygienists who may work under general supervision at any one time with certain*

*exceptions, set out the criteria for such practice, and determine the duties of a hygienist that may or may not be performed under general supervision. Dental hygiene services are limited to those ordered by a licensed dentist and rendered within a specific time period, not to exceed seven months.*

**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 60-20-10. Definitions.

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

**"Advertising"** means a representation or other notice given to the public or members thereof, directly or indirectly, by a dentist on behalf of himself, his facility, his partner or associate, or any dentist affiliated with the dentist or his facility by any means or method for the purpose of inducing purchase, sale or use of dental methods, services, treatments, operations, procedures or products, or to promote continued or increased use of such dental methods, treatments, operations, procedures or products.

**"Analgesia"** means the diminution or elimination of pain in the conscious patient.

**"Approved schools"** means those dental schools, colleges, departments of universities or colleges, or schools of dental hygiene currently accredited by the Commission on Dental Accreditation of the American Dental Association.

**"Competent instructor"** means any person appointed to the faculty of a dental school, college or department or a university or a college who holds a license or teacher's license to practice dentistry or dental hygiene in the Commonwealth.

**"Conscious sedation"** means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal commands, produced by a pharmacologic or nonpharmacologic method, or a combination thereof.

**"Dental assistant"** means any unlicensed person under the supervision of a dentist who renders assistance for services provided to the patient as authorized under this chapter but shall not include an individual serving in purely a secretarial or clerical capacity.

**"Direction"** means the presence of the dentist for the evaluation, observation, advice, and control over the performance of dental services.

**"General anesthesia"** means a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method, or combination thereof.

**"General supervision"** means that the dentist has evaluated the patient and issued a written order for the specific,



authorized services to be provided by a dental hygienist when the dentist is not present in the facility while the services are being provided.

"Local anesthesia" means the loss of sensation or pain in the oral cavity or its contiguous structures generally produced by a topically applied agent or injected agent without causing the loss of consciousness.

"Monitoring general anesthesia and conscious sedation" includes the following: recording and reporting of blood pressure, pulse, respiration, and other vital signs to the attending dentist during the conduct of these procedures and after the dentist has induced a patient and established a maintenance level.

"Monitoring nitrous oxide oxygen inhalation analgesia" means making the proper adjustments of nitrous oxide machines at the request of the dentist during the administration of the sedation, and observing the patient's vital signs.

"Nitrous oxide oxygen inhalation analgesia" means the utilization of nitrous oxide and oxygen to produce a state of reduced sensibility to pain designating particularly the relief of pain without the loss of consciousness.

"Radiographs" means intraoral and extraoral x-rays of the hard and soft oral structures to be used for purposes of diagnosis.

## **18 VAC 60-20-200. [ Employment Utilization ] of dental hygienists.**

No dentist shall ~~direct~~ have more than two dental hygienists practicing under direction or general supervision at one and the same time, with the exception that a dentist may issue [ a ] written [ ~~order orders~~ ] for services to be provided by [ a ] dental [ ~~hygienist practicing~~ hygienists ] under general supervision in a free clinic, a public health program, or on a voluntary basis.

## **18 VAC 60-20-210. Required Requirements for direction and general supervision.**

A. In all instances, a licensed dentist assumes ultimate responsibility for determining, on the basis of his diagnosis, the specific treatment the patient will receive and which aspects of treatment will be delegated to qualified personnel in accordance with this chapter and the Code of Virginia.

B. Dental hygienists ~~and assistants~~ shall engage in their respective duties only while in the employment of a licensed dentist or governmental agency ~~and under the direction and control of the employing dentist or the dentist in charge, or the dentist in charge or control of the governmental agency. The dentist shall be present and evaluate the patient during the time the patient is in the facility or when volunteering services as provided in 18 VAC 60-20-200.~~ Persons acting within the scope of a license issued to them by the board under § 54.1-2725 of the Code of Virginia to teach dental hygiene and those persons licensed pursuant to § 54.1-2722 of the Code of Virginia providing oral health education and preliminary dental screenings in any setting are exempt from this section.

C. Duties delegated to a dental hygienist under direction shall only be performed when the dentist is present in the facility and available to evaluate the patient during the time services are being provided.

D. Duties that are delegated to a dental hygienist under general supervision shall only be performed if the following requirements are met:

1. The treatment to be provided shall be ordered by a dentist licensed in Virginia and shall be entered in writing in the record. The services noted on the original order shall be rendered within a specific time period, not to exceed seven months from the date the dentist last examined the patient. Upon expiration of the order, the dentist shall have evaluated the patient before writing a new order for treatment.

2. The dental hygienist shall consent in writing to providing services under general supervision.

3. The patient or a responsible adult shall be informed prior to the appointment that no dentist will be present, that no anesthesia can be administered, and that only those services prescribed by the dentist will be provided.

4. Written basic emergency procedures shall be established and in place, and the hygienist shall be capable of implementing those procedures.

E. General supervision shall not preclude the use of direction when, in the professional judgment of the dentist, such direction is necessary to meet the individual needs of the patient.

## **18 VAC 60-20-220. Dental hygienists.**

A. The following duties shall only be delegated to dental hygienists under direction with the dentist being present:

1. Scaling and root planing of natural and restored teeth using hand instruments, rotary instruments and ultrasonic devices under anesthesia administered by the dentist.

- ~~2. Polishing of natural and restored teeth using air polishers.~~

- ~~3.~~ 2. Performing an original or clinical initial examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets or other abnormal conditions for assisting the dentist in the diagnosis.

- ~~4. [ 3. Subgingival irrigation or subgingival application of Schedule VI medicinal agents in accordance with § 54.1-3408 of the Code of Virginia. ]~~

- ~~5. Duties appropriate to the education and experience of the dental hygienist and the practice of the supervising dentist, with the exception of those listed as nondelegable in 18 VAC 60-20-190.~~

B. The following duties shall only be delegated to dental hygienists and may be delegated by written order [ in accordance with § 54.1-3408 of the Code of Virginia ] to be performed under general supervision without the dentist being present:

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1. *Scaling and root planing of natural and restored teeth using hand instruments, rotary instruments and ultrasonic devices [ without anesthesia ].*

2. *Polishing of natural and restored teeth using air polishers.*

3. *Performing a clinical examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets or other abnormal conditions for further evaluation and diagnosis by the dentist.*

[ 4. *Subgingival irrigation or subgingival application of topical Schedule VI medicinal agents. ]*

[ 4. 5. ] *Duties appropriate to the education and experience of the dental hygienist and the practice of the supervising dentist, with the exception of those listed in subsection A of this section and those listed as nondelegable in 18 VAC 60-20-190.*

C. *Nothing in this section shall be interpreted so as to prevent a licensed dental hygienist from providing educational services, assessment, screening or data collection for the preparation of preliminary written records for evaluation by a licensed dentist.*

VA.R. Doc. No. R02-279; Filed May 28, 2003, 11:29 a.m.

## BOARD OF PHARMACY

**Title of Regulation: 18 VAC 110-20. Regulations Governing the Practice of Pharmacy (amending 18 VAC 110-20-240, 18 VAC 110-20-320, 18 VAC 110-20-400, and 18 VAC 110-20-530; adding 18 VAC 110-20-255, 18 VAC 110-20-275, and 18 VAC 110-20-730; repealing 18 VAC 110-20-430).**

**Statutory Authority:** §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.

**Effective Date:** July 16, 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 (i) allow chart orders for hospice or home infusion; (ii) permit pharmacists to maintain alternative recordkeeping systems for dispensing records; (iii) allow for delivery of prescription drugs to alternative delivery locations; (iv) allow nursing homes to donate unused pharmaceuticals to a pharmacy that will redispense those drugs to the indigent free of charge; and (v) allow physicians who do not possess a license to sell controlled substances to provide controlled substances to patients in a free clinic if they or the clinic obtain a controlled substances registration.*

**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. 1608-1615 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. R02-280; Filed May 28, 2003, 11:30 a.m.



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# GOVERNOR

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## EXECUTIVE ORDER NUMBER 46 (2003)

### **CONTINUING THE VIRGINIA BIOTECHNOLOGY INITIATIVE**

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth including, but not limited to, Chapter 1 of Title 2.2 and Section 2.2-2100 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby continue the Virginia Biotechnology Initiative.

#### **Importance of the Initiative**

Advancements in biotechnology will have far-reaching human, environmental, and economic impacts. Virginia has many of the necessary assets and qualities that would make it an attractive location for this promising new industry of the 21st Century. These assets include major research universities, partner companies, medical schools, and federal and state laboratories. The Commonwealth has already invested in centers dedicated to the creation and growth of private sector companies that are developing promising new products and services to enhance human lives, improve the environment, and create new high-paying job opportunities for Virginians. The biotechnology industry also has the potential to benefit agriculture, manufacturing, and marine-based commerce.

To be competitive in growing and attracting this industry, Virginia needs a comprehensive and coordinated statewide strategy for biotechnology. I am therefore directing a joint study involving both the public and private sectors to ascertain how Virginia can become a recognized center for biotechnology comparable to the reputation the Commonwealth now enjoys in other technology sectors. I further direct the Secretary of Commerce and Trade to continue to integrate the results of this effort into the development of the economic development policy required by Section 2.2-205 of the Code of Virginia.

#### **The Governor's Advisory Board**

I hereby continue the Governor's Advisory Board for the Virginia Biotechnology Initiative (hereinafter referred to as "the Board"), which shall prepare a strategic plan for making Virginia a leader among states and regions of the world in biotechnology over the course of the next decade and beyond. This Board shall be classified as a gubernatorial advisory board in accordance with Section 2.2-2100 of the Code of Virginia.

The Board shall have the following responsibilities.

1. Determining how Virginia's research universities, federal and state laboratories, biotechnology incubators, research parks, private industry, and other major resources can be leveraged to help make Virginia a more attractive location for the biotechnology industry, and how these resources can boost development of the industry through technology transfer and commercialization of new ideas and discoveries.

2. Assessing how a strategic initiative in biotechnology can help generate new jobs and investment in rural and urban areas of the state.

3. Determining which new industries and private sector job opportunities that Virginia is well-positioned to secure because of its workforce, location, and other advantages.

4. Examining workforce and training needs for a biotechnology workforce.

5. Investigating how a strong biotechnology industry and research capability can help Virginia protect and preserve the Commonwealth's natural resources.

6. Evaluating Virginia's competitive position compared with other states and regions in terms of leadership in biotechnology.

7. Recommending ways to enhance the research base of the Commonwealth in biotechnology, to encourage the growth of biotechnology companies, and to make Virginia a more attractive location for future investments by "life sciences" companies.

The board shall, by November 15, 2003 and thereafter as appropriate, recommend additional strategies and accompanying specific recommendations and actions for making Virginia a leader in the biotechnology industry. The strategy should identify what the Commonwealth must do in order to become a leader in biotechnology, taking into account the costs and the future benefits of any initiatives that may be recommended.

The Board shall be appointed by the Governor and serve at his pleasure. The Secretary of Commerce and Trade and the Chairman of the Virginia Biotechnology Association shall serve as co-chairs of the Board. The Secretary of Technology shall serve as Vice Chairman. Other members of the Board shall include:

The Secretaries of Natural Resources, Education, and Health and Human Resources;

Three members of the House of Delegates;

Two members of the Senate of Virginia;

The presidents or their designees of each of the four Virginia public research universities who have joined together in the proposed "Virginia Life" initiative;

One representative of federal laboratories in Virginia involved in research and technology transfer in life sciences;

The directors of the Division of Consolidated Laboratory Services and the Virginia Institute of Marine Science;

Three representatives of not-for-profit life science and research institutions and laboratories in the Commonwealth;

Two representatives of agricultural and tobacco interests;

The Chief Executive Officer of the Virginia Economic Development Partnership;

Two local economic development officials; and

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# Governor

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Three private biotechnology industry leaders.

Other members may be appointed to the Board by the Governor at his discretion. Members of the Board shall serve without compensation and shall not be reimbursed for expenses incurred in the discharge of their official duties.

Staff support necessary for the conduct of the work of the Board shall be provided by the Center for Innovative Technology, the Office of the Secretary of Commerce and Trade, the Office of the Governor, and other such executive branch agencies as the Governor may designate.

An estimated 1,000 hours of staff time shall be needed to support the work of the Board. Direct expenditures to support the Board's work are estimated at \$10,000.

This Executive Order shall be effective immediately upon its signing and shall remain in full force and effect until May 5, 2004, unless amended or rescinded by further Executive Order.

Given under my hand and the Seal of the Commonwealth of Virginia, this 5th day of May 2003.

/s/ Mark R. Warner  
Governor

VA.R. Doc. No. R03-212; Filed May 28, 2003, 8:24 a.m.

## EXECUTIVE ORDER NUMBER 47 (2003)

### **DELEGATION OF CERTAIN AUTHORITY CONFERRED BY GENERAL OBLIGATION BOND ACTS**

The 2002 Acts of Assembly provided for certain general obligation bonds to be issued subject to voter approval in a statewide referendum on November 5, 2002.

The voters subsequently approved such actions pursuant to the 2002 Acts of Assembly, including Chapters 827 and 859, relating to bonds for educational institutions, and Chapters 854 and 884, relating to bonds for parks and recreational facilities.

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and Sections 3 and 4 of the first enactment of Chapters 827, 854, 859 and 884, and subject always to my continuing and ultimate authority and responsibility to act in such matters, and to reserve powers, I hereby affirm and delegate to the Secretary of Finance the powers and duties conferred upon me by the provisions of Sections 3 and 4 of the first enactment of Chapters 827, 854, 859 and 884 of the 2002 Acts of Assembly as follows:

§ 3 Authority to increase or decrease allocations to specific capital projects, within total amounts allocated, and

§ 4 Authority to increase appropriations for capital projects by the amount of proceeds of donations, gifts, grants or other nongeneral funds.

This Executive Order is effective upon its signing and shall remain in full force and effect until January 14, 2006, unless amended or rescinded by further Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 8th day of May 2003.

/s/ Mark R. Warner  
Governor

VA.R. Doc No. R03-213; Filed May 28, 2003 8:24 a.m.

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# GENERAL NOTICES/ERRATA

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## VIRGINIA EMPLOYMENT COMMISSION

### Notice of the Adoption of Guidance Regarding Access to Agency Records

The Virginia Employment Commission (VEC) has adopted guidance relating to the release of confidential records from the Unemployment Insurance program.

The guidance describes the various records release and confidentiality statutes governing the Unemployment Insurance Programs and describes the types of records that will be made available for the various purposes authorized by statute and for law-enforcement and study purposes. The guidance also describes the written confidentiality agreements required by those who receive access to agency records.

VEC guidance relating to records release is available on the VEC website at <http://www.vec.state.va.us>. Individuals with questions about the guidance or who wish to receive paper copies of the document should contact Lynette Coughlin, Virginia Employment Commission, P.O. Box 1358, Richmond, VA 23218-1358. Ms. Coughlin may also be reached by telephone at (804) 786-1070 or via e-mail at [lcoughlin@vec.state.va.us](mailto:lcoughlin@vec.state.va.us).

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Fecal Coliform Total Maximum Daily Load for Dodd Creek Watershed

The Virginia Department of Environmental Quality (VDEQ) seeks written comments from interested persons on the modification of the fecal coliform TMDL for Dodd Creek watershed in the New River Basin. This TMDL was approved

by EPA Region III in December 2002. The Floyd County Sewage Treatment Plant (STP) with a design flow of 0.15 mgd with a fecal coliform bacteria concentration of 200 cfu/100 ml is the only permitted point source discharge in the Dodd Creek watershed.

As part of the current reissuance of the VPDES permit, the Floyd County treatment facility requested an expansion of the design flow from 0.15 mgd to 0.25 mgd with a fecal coliform bacteria concentration of 200 cfu/100 ml.

The Dodd Creek TMDL has been remodeled using the proposed 0.25 mgd design flow to determine the impacts on the existing TMDL. The remodeling results are shown as follows:

1. The proposed increase in the quantity of effluent discharged to the stream and the associated increase in bacteria loading will increase the WLA component of the TMDL equation,
2. The expansion cannot cause a violation of water quality in the receiving stream because Virginia's water quality standards for bacteria require that treated effluent discharged into a receiving stream meet the bacteria criteria for the stream, and
3. There will be no change in the nonpoint source load allocations (LA) and pollutant reductions resulting from the expansion.

Therefore DEQ is proposing to modify the fecal coliform TMDL for Dodd Creek watershed as follows:

1. Increase of the design flow for the Floyd County STP from 0.15 mgd to 0.25 mgd and
2. Change the TMDL equation as shown in Table I:

Table I - Dodd Creek Bacteria TMDL  
(cfu/year)

TMDL Equation	Point Source (WLA)	Nonpoint Source (LA)	Margin of Safety (MOS)	TMDL
Dodd Creek TMDL Loads contained in Table 5.5 of the EPA Approved Report	4.16E+11	3,37E+14	3.73E+12	3.41E+14
Modified Dodd Creek TMDL Loads for Floyd Co. STP Expansion from 0.15 to 0.25 mgd	6.91E+11	3.37E+14	3.73E+12	3.414E+14

The public comment period will end on July 16, 2003. Questions or information requests should be addressed to Jason Hill. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Jason Hill, Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6724 or e-mail [jrhill@deq.state.va.us](mailto:jrhill@deq.state.va.us).

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## General Notices/Errata

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### **Total Maximum Daily Loads (TMDLs) for Abrams Creek and Lower Opequon Creek**

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of Total Maximum Daily Loads (TMDLs) for Abrams Creek and Lower Opequon Creek. These streams are listed on the 1998 § 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standards for the General Standard (Benthics). The Abrams Creek stream segment is located in the City of Winchester and Frederick County. It is 10.8 miles in length and begins at the headwaters and continues to the confluence with Opequon Creek. The Lower Opequon Creek stream segment is located in Frederick County. It is 8.73 miles in length and begins at the confluence with Abrams Creek and continues downstream to the WVA state line.

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 water contained in Virginia's § 303(d) TMDL Priority List and Report.

The final public meeting on the development of the Abrams Creek and Lower Opequon Creek benthic TMDLs will be held on Tuesday, July 1, 2003, 7 p.m. in the Henkel Building's Hester Auditorium, which is located on the campus of Shenandoah University at 1460 University Drive in Winchester, Virginia. Driving directions are available at [http://www.su.edu/find\\_us.asp](http://www.su.edu/find_us.asp), and a campus map at [http://www.su.edu/campus\\_map1.html](http://www.su.edu/campus_map1.html).

A copy of the draft TMDL document addressing the Abrams Creek and Lower Opequon Creek benthic impairments will be ready for review on June 30, 2003. The public comment period will run from June 30, 2003, to July 30, 2003. Questions or information requests should be addressed to Gary Flory. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Gary Flory, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7840, FAX (540) 574-7878, or e-mail [gaflorey@deq.state.va.us](mailto:gaflorey@deq.state.va.us).

### **Total Maximum Daily Loads (TMDLs) for Abrams Creek, Upper Opequon Creek and Lower Opequon Creek**

The Department of Environmental Quality (DEQ) seek written and oral comments from interested persons on the development of Total Maximum Daily Loads (TMDLs) for Abrams Creek, Upper Opequon Creek and Lower Opequon Creek. These streams are listed on the 1998 § 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standards for bacteria. The Abrams Creek stream segment is located in the City of Winchester and Frederick County. It is 10.8 miles in length and begins at the headwaters and continues to the confluence with Opequon Creek. The Upper Opequon Creek stream segment is located in Frederick County and Winchester. It is 22.4 miles in length and begins at the headwaters and continues to the confluence with Abrams Creek. The Lower Opequon Creek stream segment is located in Frederick County. It is 8.73 miles

in length and begins at the confluence with Abrams Creek and continues downstream to the West Virginia state line.

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 water contained in Virginia's § 303(d) TMDL Priority List and Report.

The final public meeting on the development of the Abrams Creek and Upper and Lower Opequon Creek bacteria TMDLs will be held on Tuesday, July 8, 2003, 7 p.m. The meeting will be held in the Henkel Building's Hester Auditorium, which is located on the campus of Shenandoah University at 1460 University Drive in Winchester, Virginia. Driving directions are available at [http://www.su.edu/find\\_us.asp](http://www.su.edu/find_us.asp), and a campus map at [http://www.su.edu/campus\\_map1.html](http://www.su.edu/campus_map1.html).

A copy of the draft TMDL document addressing the Abrams Creek and Upper and Lower Opequon Creek bacteria impairments will be ready for review on July 7, 2003. The public comment period will run from July 7, 2003, to August 6, 2003. Questions or information requests should be addressed to Gary Flory. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Gary Flory, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7840, FAX (540) 574-7878, or e-mail [gaflorey@deq.state.va.us](mailto:gaflorey@deq.state.va.us).

### **Total Maximum Daily Load (TMDL) for Bacteria on Five Stream Segments in the Tinker Creek Watershed**

The Department of Environmental Quality (DEQ) and the Roanoke Valley - Alleghany Regional Commission (RVARC) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for bacteria on five stream segments in the Tinker Creek watershed. The study area includes portions of the City of Roanoke and the Town of Vinton and the counties of Botetourt and Roanoke. The five stream impairments include 19.38 miles of Tinker Creek, 12.61 miles of Glade Creek, 3.5 miles of Lick Run, 2.08 miles of Laymantown Creek, and 5.25 miles Carvin Creek. These segments are identified in Virginia's 1998 and 2002 § 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for bacteria.

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 water contained in Virginia's § 303(d) TMDL Priority List and Report.

The first public meeting on the development of the Tinker Creek watershed bacteria TMDL will be held on June 24, 2003, at 7 p.m. at the Babcock Auditorium at Hollins University located at 7916 Williamson Road, Roanoke, Virginia.

The public comment period will end on July 23, 2003. A fact sheet on the development of the TMDL for bacteria in Tinker Creek watershed is available upon request. Questions or information requests should be addressed to Jason Hill. Written comments should include the name, address, and

telephone number of the person submitting the comments and should be sent to Jason Hill, Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6860, or e-mail [jrhill@deq.state.va.us](mailto:jrhill@deq.state.va.us).

### **Total Maximum Daily Load (TMDL) for Beaver Creek**

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 a Total Maximum Daily Load (TMDL) for Beaver Creek. The stream is listed on the 1998 § 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standards for the general standard (benthic) and bacteria.

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 water contained in Virginia's § 303(d) TMDL Priority List and Report.

Beaver Creek is located in Washington County and Bristol, Virginia. The impaired segment of Beaver Creek is 13.5 miles long. It begins upstream at the Route 611 bridge and continues to the Tennessee/Virginia state line in Bristol.

The first public meeting on the development of the TMDL to address the benthic and bacteria impairments for Beaver Creek will be held on Wednesday, June 25, 2003, 7 p.m. at the City Hall Auditorium, formerly the Bristol Utilities Building, located at 300 Lee Street in Bristol, Virginia.

The public comment period will end on July 25, 2003. A fact sheet on the development of the TMDL for the benthic impairment is available upon request or can be viewed at the DEQ website: <http://www.deq.state.va.us/tmdl/>. Questions or information requests should be addressed to Nancy T. Norton, P. E. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Nancy T. Norton, P. E., Department of Environmental Quality, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4807, FAX (276) 676-4899, or e-mail [ntnorton@deq.state.va.us](mailto:ntnorton@deq.state.va.us).

### **Total Maximum Daily Load (TMDL) for Clinch River in Tazewell County**

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 a Total Maximum Daily Load (TMDL) for Clinch River in Tazewell County. This stream is listed on the 1998 § 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standards for the general standard (benthics).

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 water contained in Virginia's § 303(d) TMDL Priority List and Report.

The impaired segment of Clinch River is located in Tazewell County. It is 5.5 miles long and begins at the upstream

confluence with Lincolnshire Branch in Tazewell. The downstream end of the Clinch River segment is at the confluence with Plum Creek. The river flows along Riverside Drive, Route 16 and Pisgah Road or Route 632 through Tazewell and River Jack.

The first public meeting on the development of the TMDL to address the Benthic Impairment for Clinch River will be June 23, 2003 at 7 p.m., in the Nuckles Hall at Tazewell County Fairgrounds in Tazewell, Virginia. The purpose of the study is to identify sources and determine reductions of pollutants so that the stream can meet the water quality standard.

The public comment period will end on July 23, 2003. A fact sheet on the development of the TMDL for aquatic life on the impaired stream is available upon request or can be viewed at the DEQ website, [www.deq.state.va.us](http://www.deq.state.va.us). Questions or information requests should be addressed to Nancy T. Norton, P. E., Department of Environmental Quality. Written comments should include the name, address, and telephone number of the person submitting the comments and be addressed to Nancy T. Norton, P. E., Department of Environmental Quality, 355 Deadmore Street, P.O. Box 1688, Abingdon, Virginia 24212, telephone (276) 676-4807, FAX (276) 676-4899, or e-mail [ntnorton@deq.state.va.us](mailto:ntnorton@deq.state.va.us).

### **Total Maximum Daily Load (TMDL) for Lewis Creek**

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 a Total Maximum Daily Load (TMDL) for Lewis Creek. The stream is listed on the 1998 § 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standards for the general standard (benthics).

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 water contained in Virginia's § 303(d) TMDL Priority List and Report.

Lewis Creek is located in Russell County and flows through Honaker and the communities of Putnam and Hickory Junction. It is 4.84 miles long and begins at the upstream confluence with Stone Branch and extends to Clinch River.

The first public meeting on the development of the TMDL to address the benthic impairment for Lewis Creek will be held on Thursday, June 26, 2003, 7 p.m. at the Honaker Town Hall in Honaker, Virginia.

The public comment period will end on July 26, 2003. A fact sheet on the development of the TMDL for the benthic impairment is available upon request or can be viewed at the deq website: <http://www.deq.state.va.us/tmdl/>. Contact Nancy T. Norton, P. E. with any questions or information requests. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Nancy T. Norton, P. E., Department of Environmental Quality, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4807, FAX (276) 676-4899, or e-mail [ntnorton@deq.state.va.us](mailto:ntnorton@deq.state.va.us).

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# General Notices/Errata

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## DEPARTMENT OF HEALTH

### Periodic Review of Regulations

In accordance with Virginia law and Executive Order 21 (2002), the Department of Health has devised a schedule for reviewing all regulations administered by it that have not been recently amended. During a period beginning June 16, 2003, and ending July 18, 2003, the Department of Health will conduct periodic reviews of the following regulations:

- 12 VAC 5-10, Public Participation Guidelines.
- 12 VAC 5-40, Regulation Governing Financial Assistance for Emergency Medical Services.
- 12 VAC 5-60, State Emergency Medical Services Plan.
- 12 VAC 5-130, Notice and Description of Shellfish Area Condemnation.
- 12 VAC 5-140, Notices of Establishment and Description of Seasonally Condemned Areas At Marina Facilities.
- 12 VAC 5-170, Prohibiting the Taking of Fish for Human Consumption From the North Fork of the Holston River.
- 12 VAC 5-215, Rules and Regulations Governing Health Data Reporting.
- 12 VAC 5-510, Guidelines for General Assembly Nursing Scholarships.
- 12 VAC 5-630, Private Well Regulations.

Comments may be directed during the review period to Douglas R. Harris, Virginia Department of Health, Office of the Commissioner, 1500 E. Main St., Suite 227, Richmond, VA 23219, e-mail dharris@vdh.state.va.us.

## STATE CORPORATION COMMISSION

### Bureau of Insurance

May 19, 2003

### ADMINISTRATIVE LETTER 2003-4

**TO: All Insurers, Health Service Plans, Health Maintenance Organizations, Surplus Lines Brokers, and Other Interested Parties**

**RE: Senate Bill No. 878 (Privacy Safeguards)**

This administrative letter is intended to provide guidelines to insurers, agents (including surplus lines brokers), and insurance-support organizations for the purpose of implementing the provisions of Senate Bill No. 878 (effective July 1, 2003). The following actions and procedures are examples of methods to implement the requirements set forth in § 38.2-613.2 of the Code of Virginia. These examples are non-exclusive illustrations of actions and procedures that insurers, agents (including surplus lines brokers), and insurance-support organizations may follow to implement the requirements set forth in § 38.2-613.2.

### Examples of Methods of Implementation

- A. Identify reasonably foreseeable internal or external threats that could result in unauthorized disclosure, misuse, alteration or destruction of policyholder information or policyholder information systems.
- B. Assess the likelihood and potential damage of these threats, taking into consideration the sensitivity of policyholder information.
- C. Assess the sufficiency of policies, procedures, policyholder information systems and other safeguards in place to control risks.
- D. Design the information security program to control the identified risks, commensurate with the sensitivity of the information, as well as the complexity and scope of activities.
- E. Train staff, as appropriate, to implement the information security program.
- F. Regularly test or otherwise regularly monitor the key controls, systems, and procedures of the information security program, the frequency and nature of such monitoring to be determined by the insurance institution, agent, or insurance-support organization.
- G. Exercise appropriate due diligence in selecting service providers.
- H. Require service providers to implement appropriate measures designed to meet the objectives set forth in this administrative letter and, where necessary, as determined by the insurance institution, agent, or insurance-support organization, take appropriate steps to confirm that service providers have satisfied these obligations.
- I. Monitor, evaluate, and adjust, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of policyholder information, internal or external threats to information, and changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements, and changes to policyholder information systems.

Each organization to which this letter has been sent should see that this letter is directed to the proper persons, including appointed representatives. Copies of Senate Bill No. 878 may be found at <http://legis.state.va.us/>. Copies of this administrative letter may be found at [www.state.va.us/scc/division/boi/](http://www.state.va.us/scc/division/boi/). Any questions regarding this administrative letter may be directed to JoAnne Scott at (804) 371-9600.

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May 19, 2003

## ADMINISTRATIVE LETTER 2003-5

**TO: All Insurers, Health Services Plans, Health Maintenance Organizations (HMOs) and Other Interested Parties**

**RE: Legislation Enacted by the 2003 Virginia General Assembly**

We have attached for your reference staff summaries of certain statutes enacted or amended and re-enacted during the 2003 Session of the Virginia General Assembly. The effective date of these statutes is July 1, 2003, except as otherwise indicated in this letter. Each organization to which this letter is being sent should review the attachments carefully and see that notice of these laws is directed to the proper persons, including appointed representatives, to ensure that appropriate action is taken to effect compliance with these new legal requirements. Copies of individual bills may be obtained at <http://legis.state.va.us/>. You may enter the bill number (not the Chapter number) on the Virginia General Assembly Home Page and you will be linked to the Legislative Information System. You may also link from the Legislative Information System to any existing section of the Code of Virginia.

Please note that this document is a summary of legislation. It is neither a legal review and interpretation nor a full description of the legislative amendments affecting insurance-related laws during the 2003 Session. Each organization is responsible for legal review of the statutes pertinent to its operations.

/s/ Alfred W. Gross

## TAXATION, FILINGS AND ASSESSMENTS OF INSURERS

### Chapter 371 (Senate Bill 853)

This bill amends § 38.2-406 to allow insurance companies to file assessment reports either on a form furnished by the State Corporation Commission (Commission), the current statutory requirement or on a form furnished by the insurer or its vendor if the form has been approved by the Commission prior to its use.

### Chapter 372 (Senate Bill 854)

This bill amends §§ 58.1-2500 and 58.1-2507 to specify that penalties owed for failure to pay license taxes timely are due within 14 days of the date of the notice to the delinquent insurer. If such additional amounts are not paid when due, the Commission may suspend or revoke the insurer's license. The measure also provides for refunds of overpayments of penalties, and defines the terms "preceding year's tax" and "tax."

### Chapter 221 (Senate Bill 943)

This bill amends § 38.2-3432.3 to clarify that preexisting condition exclusions relating to pregnancy existing on the effective date of coverage may be imposed in the case of

individual health insurance, only with respect to persons who are not considered eligible individuals as defined in § 38.2-3430.2 of the Code of Virginia.

### Chapter 243 (House Bill 1737)

The bill adds § 38.2-3418.14 and amends § 38.2-4319 to provide coverage for lymphedema. The bill is applicable to insurers proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; corporations providing subscription contracts; and health maintenance organizations (HMOs) providing health care plans. The coverage includes benefits for equipment, supplies, complex decongestive therapy, and outpatient self-management training and education for the treatment of lymphedema, if prescribed by a health care professional legally authorized to prescribe or provide such items under law. A managed care health insurance plan, as defined in Chapter 58 (§ 38.2-5800 et seq.), may require the health care professional to be a member of the plan's provider network. The network should include sufficient health care professionals that are qualified by specific education, experience, and credentials to provide the covered benefits. The bill prohibits insurers, corporations, and HMOs from imposing copayments, fees, policy year or calendar year, or durational benefit limitations or maximums for benefits or services that are not equally imposed on all individuals in the same benefit category.

The bill applies to insurance policies, contracts, and plans delivered, issued for delivery, reissued, renewed or extended on or after January 1, 2004, or at any time thereafter when the term is changed or the premium adjustment is made. The bill does not apply to short-term travel, accident only, limited or specified disease, or individual conversion policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act (Medicare), or any other similar coverage under state or federal governmental plans.

### Chapter 399 (Senate Bill 944)

This bill amends §§ 38.2-3503 and 38.2-3504 to clarify the applicability of provisions enacted by Chapter 540 (2000 House Bill 1236) regarding refunds of the unearned portion of premiums for individual accident and sickness insurance policies. The bill clarifies the refund requirements applicable to policies issued prior to January 1, 2001, as distinguished from policies delivered, issued for delivery, renewed or extended on or after January 1, 2001. The amendments in this bill make no substantive change to the aforementioned legislation enacted in 2000.

### Chapter 462 (Senate Bill 1081)

This bill amends § 38.2-3418.3 regarding the offer of coverage for morbid obesity. The bill revises the provision that insurers may not restrict access to surgery for morbid obesity based upon dietary standards or any other criteria not approved by the National Institutes of Health (NIH) since the NIH does not approve standards or criteria. The amended bill provides that standards and criteria, including those related to diet, used by insurers to approve or restrict access to surgery for morbid

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## General Notices/Errata

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obesity shall be based upon current clinical guidelines recognized by the National Institutes of Health.

### **Chapter 645 (House Bill 2234)**

This bill amends § 38.2-3431 to allow the Essential and Standard Health Benefit Plans (Plans) to include "co-payment, co-insurance, deductible or other cost-sharing arrangements as those terms are defined in § 38.2-3407.12. The bill also exempts the Plans from the mandated provider requirements of §§ 38.2-3408 and 38.2-4221.

### **Chapter 654 (House Bill 2803)**

This bill amends § 38.2-3540.1 to entitle a policyholder that is a "large employer," as defined in subsection B of § 38.2-3431 to receive, upon request, a summary of claims charges incurred and the amount paid with respect to those claims for the most recent 24-month period when requested in writing. The policyholder is entitled to a listing of enrollees for whom combined claims payments exceed \$50,000 for the most recent 12-month period, and for the preceding 12-month period if not previously provided with information regarding the enrollment status of these enrollees within the last 12-months. And, the policyholder is entitled to the total enrollment in each membership type as of the end of the most recent available 12-month period. The requested information is to be provided at the time the insurer provides claims experience according to subsection A. The record shall be made available to the policyholder within 15 days of the written request when the request is made at least 30 days prior to the date of premiums or contractual terms of the policy being amended. Personal or privileged information about an individual that is protected from disclosure under Chapter 6 (§ 38.2-600 et seq.) of this title, or under any other applicable federal or state law or regulation is not to be disclosed. No policyholder shall be required to pay for information requested in accordance to this section.

The bill applies to all policies, contracts, and plans delivered, issued for delivery, reissued, or extended on or after July 1, 2003 or at any time after the effective date when any term of any such policy, contract, or plan is changed or any premium adjustment is made. The requirements of this statute are not applicable to HMOs.

### **Chapter 699 (House Bill 1826)**

This bill adds § 38.2-508.5 to prohibit any health insurer from adjusting premiums, benefits, or contractual terms of existing individual health insurance coverage based upon its reevaluating of the individual's health status or claim experience, at the renewal date of the insurance contract. This prohibition does not apply to adjustments to the premium if the insurer, subsequent to issuing the policy, learns of information that was not disclosed in the underwriting process and that, if known, would have resulted in higher premiums. Such adjustment, rescission or amendment is also permitted (i) when an insurer provides certain lifestyle-based good health discounts and (ii) when an insurer removes waivers or riders that limit coverage for specific named preexisting conditions.

Insurers are reminded that the term "individual health insurance coverage", as used in this legislation, incorporates

the definition of that term as found in § 38.2-3431 of the Code of Virginia. The term, then, is broader than simply referring to traditional "individual" policies.

### **Chapter 752 (Senate Bill 1195) and Chapter 767 (House Bill 2601)**

This bill permits a health maintenance organization to offer to its subscribers deductibles, copayments, and cost-sharing provisions in accordance with applicable state law. "Copayment" is defined as an amount that an enrollee is required to pay in order to receive a specific health care service. "Deductible" is defined as an amount an enrollee is required to pay out-of-pocket before the health care plan begins to pay the costs associated with health care services. The total deductible or deductibles for basic health care services per calendar or contract year must not exceed the maximum annual deductibles permissible pursuant to 26 U.S.C. § 220 or any successor thereto. If the federal program for the plans is terminated, the plan may offer deductibles that do not exceed the deductibles from the last year of the federal program plus \$50 per calendar year afterward. The Commission may consider if a plan's deductibles are reasonable and may use at least the following: (i) whether the deductibles will adversely affect accessibility for enrollees, (ii) whether that plan has demonstrated the ability to monitor and implement the deductible plans, and (iii) whether the plan's level of capitalization and financial condition are adequate. The bill also clarifies that limitations applicable to **both** copayment **and** deductible features must be disclosed in the evidence of coverage, in addition to the disclosure requirements previously required.

## **AGENTS LICENSING/CONTINUING EDUCATION**

### **Chapter 412 (House Bill 1937)**

This bill amends § 38.2-1800 to amend the definition of "limited burial insurance authority." The bill increases the maximum amount per certificate of burial association group life insurance that may be solicited with respect to members of such an association from \$5,000 to \$7,500.

### **Chapter 621 (House Bill 2802)**

This bill amends § 38.2-1839 to require that any incentives, bonuses, overrides, or any other form of remuneration, whether direct or indirect, that an insurance consultant is entitled to, must be specified in the consultant's contract.

### **Chapter 871 (Senate Bill 877)**

This bill amends §§ 38.2-1833 and 38.2-1834 to clarify that an insurer's failure to pay penalties imposed as a result of late payment of appointment processing fees and renewal appointment fees constitutes nonpayment of the required fees, and such failure constitutes grounds for termination of the appointment. The bill specifies that the Commission must give due notice and a final opportunity for the insurer to submit the overdue payment and penalty fees before actually initiating appointment terminations.

## Chapter 979 (House Bill 1905)

The bill amends §§ 38.2-1800, 38.2-1824, 38.2-2411 and 38.2-2412, and adds a new Article 6.2 to Chapter 18 of Title 38.2, relating to the licensing of surety bail bondsmen. Section 38.2-1800 is amended to include a new definition for surety bail bondsman. "Surety bail bondsman" is defined as a person licensed pursuant to Article 6.2 of Chapter 18 of Title 38.2 who sells, solicits, or negotiates surety insurance on behalf of insurers licensed in this Commonwealth, pursuant to which the insurer becomes surety on or guarantees a bond that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail.

Surety bail bondsman is included as a type of agents' license under Chapter 18 of Title 38.2. Other provisions require that the Commission furnish to the Clerk of the Supreme of Virginia and the clerk of every circuit court in Virginia a list of the names of all surety bail bondsmen licensed pursuant to Article 6.2 of Chapter 18 of Title 38.2, who are appointed agents of fidelity and surety insurers; and require that the Commission give notice to the Clerk of the Supreme Court of Virginia and each circuit court in Virginia when it revokes, suspends or terminates the license of any surety bail bondsman licensed pursuant to Article 6.2 of Chapter 18 of Title 38.2.

The bill sets forth provisions for the licensing of surety bail bondsmen:

- Section 38.2-1865.6 provides for the licensing of property and casualty insurance agents as surety bail bondsmen. A surety bail bondsman license shall terminate immediately upon the termination of the licensee's property and casualty insurance agent license. The Commission is required to maintain a database containing information on surety bail bondsmen licensees.
- Section 38.2-1865.7 sets forth the requirements to apply for a surety bail bondsman license. Applicants are required to (i) submit an application; (ii) pass a written preclicensing examination; (iii) submit to fingerprinting for the purpose of obtaining national criminal history record information; (iv) submit copies of each power of attorney; and (v) submit a nonrefundable application fee.

In addition to the requirements previously set forth, business entity applicants are required to file the following documents, as applicable: (i) a domestic corporation shall have filed its articles of incorporation with the Clerk of the Commission and shall have been issued a charter by the Commission; (ii) a domestic limited liability company shall have filed its articles of organization with the Clerk of the Commission and shall have been issued a certificate of organization by the Commission; (iii) a domestic limited partnership shall have received a certificate of limited partnership from the Clerk of the Commission; and (iv) a domestic partnership shall have filed its partnership agreement with the clerk of the appropriate court. The business entity must also designate a licensed Virginia Surety Bail Bondsman to be responsible for the business entity's compliance with the insurance laws, rules and regulations of Virginia.

- Section 38.2-1865.8 sets forth the term of licenses and requirements for renewal. Licenses are issued for a term of two years and may be renewed for two years upon the filing of an application, the payment of the renewal application fee, and the submission to fingerprinting for the purpose of obtaining national criminal history record information. The Department of State Police shall forward to the Commissioner of the Bureau of Insurance of the State Corporation Commission or his designee the results of the records search from the Central Criminal Records Exchange and the Federal Bureau of Investigation. Licensees whose license as a surety bail bondsman has been revoked, suspended, terminated or nonrenewed will be required to satisfy all pre-licensing requirements before a new license may be issued.

- Section 38.2-1865.9 sets forth the fees for obtaining a surety bail bondsman license.

- Section 38.2-1865.10 sets forth reporting requirements to the Commission. Licensed surety bail bondsmen are required to report to the Commission (i) a change in residence or name; (ii) use of an assumed or fictitious name; (iii) felony convictions; (iv) final disposition of an administrative action; and (v) the appointment of a new licensed responsible producer by a business entity licensed as a surety bail bondsman, when its original licensed responsible producer is removed. If a new licensed responsible producer has not been appointed and the Commission notified of this new appointment within 30 calendar days, the business entity's license as a surety bail bondsman shall terminate immediately.

- Section 38.2-1865.11 sets forth the grounds by which the Commission shall (i) place a licensed surety bail bondsman on probation; (ii) refuse to issue or renew a license; and (iii) revoke or suspend a license.

- Section 38.2-1865.12 sets forth the following:

Subsection A - The rights of an applicant to request a hearing if the Commission (i) refuses to issue it a surety bail bondsman license; or (ii) revokes or suspends an existing license. An applicant, to whom a license has been refused or revoked, may not reapply until five years from the date of the Commission's order denying the application or revoking the license, or another period of time prescribed by the Commission in its order.

Subsection B - The Commission shall not revoke or suspend an existing license until the licensee is given an opportunity to be heard. The Commission is required to give 10 calendar days' notice of the time and place of the hearing, if a hearing is requested.

Subsection C - The Commission may immediately suspend a license upon receipt of documentation that the licensee has been convicted of a felony. The Commission must immediately give notice to the licensee of the suspension and of the time and place of a hearing regarding the suspension.

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## General Notices/Errata

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Subsection D – The Commission may suspend, revoke or refuse the license of a business entity if a violation by an individual licensee, acting on behalf of the business entity, was known to be a violation by a partner, officer or manager of the business entity.

Subsection E – In addition to, or in lieu of, a denial, suspension or revocation of a license, a person may be subject to a penalty pursuant to § 38.2-218.

Subsection F –The Commission may impose any penalty or remedy even if the person's license has been surrendered, terminated, suspended, revoked, or has lapsed by operation of law.

- Section 38.2-1865.13 sets forth the provisions for the licensing of nonresidents including (i) the need to satisfy all licensing requirements; (ii) applicability of a border state's law with similar requirements to Virginia; (iii) reciprocal agreements with other states and Canada; (iv) notification to the Commission of a change of address; (v) termination of a license at any time if the nonresident's home state has terminated, suspended or revoked a similar license; and (vi) that a license issued by another state shall not be deemed to authorize an applicant to be a resident surety bail bondsman in his home state unless the home state requires submission of a national criminal history record report, and such report does not indicate that the applicant has been convicted of a felony.

### PROPERTY AND CASUALTY

#### Chapter 222 (Senate Bill 978)

This bill amends § 38.2-1919 by requiring rate service organizations to report experience data for any classification of workers' compensation insurance that includes coal mining for the most recent five years for which the data is available.

#### Chapter 266 (House Bill 2524)

This bill amends § 38.2-604 by allowing the information practices notice to be given orally at the time of application, when application is made by phone, as long as the notice is given in writing or in electronic form no later than when the policy is delivered. The bill also amends §§ 38.2-604, 38.2-604.1, and 38.2-612.1 by allowing an agent who is shopping a current policyholder's renewal coverage to be deemed in compliance from the information practice notice requirement and the opt-out notice requirement as long as the agent has given the required notice within the previous 12 months. The bill also changes subsection B 3 of § 38.2-604 so that insurers only have to describe the circumstances under which they make disclosures pursuant to § 38.2-613 when those circumstances occur with such frequency as to indicate a general business practice.

#### Chapter 283 (Senate Bill 993)

This bill amends § 38.2-2206 (pertaining to uninsured and underinsured motorist coverage) by allowing judgement against an immune defendant to be entered in the name of "Immune Defendant." The bill specifies that in the case where an immune owner or operator of a vehicle is negligent, judgement will be enforceable against the insurer and any

other defendant as though the judgement were entered in the actual name of the immune defendant.

#### Chapter 361 (House Bill 2267)

This bill amends § 38.2-517 by prohibiting insurers from (i) failing to disclose that the insured or claimant is not obligated to use the repair or replacement facility or service or products recommended by the insurer or its representative; and (ii) failing to disclose to the insured or claimant if the insurer or its representative has a financial interest in the recommended repair or replacement facility. The bill also adds a new subsection B to § 38.2-517 by stating that insurers are not required to pay more for motor vehicle repair services or products than the prevailing competitive charges for equivalent services or products charged by similar contractors or repair shops within a reasonable geographic or trade area of the repair facility. The bill further states that offering an explanation to the policyholder or claimant of the extent of the insurer's obligation under this section does not constitute a violation of the section.

The provisions of the act will apply to motor vehicle insurance policies issued or renewed on or after July 1, 2003.

#### Chapter 387 (Senate Bill 1131)

This bill amends §§ 38.2-231, 38.2-2113, 38.2-2208 by allowing insurers another method of providing proof of mailing. Insurers may obtain a written receipt from the post office showing the date of mailing and the number of items mailed. Insurers will also have to retain a mailing list showing the name and address of the insureds to whom the notices were mailed as well as a signed statement that the written receipt from the post office corresponds to the mailing list.

#### Chapter 415 (House Bill 1948)

This bill amends § 38.2-612 by prohibiting insurers and agents from basing an adverse underwriting decision solely on the loss history of a previous owner of the property to be insured.

#### Chapter 488 (House Bill 1777)

This bill amends subsection E of § 38.2-2801 by specifying that the limits of liability for policies written in the medical malpractice joint underwriting association may not exceed \$2 million for each claimant under any one policy and \$6 million for all claimants under one policy in any one year. This change makes subsection E of § 38.2-2801 consistent with the provisions set forth in § 8.01-581.15 pertaining to the cap on recovery for medical malpractice actions.

This is emergency legislation and became effective upon the date of its passage.

#### Chapters 543/553 (House Bill 2535 and Senate Bill 1284)

These bills amend §§ 38.2-2114 and 38.2-2212 and add new §§ 38.2-2126 and 38.2-2234. Under these bills, insurers will be prohibited from non-renewing private passenger automobile and homeowners insurance policies solely on the basis of a person's credit information. If credit information is used in conjunction with another reason as the basis for the non-renewal, such credit information must be pulled within 120 days of the termination date. Insurers that use credit information will be required to advise their applicants of this

fact. Insurers will also have to give a notice stating that, if the insured questions the accuracy of the credit information, the insurer will be obligated to reevaluate the insured based on corrected information. Insurers will have to disclose the primary factors that were used as the basis for any adverse action taken as a result of a person's credit information or advise the applicant or insured that this information is available upon request. If an insurer uses credit information in rating or tier placement of its renewal business, the information must be updated every three years, unless the insured requests an update sooner. Insurers are not required to update more than once during each policy term. Insureds who do not have sufficient credit to produce a credit score must be given a neutral score or rated or underwritten excluding the use of credit or in accordance with the insurer's guidelines or rules. Certain factors are prohibited from being used to determine a credit score. These include disputed credit information; insurance inquiries and non-consumer initiated inquiries; medical trade lines; income, gender, address, zip code, ethnic group, race, color, religion, marital status, or nationality; and total available line of credit. Also, insurers are prohibited from considering, as more than one inquiry, multiple automobile or home mortgage lender inquiries made within 30 days of one another. Insurers may not take an adverse action based on a credit report procured more than 90 days prior to the date the policy was first written. Insurers may make exceptions for insureds impacted by catastrophic medical problems or other catastrophic events.

The provisions of §§ 38.2-2126 and 38.2-2234 apply to new policies not later than January 1, 2004, and to renewal policies not later than April 1, 2004. The provisions of §§ 38.2-2114 and 38.2-2212 take effect on July 1, 2003.

### **Chapter 707 (House Bill 2266)**

This bill amends the Consumer Protection Act under Title 59.1 (§ 59.1-207.5:1). It prohibits glass shops that sell, install, or replace motor vehicle glass from offering or providing a coupon, credit, or rebate to pay all or part of an insured's deductible unless the glass shop charges no more than the prevailing market rate for such services.

### **Chapter 729 (Senate Bill 878)**

This bill adds § 38.2-613.2 to require insurers, agents, and insurance-support organizations to implement a comprehensive written information security program that includes administrative, technical, and physical safeguards for the protection of policyholder information. The information security program must be designed to ensure the security and confidentiality of policyholder information, protect against any anticipated threats or hazards to the security or integrity of the information, and protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to any policyholder.

### **Chapters 756/761 (House Bill 2512 and Senate Bill 1154)**

These bills amend § 38.2-2204 by allowing named driver exclusions under personal umbrella and excess policies. The exclusion must be requested in writing by the first named insured and acknowledged in writing by the excluded driver.

**NOTE:** This section of the Code applies to policies of bodily injury or property damage liability insurance covering liability arising from the ownership, maintenance, or use of any motor vehicle, aircraft, or private pleasure watercraft. Nothing in these newly enacted chapters limit the applicability of subsection B to motor vehicle insurance policies. Consequently, named driver exclusions under personal umbrella and excess policies may be applied to operators of motor vehicles, aircraft, or private pleasure watercraft.

### **Chapter 799 (House Bill 2544)**

This bill adds a new section to Chapter 26 (§ 38.2-2600 et seq.) which allows home protection companies to include a provision in their contracts that requires the contract holder to submit to binding arbitration in any dispute between the contract holder and the home protection company.

### **Chapter 897 (House Bill 2048)**

This bill makes a number of changes to Chapter 50 of Title 38.2 pertaining to the Virginia Birth-Related Neurological Injury Compensation Program. The changes include amending the definition of "birth-related neurological injury," amending the exclusive remedy provision, allowing the Workers' Compensation Commission to make awards up to \$100,000 for infants who die within 180 days of birth, requiring annual audits of the Fund's accounts by an independent CPA, removing the Board's authority to reduce the participating physician and participating hospital annual assessments, and changing the make-up of the board of directors.

### **Chapter 930 (House Bill 2606)**

This bill amends § 38.2-2102 by stating that the standard fire insurance policy will not cover losses caused by certified acts of terrorism as defined in the federal Terrorism Risk Insurance Act if the insured has refused coverage offered pursuant to the federal act. This only applies to commercial fire policies. Section 38.2-2107 has also been amended to allow insurers to write excess fire insurance policies.

### **Chapter 1026 (Senate Bill 1316)**

This bill amends subsection A of § 38.2-2801 by clarifying that the Commission must activate a joint underwriting association (JUA) if, after investigation, notice, and hearing, it finds that medical malpractice insurance cannot be made reasonably available in the voluntary market for a significant number of any class, type, or group of health care providers. The second enactment clause of the bill requires the Commission to begin an investigation of the voluntary medical malpractice insurance market immediately to determine if a JUA is needed and to report its findings to the Governor and the Commerce and Labor committees no later than December 31, 2003.

## **FINANCIAL REGULATION**

### **Chapter 387/765 (Senate Bill 1131/House Bill 2462)**

This bill amends escheat statutes by adding a new § 55-210.4:2, concerning unclaimed demutualization proceeds, requiring that unclaimed property payable or distributable in the course of a demutualization of an insurance company is presumed abandoned five years after the earlier of ( ) the date

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## General Notices/Errata

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of last contact with the policyholder or (ii) the date the property became payable or distributable. A related amendment at § 55-212.12 clarifies reporting requirements generally; a second enactment clause clarifies reporting for reports filed on November 1, 2003.

### Chapter 440 (House Bill 2609)

This bill amends § 38.2-3221 to authorize a temporary reduction to 1.5% in the interest rate to be used for calculating the nonforfeiture benefit amounts for individual deferred annuities issued on or after April 1, 2003, and before July 1, 2005. The rate is a minimum value or floor, not a mandate. An "emergency" provision makes the legislation effective and "in force from its passage."

The measure has an emergency provision, which makes the legislation effective from date of passage.

### Chapter 566 (Senate Bill 850)

This bill amends § 15.1-2704 (powers of local government group self-insurance pools) to correct an outdated reference to workers' compensation plans. This housekeeping amendment conforms the statute with regulatory practices under which the assets of group self-insurance pools established pursuant to Chapter 27 of Title 15.2 are invested in securities and investments permitted by regulation adopted by the State Corporation Commission, for local government group self insurance pools pursuant to § 15.2-2706 in 1987, and codified at 14 VAC 5-360-50.

### Chapter 717 (House Bill 2613)

This bill repeals Chapter 57 (§ 38.2-5700 et seq.) in Title 38.2 and enacts a new Chapter 60 (§ 38.2-6000 et seq.), thereby replacing the existing Viatical Settlement Act with a more comprehensive statute based on model legislation adopted by the National Association of Insurance Commissioners (NAIC) in 2000. The bill also makes conforming amendments in provisions at §§ 38.2-1800 and 38.2-1865.1 concerning viatical settlement brokers. The measure authorizes persons who are licensed by the Commission as viatical settlement providers and viatical settlement brokers to negotiate, effectuate, and assume responsibility for viatical settlement contracts. A viatical settlement contract is an agreement by which the owner of an insurance policy may accept compensation or anything of value, which is less than the expected death benefit of an insurance policy, in exchange for the assignment, transfer, sale, or other conveyance of the death benefit or ownership of any portion of the insurance policy. This new act regulates viatical settlements regardless of whether the transaction involves a life settlement or affects a policy insuring a chronically or terminally ill person. The act adopts new definitions that recognize the securitization activities of viatical settlement brokers and providers; a separate provision specifies that this act does not preempt the Virginia Securities Act. Other provisions (i) permit life and annuities insurance agents to be licensed as viatical settlement brokers, (ii) provide that a licensed insurer shall be prohibited from transacting the business of a viatical settlement provider, (iii) expand notice and disclosure requirements applicable for viatical settlement brokers and viatical settlement providers, (iii) define and prohibit "fraudulent viatical settlement acts," and (iv) require viatical

settlement brokers and viatical settlement providers to develop anti-fraud plans. Additional provisions prohibit the viatication of life insurance policies that are less than two years old except when the insured is chronically or terminally ill, or when specified conditions are met involving conversion rights arising out of a group or individual policy or the disposal of ownership rights in a closely held corporation.

## 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 40-600, Food Stamp Program – Administrative Disqualification Hearings, 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, 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 July 7, 2003, in care of Celestine Jackson, Program Consultant, Department of Social Services, Division of Benefit Programs, 730 East Broad Street, Richmond, VA 23219-1284, by e-mail to [cja2@dss.state.va.us](mailto:cja2@dss.state.va.us), or by facsimile to (804) 225-2321.

## 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

Correction to Final Regulation:

Page 2108, in TABLE B7 (March 1988) of 9 VAC 25-720-60, James River Basin, in the third column of the WINTER portion of the table, insert the number "14.3" in the third column of the row labeled City of Richmond STP

Page 2109, in TABLE B7 (FOR THE YEAR 2000) of 9 VAC 25-720-60, James River Basin, in the third column of the WINTER portion of the table, insert "5707" in the third column of the row labeled City of Richmond STP

Page 2110, in TABLE B7 (FOR THE YEAR 2010) of 9 VAC 25-720-60, James River Basin, in the third column of the WINTER portion of the table, insert the number "5707" in the third column of the row labeled City of Richmond STP

### STATE CORPORATION COMMISSION

Title of Regulation: **20 VAC 5-200. Public Utility Accounting.**

Publication: 16:25 VA.R. 3271-3329 August 28, 2000

Correction to Final Regulation:

Page 3297, in 20 VAC 5-200-30 B, lines 5-7, the sentence in brackets was inadvertently stricken instead of printed in italics. The language in brackets should read: [ *Such application need not propose an increase in regulated operating revenues.* ]

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Title of Regulation: **20 VAC 5-417. Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers.**

Publication: 19:17 VA.R. 2580-2588 May 5, 2003

Correction to Final Regulation:

Page 2583, in 20 VAC 5-417-10, line 2 of definition of "competitive local exchange carrier," after "entity" insert the following: [ , *other than a locality,* ]

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# CALENDAR OF EVENTS

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



☎ 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](http://www.vipnet.org) or contact the organization directly.

For additional information on open meetings and public hearings held by the standing committees of the legislature during the interim, please call Legislative Information at (804) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY☎, or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

## EXECUTIVE

### BOARD OF ACCOUNTANCY

**June 25, 2003 - 10 a.m.** -- Open Meeting  
Holiday Inn-Richmond, 6531 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action. A public comment period will be held at the beginning of the meeting. All meetings are subject to cancellation. Any person desiring to attend the meeting and requiring special accommodations or interpretative services should contact the board office at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the American with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond, VA 23230-4916, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY ☎, e-mail [boa@boa.state.va.us](mailto:boa@boa.state.va.us).

### 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](mailto:jrogers@vdacs.state.va.us).

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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](mailto:ffulgham@vdacs.state.va.us).

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NOTE: EXTENSION OF PUBLIC COMMENT PERIOD  
**August 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 State Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-320. Rules and Regulations for the Enforcement of the Endangered Plant and Insect Species Act.** The purpose of the proposed action is to review the regulation for effectiveness and continued need,



including the following: amending the regulation to (i) remove the currently named plants that are no longer considered globally rare and (ii) add those threatened or endangered plant and insect species that are considered rare both globally and in Virginia.

Statutory Authority: § 3.1-1025 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](mailto:ffulgham@vdacs.state.va.us).

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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](mailto:lredford@vdacs.state.va.us).


## Virginia State Apple Board

† **June 26, 2003 - 9:30 a.m.** -- Open Meeting  
Rowe's Restaurant, 74 Rowe Road (Intersection of I-81/Route 250), Staunton, Virginia. 

If appropriate, the board will approve the minutes of the last meeting. In addition, the board will review its financial statement. The board is expected to discuss old business arising from the last meeting and any new business to come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Dave Robishaw at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Dave Robishaw, Secretary, Virginia State Apple Board, 900 Natural Resources Drive, Suite 300, Charlottesville, VA 22903, telephone (434) 984-0573, FAX (434) 984-4156.


## Virginia Aquaculture Advisory Board

**June 17, 2003 - 1 p.m.** -- Open Meeting  
Virginia Farm Bureau Federation, 12580 West Creek Parkway, 3rd Floor, Conference 3-F, Richmond, Virginia. 

The board will meet to discuss issues related to Virginia aquaculture. For directions call 1-800-768-8323, extension 1155. 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:** T. Robins Buck, Board Secretary, Department of Agriculture and Consumer Services, 1100 Bank St., 2nd Floor, Richmond, VA 23219, telephone (804) 371-6094, FAX (804) 371-2945.


## Virginia Marine Products Board

**June 17, 2003 - 6 p.m.** -- Open Meeting  
The Best Western Sunset Beach Resort, 32246 Lankford Highway (U.S. Route 13), Cape Charles, Virginia. 

The board will hear and approve, if appropriate, the minutes of the previous board meeting, a report on finance, trade shows, festivals, industry tours, and calendar sales. Cooperative programs with the Virginia Department of Agriculture and Consumer Services and croaker exports are expected to be the subjects of additional meeting discussions. 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 Shirley Estes at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Shirley Estes, Executive Director, Virginia Marine Products Board, 554 Denbigh Blvd., Suite B, Newport News, VA, telephone (757) 874-3474, FAX (757) 886-0671.

## Pesticide Control Board

† **July 17, 2003 - 9 a.m.** -- Open Meeting  
Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia. 

A meeting to discuss general business matters requiring board action. Portions of the meeting may be held in closed session pursuant to § 2.2-3711 of the Code of Virginia. The board will consider amendments to 2 VAC 20-40, Regulations Governing Licensing of Pesticide Business under Authority of Virginia Pesticide Control Act. 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

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# Calendar of Events

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meeting should contact Dr. Marvin Lawson at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Dr. Marvin Lawson, Director, Division of Consumer Protection, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 786-3534, FAX (804) 371-8598, e-mail mlawson@vdacs.state.va.us.

## 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.

## STATE AIR POLLUTION CONTROL BOARD

**July 2, 2003 - 9:30 a.m.** -- Public Hearing  
Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia. ♿

A public hearing to receive comments on the State Air Pollution Control Board's notice of intent to amend 9 VAC 5-91, Regulations for the Control of Motor Vehicle Emissions (Rev. MJ) for the control of motor vehicle emissions in Northern Virginia concerning high emitting vehicles identified by remote sensing. The NOIRA appears in this issue of the Virginia Register of Regulations. The comment period will close on July 3, 2003.

**Contact:** Mary E. Major, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, e-mail mlmajor@deq.state.va.us.

**July 3, 2003 - 9:30 a.m.** -- Public Hearing  
Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia. ♿

A public hearing to receive comments on the State Air Pollution Control Board's notice of intent to amend 9 VAC 5-40, Existing Stationary Sources (Rev. G03), by adding a new rule concerning consumer products. The NOIRA appears in this issue of the Virginia Register of Regulations. The public comment period will close on July 3, 2003.

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

## ALCOHOLIC BEVERAGE CONTROL BOARD

**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  
**August 25, 2003 - 9 a.m.** -- Open Meeting  
**† September 8, 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, Richmond, VA 23261, telephone (804) 213-4409, FAX (804) 213-4442, e-mail wccolen@abc.state.va.us.

## ALZHEIMER'S DISEASE AND RELATED DISORDERS COMMISSION

**† June 23, 2003 - 10 a.m.** -- Open Meeting  
Department for the Aging, 1600 Forest Avenue, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting.

**Contact:** Janet L. Honeycutt, Director of Grant Operations, Alzheimer's Disease and Related Disorders Commission, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9333, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY ♿, e-mail jlhoneycutt@vdh.state.va.us.

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

**† June 18, 2003 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. ♿

A meeting to conduct an informal fact-finding conference.

**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.

## ART AND ARCHITECTURAL REVIEW BOARD

**July 11, 2003 - 10 a.m.** -- Open Meeting  
**August 1, 2003 - 10 a.m.** -- Open Meeting  
**† September 5, 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](http://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](mailto:rifaia@aol.com).

## COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES

### State Executive Council

**June 25, 2003 - 9 a.m.** -- Open Meeting  
**July 30, 2003 - 9 a.m.** -- Open Meeting  
**August 27, 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](mailto:ags992@central.dss.state.va.us).

## VIRGINIA AVIATION BOARD

**June 17, 2003 - 3 p.m.** -- Open Meeting  
**June 18, 2003 - 9 a.m.** -- Open Meeting  
Ivor Massey Building, Richmond International Airport, Richmond, Virginia. ♿

A regular bimonthly meeting. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community will be discussed. Individuals with disabilities should contact Carolyn Toth 10 days prior to the meeting if assistance is needed.

**Contact:** Carolyn Toth, Administrative Assistant, Virginia Aviation Board, 5702 Gulfstream Rd., Richmond, VA 23250, telephone (804) 236-3637, FAX (804) 236-3635, toll-free (800) 292-1034, (804) 236-3624/TTY ☎, e-mail [toth@doav.state.va.us](mailto:toth@doav.state.va.us).

## CEMETERY BOARD

**† June 25, 2003 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia.

A meeting to conduct informal fact-finding conferences.

**Contact:** Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail [oneal@dpor.state.va.us](mailto:oneal@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](mailto:celliott@cblad.state.va.us).

## STATE CHILD FATALITY REVIEW TEAM

**July 8, 2003 - 10 a.m.** -- Open Meeting  
**† September 12, 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](mailto:vpowell@vdh.state.va.us).

## COMPENSATION BOARD

**June 18, 2003 - 11 a.m.** -- Open Meeting  
Compensation Board, 202 North 9th Street, 10th Floor, Richmond, Virginia. ♿

A monthly board meeting.


**Contact:** Cindy P. Waddell, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail [cwaddell@scb.state.va.us](mailto:cwaddell@scb.state.va.us).

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# Calendar of Events

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## BOARD OF CONSERVATION AND RECREATION

† **June 17, 2003 - 10 a.m.** -- Open Meeting  
State Capitol, House Room 2, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

A regular business meeting.

**Contact:** Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141, e-mail [leonapp@dcr.state.va.us](mailto:leonapp@dcr.state.va.us).

## DEPARTMENT OF CONSERVATION AND RECREATION

† **June 17, 2003 - 6:30 p.m.** -- Open Meeting  
Rugby Rescue Squad Building, 53 Rugby Road, Mouth of Wilson, Virginia.   
(Interpreter for the deaf provided upon request)

A meeting to develop draft park goals and objectives as the committee continues to work on a new state park master plan for Grayson Highlands.


**Contact:** Derral Jones, Planning Bureau Manager, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141, e-mail [leonapp@dcr.state.va.us](mailto:leonapp@dcr.state.va.us).

**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](mailto:djones@dcr.state.va.us).

## Virginia Soil and Water Conservation Board

† **July 18, 2003 - 9:30 a.m.** -- Open Meeting  
Department of Forestry, Fontaine Research Park, 900 Natural Resources Drive, Suite 800, Charlottesville, Virginia.   
(Interpreter for the deaf provided upon request)

A regular business meeting.

**Contact:** Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141, e-mail [leonapp@dcr.state.va.us](mailto:leonapp@dcr.state.va.us).

## BOARD FOR CONTRACTORS

**June 17, 2003 - 9 a.m.** -- Open Meeting

**June 24, 2003 - 9 a.m.** -- Open Meeting

† **July 1, 2003 - 9 a.m.** -- Open Meeting

**July 15, 2003 - 9 a.m.** -- Canceled

**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

**August 26, 2003 - 9 a.m.** -- Open Meeting

† **September 9, 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)


† **June 23, 2003 - 9 a.m.** -- Open Meeting

Municipal Center, 2401 Courthouse Drive, Building 1, Room 350, Virginia Beach, Virginia.

† **June 23, 2003 - 2:30 p.m.** -- Open Meeting


Virgil I. Grissom Library, 366 DeShazor Drive, Newport News, Virginia.

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](mailto:perkins@dpor.state.va.us).

**June 25, 2003 - 10 a.m.** -- Open Meeting

**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](mailto:contractors@dpor.state.va.us).

**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

† **September 16, 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 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.

**July 9, 2003 - 9 a.m.** -- Open Meeting

**August 20, 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.

## BOARD OF CORRECTIONS

† **July 15, 2003 - 10 a.m.** -- Open Meeting

Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting of the Liaison Committee to discuss correctional matters that may be presented to the board.

**Contact:** Barbara Woodhouse, Administrative Staff Assistant, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3509, e-mail woodhousebl@vadoc.state.va.us.

† **July 15, 2003 - 1 p.m.** -- Open Meeting

Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting of the Correctional Services/Policy Regulations Committee to discuss correctional services and policy/regulation matters that may be presented to the full board.

**Contact:** Barbara Woodhouse, Administrative Staff Assistant, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3509, e-mail woodhousebl@vadoc.state.va.us

† **July 16, 2003 - 9:30 a.m.** -- Open Meeting

Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting of the Administration Committee to discuss correctional matters that may be presented to the full board.

**Contact:** Barbara Woodhouse, Administrative Staff Assistant, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225,

telephone (804) 674-3124, FAX (804) 674-3509, e-mail woodhousebl@vadoc.state.va.us.

† **July 16, 2003 - 10 a.m.** -- Open Meeting

Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting of the full board.

**Contact:** Barbara Woodhouse, Administrative Staff Assistant, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3509, e-mail woodhousebl@vadoc.state.va.us.

## CRIMINAL JUSTICE SERVICES BOARD

† **June 30, 2003 - 11 a.m.** -- Open Meeting

ADI, 2235 Dabney Road, Richmond, Virginia.

An organizational meeting of the Private Security Services Advisory Board and Legislative Committee.

**Contact:** Judith Kirkendall, Regulatory Coordinator, Criminal Justice Services Board, Eighth St. Office Bldg., 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 786-8003, FAX (804) 786-0410, e-mail jkirkendall@dcjs.state.va.us.

## BOARD OF DENTISTRY

**June 27, 2003 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

The Special Conference Committee will conduct an informal hearing. There will be no public comment period.

**Contact:** JeAnne Marshall, Administrative Assistant, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY ☎, e-mail JeAnne.Marshall@dhp.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

**August 21, 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](http://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.


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# Calendar of Events

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## BOARD OF EDUCATION


NOTE: CHANGE IN MEETING LOCATION

**June 25, 2003 - 9 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. 

**July 23, 2003 - 9 a.m.** -- Open Meeting  
Richmond area; location to be determined.

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.

**† July 18, 2003 - 8:30 a.m.** -- Open Meeting  
Radisson Hotel Historic Richmond, 301 West Franklin Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the State Special Education Advisory Committee. 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, Department 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.


## DEPARTMENT OF ENVIRONMENTAL QUALITY

**June 17, 2003 - 1:30 p.m.** -- Open Meeting  
State Capitol, House Room 1, Richmond, Virginia. 

The first meeting of the Limited Impact Development Task Force charged with (i) developing a certification process for low impact development techniques in achieving quantifiable pollution prevention or abatement results, (ii) developing such other guidance for local governments and the general public as necessary to promote a more complete understanding of the most effective use of low impact development techniques, (iii) recommending changes to existing statutes and regulations to facilitate the use of low impact development techniques, and (iv) developing a model ordinance for use by local governments. For purposes of this section, "low impact development" means a site-specific system of design and development techniques that can serve as an effective, low-cost alternative to existing stormwater and water quality control methods and that will reduce the creation of storm


runoff and pollution and potentially reduce the need to treat or mitigate water pollution.

**Contact:** Kathy Frahm, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4376, FAX (804) 698-4346, e-mail krfrahm@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.

**† June 23, 2003 - 7 p.m.** -- Open Meeting  
Tazewell County Fairgrounds, Nuckles Hall, Tazewell, Virginia. 


The first public meeting on the development of the TMDL to address the benthic impairment for the Clinch River located in Tazewell County. The public comment period ends on July 23, 2003.

**Contact:** Nancy T. Norton, Department of Environmental Quality, 355 Deadmore St., Abingdon, VA 24210, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.state.va.us.

**† June 24, 2003 - 7 p.m.** -- Open Meeting  
Rich Valley Elementary School, Long Hollow Road (off of Route 42), Broadford, Virginia. 

The first public meeting on the development of a TMDL to address the benthic impairment for the North Fork Holston River in Smyth County. The public comment period closes on July 24, 2003.

**Contact:** Nancy T. Norton, Department of Environmental Quality, 355 Deadmore St., Abingdon, VA 24210, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.state.va.us.

**† June 24, 2003 - 7 p.m.** -- Open Meeting  
Hollins University, Babcock Auditorium, 7916 Williamson Road, Roanoke, Virginia. 

The first public meeting on the development of bacteria TMDLs for five stream segments in the Tinker Creek Watershed located in the City of Roanoke and the Town of Vinton (parts of Tinker, Glade, Laymantown and Carvin Creeks and Lick Run). The comment period closes on July 23, 2003.

**Contact:** Jason Hill, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6860, FAX (540) 562-6729, e-mail jrhill@deq.state.va.us.

† **June 25, 2003 - 7 p.m.** -- Open Meeting  
City Hall (formerly Bristol Utilities Building), 300 Lee Street, Auditorium, Bristol, Virginia. 📍

The first public meeting on the development of the TMDL to address the benthic and bacteria impairments for Beaver Creek in Washington County and Bristol, Virginia. The public comment period closes on July 25, 2003.

**Contact:** Nancy T. Norton, Department of Environmental Quality, 355 Deadmore St., Abingdon, VA 24210, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.state.va.us.

† **June 26, 2003 - 7 p.m.** -- Open Meeting  
Honaker Town Hall, Honaker, Virginia. 📍

The first public meeting on the development of the TMDL to address the benthic impairment for Lewis Creek located in Russell County. The public comment period closes on July 26, 2003.

**Contact:** Nancy T. Norton, Department of Environmental Quality, 355 Deadmore St., Abingdon, VA 24210, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.state.va.us.

† **July 1, 2003 - 7 p.m.** -- Open Meeting  
Shenandoah University, Henkel Building, Hester Auditorium, 1460 University Drive, Winchester, Virginia. 📍

The final public meeting on the development of the benthic TMDLs for Abrams Creek and Lower Opequon Creek located in Winchester and Frederick County. The public comment period starts on June 30, 2003, and closes on July 30, 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 gaflory@deq.state.va.us.

† **July 8, 2003 - 7 p.m.** -- Open Meeting  
Shenandoah University, Henkel Building, Hester Auditorium, 1460 University Drive, Winchester, Virginia. 📍

The final public meeting on the development of bacteria TMDLs for Abrams Creek, Upper Opequon Creek and Lower Opequon Creek located in Winchester and Frederick County. The public comment period runs from July 7, 2003, until August 6, 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 gaflory@deq.state.va.us.

## Ground Water Protection Steering Committee

† **July 15, 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.

## Recycling Markets Development Council

**August 20, 2003 - 10 a.m.** -- Open Meeting  
Henrico Training Center, 7701 East Parham Road, Glen Allen, 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) 698-4224, e-mail gscoe@deq.state.va.us.

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **June 20, 2003 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 📍

A meeting to hear possible violations of the laws and regulations governing the practice of funeral service.

**Contact:** Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY 📞, e-mail elizabeth.young@dhp.state.va.us.

## CHARITABLE GAMING COMMISSION

**June 26, 2003 - 10 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia. 📍

The final meeting of the commission and presentation of the 2002 Jennifer C. Byler Awards of Excellence.


**Contact:** Frances C. Jones, Administrative Staff Assistant, Charitable Gaming Commission, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-3014, FAX (804) 786-1079, e-mail jones@cg.state.va.us.

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# Calendar of Events

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## 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

### Emergency Medical Services Advisory Board

**August 8, 2003 - 1 p.m.** -- Open Meeting  
The Place at Innsbrook, 4036-C Cox Road, Glen Allen,  
Virginia. 

A regular quarterly meeting.

**Contact:** Gary R. Brown, Director, Department of Health,  
1538 E. Parham Rd., Richmond, VA 23228, telephone (804)  
371-3500, FAX (804) 371-3543, toll-free (800) 523-6019, e-  
mail gbrown@vdh.state.va.us.


### Sewage Handling and Disposal Advisory Committee

**August 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.


## VIRGINIA HIGHER EDUCATION TUITION TRUST FUND

**† June 19, 2003 - 10 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, 5th Floor,  
Richmond, Virginia.


A meeting of the Board of the Virginia College Savings  
Plan.

**Contact:** Lee Hall, Special Projects Assistant, Virginia Higher  
Education Tuition Trust Fund, James Monroe Bldg., 101 N.  
14th St., 5th Floor, Richmond, VA 23219, telephone (804)  
786-0719, FAX (804) 786-2453, toll-free (888) 567-0540, e-  
mail lhall@virginia529.com.

## JAMESTOWN-YORKTOWN FOUNDATION


**August 6, 2003 - 2 p.m.** -- Open Meeting  
**† September 10, 2003 - Noon** -- 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

NOTE: CHANGE IN MEETING DATE AND LOCATION


**July 16, 2003 - 9 a.m.** -- Open Meeting  
Cedar Lodge Training Facility, 1701 Old Bon Air Road, Bon  
Air, Virginia. 

The meeting of the 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@dji.va.state.us.

## DEPARTMENT OF LABOR AND INDUSTRY

### Virginia Apprenticeship Council

**June 19, 2003 - 10 a.m.** -- Open Meeting  
J. Sargeant Reynolds Community College, North Run  
Business Park, 1630 East 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. ♿

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;  
Executive Committee;  
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.

## VIRGINIA MANUFACTURED HOUSING BOARD

**June 19, 2003 - 10 a.m.** -- Open Meeting  
The Jackson Center, 501 North Second Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting to handle complaints against licensees, claims to the Transaction Recovery Fund and carry out other activities to administer the Manufactured Housing Licensing and Transaction Recovery Fund.

**Contact:** Curtis L. McIver, State Building Code Administrator, Virginia Manufactured Housing Board, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160, FAX (804) 371-7092, (804) 371-7089/TTY ☎, e-mail cmciver@dhcd.state.va.us.

## MARINE RESOURCES COMMISSION

**June 24, 2003 - 9:30 a.m.** -- Open Meeting  
† **July 22, 2003 - 9:30 a.m.** -- Open Meeting  
† **August 26, 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.

## BOARD OF MEDICAL ASSISTANCE SERVICES

† **September 9, 2003 - 10 a.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia. ♿

A regular meeting.

**Contact:** Nancy Malczewski, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8096, FAX (804) 371-4981, (800) 343-0634/TTY ☎, e-mail nmalczew@dmas.state.va.us.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**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.

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**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.

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# Calendar of Events

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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.

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**August 1, 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 30-40. Eligibility Requirements.** The purpose of the proposed action is to simplify Medicaid eligibility requirements for counting income.

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

Public comments may be submitted until August 1, 2003, to Patricia Sykes, Manager, Division of Policy, 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.

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**August 15, 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 30-50, Amount, Duration, and Scope of Medical and Remedial Services; 12 VAC 30-60, Standards Established and Methods Used to Assure High Quality of Care; and 12 VAC 30-130, Amount Duration, and Scope of Selected Services.** The purpose of the proposed action is to improve the delivery of community mental health and regulatory requirements.

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

Public comments may be submitted until August 15, 2003, to Katherine Hancock, Analyst, Division of Policy, 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.

## Medicaid Physician Advisory Committee

† **July 15, 2003 - 4 p.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia. ☎

Discussion of physician issues within Medicaid.

**Contact:** Chris Schroeder, Meeting Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, FAX (804) 371-4981, (800) 343-0634/TTY ☎, e-mail cschroed@dmas.state.va.us.

## BOARD OF MEDICINE

### Informal Conference Committee

† **June 19, 2003 - 9 a.m.** -- Open Meeting

† **July 31, 2003 - 9 a.m.** -- Open Meeting  
Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia.

**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.

**July 16, 2003 - 9 a.m.** -- Open Meeting  
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, 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.

## STATE BOARD FOR MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

**July 17, 2003 - 6:30 p.m.** -- Public Hearing  
Dumbarton Area Library, 6800 Staples Mill Road, Richmond, Virginia. (Interpreter for the deaf provided upon request)

**August 15, 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 Mental Health, Mental Retardation and Substance Abuse Services intends to amend regulations entitled **12 VAC 35-180, Regulations to Assure the Protection of Participants in Human Research.** The purpose of the proposed action is to comply with changes to the Code of Virginia and to be consistent

with applicable federal requirements, including privacy requirements pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Statutory Authority: §§ 37.1-10 and 37.1-24.01 of the Code of Virginia.

**Contact:** Mary Nash Shawver, Planning Coordinator, Office of Substance Abuse Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-0825, FAX (804) 786-4320, e-mail mshawver@dmhmrsas.state.va.us.

## STATE MILK COMMISSION


† **August 13, 2003 - 10:30 a.m.** -- Open Meeting  
Motley's Dairy Inc., 4740 Payneton Road, Chatham, Virginia.

A regular meeting of the commission to consider industry issues, distributor licensing, base transfers, and reports from staff. The commission offers anyone in attendance an opportunity to speak at the conclusion of the agenda. Those persons requiring special accommodations should notify the agency contact at least five working days prior to the meeting date so that suitable arrangements can be made.


**Contact:** Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 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.

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Virginia Gas and Oil Board


**June 17, 2003 - 9 a.m.** -- Open Meeting  
Virginia Highlands Community College, Southwest Virginia Higher Education Center, Abingdon, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting to consider petitions filed by applicants. The public may address the board on individual items as they are called for hearing. Information concerning the docket items can be viewed from 8 a.m. to 5 p.m. Monday through Friday at the office of the Department of Mines, Minerals and Energy, Division of Gas and Oil, 230 Charwood Drive, Abingdon, Virginia. All questions should be directed to the division. Special accommodations for the disabled will be made available at the hearing on request. Anyone needing special accommodations should contact the department by June 10, 2003.


**Contact:** Bob Wilson, Division Director, Department of Mines, Minerals and Energy, P.O. Box 1416, Abingdon, VA 24212, telephone (276) 676-5423, (800) 828-1120/TTY , e-mail bwx@mme.state.va.us.

## DEPARTMENT OF MOTOR VEHICLES


### Medical Advisory Board

**July 9, 2003 - 8 a.m.** -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Richmond Virginia.  (Interpreter for the deaf provided upon request)


A regular business meeting

**Contact:** J. C. Branche, R. N., Assistant Division Manager, Department of Motor Vehicles, 2300 W. Broad St., Richmond VA 23220, telephone (804) 497-7188, FAX (804) 367-1604, toll-free (800) 435-5137, (800) 272-9268/TTY , e-mail dmvj3b@dmv.state.va.us.

## VIRGINIA MUSEUM OF FINE ARTS


**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.

† **September 4, 2003 - 8 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Main Lobby, Conference Room, Richmond, Virginia. 

A monthly meeting of the Executive Committee. Public comment will not be received.

**Contact:** Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, Virginia 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY , e-mail sbroyles@vmfa.state.va.us.

## 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. 

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# Calendar of Events

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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.

† **July 15, 2003 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, Board Room 2, 5th Floor, Richmond, Virginia. ♿

A general business meeting including committee reports, consideration of regulatory action, and disciplinary case decisions as presented on the agenda. Public comment will be received at 11 a.m.

**Contact:** Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail jay.douglas@dhp.state.va.us.

## Special Conference Committee

**June 24, 2003 - 9 a.m.** -- Open Meeting

**June 25, 2003 - 9 a.m.** -- Open Meeting

**June 26, 2003 - 9 a.m.** -- Open Meeting

† **July 29, 2003 - 9 a.m.** -- Open Meeting

† **August 11, 2003 - 9 a.m.** -- Open Meeting

† **August 12, 2003 - 9 a.m.** -- Open Meeting

† **August 14, 2003 - 9 a.m.** -- Open Meeting

† **August 19, 2003 - 9 a.m.** -- Open Meeting

† **August 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 OUTDOORS FOUNDATION

**June 24, 2003 - 9 a.m.** -- Open Meeting  
Monticello, Charlottesville, Virginia.

A regular meeting of the Board of Trustees to accept conservation easements and discuss business of the foundation.

**Contact:** Tamara Vance, Executive Director, Virginia Outdoors Foundation, 203 Governor St., Richmond, VA 23219, telephone (804) 225-2147.

## BOARD OF PHARMACY

**June 26, 2003 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

A Special Conference Committee will 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.

## BOARD OF PHYSICAL THERAPY

† **June 30, 2003 - 10 a.m.** -- Open Meeting  
**July 11, 2003 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Rooms 1 and 3, Richmond, Virginia. ♿

A meeting to hear possible violations of the laws and regulations governing the practice of physical therapy.

**Contact:** Elizabeth Young, Executive Director, Board of Physical Therapy, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.state.va.us.

**July 11, 2003 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A quarterly business meeting to include regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

**Contact:** Elizabeth Young, Executive Director, Board of Physical Therapy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.state.va.us.

## POLYGRAPH EXAMINERS ADVISORY BOARD

**June 18, 2003 - 10 a.m.** -- Canceled  
† **July 31, 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 department fully complies with the Americans with Disabilities Act.

**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 OF PSYCHOLOGY

† **July 28, 2003 - 9 a.m.** -- Open Meeting  
Department of Health Professions, Alcoa Building, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A regular board meeting.

**Contact:** Diana Pollick, Administrative Assistant, Department of Health Professions, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9913, FAX (804) 662-7250, (804) 662-7197/TTY ☎, e-mail Diana.Pollick@dhp.state.va.us.

† **July 28, 2003 - 10:30 a.m.** -- Open Meeting  
Department of Health Professions, Alcoa Building, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A formal hearing.

**Contact:** Diana Pollick, Administrative Assistant, Department of Health Professions, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9913, FAX (804) 662-7250, (804) 662-7197/TTY ☎, e-mail Diana.Pollick@dhp.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 APPRAISER BOARD

† **June 25, 2003 - 2 p.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿

A meeting to conduct informal fact-finding conferences.

**Contact:** Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail oneal@dpor.state.va.us.

## REAL ESTATE BOARD

**June 16, 2003 - 1 p.m.** -- Open Meeting  
**June 27, 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, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8582, FAX (804) 367-0194, (804) 367-9753/TTY ☎, e-mail amaker@dpor.state.va.us.

† **July 16, 2003 - 4 p.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting of the Education Committee to review education applications.

**Contact:** Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail oneal@dpor.state.va.us.

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# Calendar of Events

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† **July 17, 2003 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia.

A meeting to review fair housing cases.

**Contact:** Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail oneal@dpor.state.va.us.

† **July 17, 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:** Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail oneal@dpor.state.va.us.

## DEPARTMENT OF REHABILITATIVE SERVICES

### Commonwealth Neurotrauma Initiative Advisory Board

† **June 25, 2003 - 9:30 a.m.** -- Open Meeting  
Department of Rehabilitative Services, 1602 Rolling Hills Drive, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Official business meeting 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 Dr., Richmond, VA 23229, telephone (804) 662-7021, FAX (804) 662-7122, toll-free (800) 552-5019, (804) 662-9040/TTY ☎, e-mail princesw@drs.state.va.us.

## VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

**June 24, 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 to conduct 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.

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**August 1, 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 amend regulations entitled **22 VAC 40-250, Agency Placement Adoptions -- AREVA**. The purpose of the proposed action is to amend the regulation to make it consistent with a related adoption regulation, 22 VAC 40-260, Subsidy. Amendments also extend the time for local agencies to register children in AREVA and delete references to obsolete terms.

Statutory Authority: §§ 63.2-217 and 63.2-900 of the Code of Virginia.

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

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**August 1, 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 amend regulations entitled **22 VAC 40-260, Agency Placement Adoptions -- Subsidy**. The purpose of the proposed action is to amend the regulation to more accurately reflect the current population of children waiting for adoptive placement, delete obsolete terms, and improve overall clarity. An appeals provision will be added to replace 22 VAC 40-270, which is being repealed.

Statutory Authority: §§ 63.2-217 and 63.2-900 of the Code of Virginia.

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

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**August 1, 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 amend regulations entitled **22 VAC 40-270, Agency Placement Adoptions -- Appeals**. The purpose of the proposed action is to repeal the regulation. Appeal provisions will be added to another regulation, 22 VAC 40-260, Agency Placement Adoptions - Subsidy.

Statutory Authority: §§ 63.2-217 and 63.2-900 of the Code of Virginia.

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

## DEPARTMENT OF SOCIAL SERVICES

**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.

NOTE: CHANGE IN MEETING DATE AND LOCATION

† **July 25, 2003 - 5 p.m.** -- Open Meeting  
Charlottesville, Virginia.

A quarterly meeting 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 fyt900@email1.dss.state.va.us.


NOTE: CHANGE IN MEETING DATE AND LOCATION

† **July 26, 2003 - 9 a.m.** -- Open Meeting  
Charlottesville, 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 fyt900@email1.dss.state.va.us.

## BOARD OF SOCIAL WORK


**June 19, 2003 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, Fifth Floor, Conference Room 4, Richmond, Virginia. 

A meeting to hear possible violations of the laws and regulations governing the practice of social work.

**Contact:** Evelyn B. Brown, Executive Director, Board of Social Work, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-7250, (804) 662-7197/TTY , e-mail evelyn.brown@dhp.state.va.us.


**July 25, 2003 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia. 

Regulatory review and regular board business.

**Contact:** Evelyn B. Brown, Executive Director, Board of Social Work, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-7250, (804) 662-7197/TTY , e-mail evelyn.brown@dhp.state.va.us.

## DEPARTMENT OF TECHNOLOGY PLANNING


### VGIN Advisory Board

† **September 4, 2003 - 1:30 p.m.** -- Open Meeting  
Richmond Plaza Building, 110 South 7th Street, 3rd Floor Training Room, Richmond, Virginia. 

A regular board meeting.

**Contact:** Bill Shinar, VGIN Coordinator, Department of Technology Planning, 110 S. 7th Street, Suite 135, Richmond, VA 23219, telephone (804) 786-8175, FAX (804) 371-2795, e-mail bshinar@vgin.state.va.us.

### Wireless E-911 Services Board

**July 9, 2003 - 10 a.m.** -- Open Meeting  
† **September 10, 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)

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# Calendar of Events

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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](mailto:smarzolf@ntp.state.va.us).

**July 9, 2003 - 9 a.m.** -- Open Meeting

† **September 10, 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](mailto:smarzolf@ntp.state.va.us).

## COUNCIL ON TECHNOLOGY SERVICES

**June 19, 2003 - 3 p.m.** -- Open Meeting

**July 17, 2003 - 3 p.m.** -- Open Meeting

**August 21, 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](http://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](mailto:jhunter@gov.state.va.us).

**July 9, 2003 - 9:30 a.m.** -- Open Meeting

**August 13, 2003 - 9:30 a.m.** -- Open Meeting

† **September 10, 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](http://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](mailto:jhunter@gov.state.va.us).

**August 7, 2003 - 2 p.m.** -- Open Meeting


† **September 4, 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](http://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](mailto:jhunter@gov.state.va.us).

## VIRGINIA TOBACCO SETTLEMENT FOUNDATION


† **June 25, 2003 - 11:30 a.m.** -- Open Meeting  
701 East Franklin Street, Suite 501, Richmond, Virginia. 

A strategic planning session of the Executive Committee.


**Contact:** Eloise Burke, Senior Executive Assistant, Virginia Tobacco Settlement Foundation, 701 E. Franklin St., Suite 501, Richmond, VA 23219, telephone (804) 786-2523, FAX (804) 225-2272, e-mail [eburke@tsf.state.va.us](mailto:eburke@tsf.state.va.us).

## VIRGINIA TOURISM AUTHORITY

### Governor's Outdoor Resources Advisory Panel

**July 11, 2003 - 11 a.m.** -- Open Meeting  
Hotel Roanoke, Roanoke, Virginia. 

Four committees will present their reports to panel members. Another agenda item concerns discussions with the writer who will prepare the report to the Governor.

**Contact:** Polly Bozorth, Administrative Assistant, Virginia Tourism Authority, 901 E. Byrd St., Richmond, VA 23219, telephone (804) 371-8144, FAX (804) 786-1919, (804) 371-0327/TTY , e-mail [pbozorth@virginia.org](mailto:pbozorth@virginia.org).

## COMMONWEALTH TRANSPORTATION BOARD

**June 18, 2003 - 2 p.m.** -- Open Meeting

**July 16, 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](mailto:Sandee.Mills@VirginiaDOT.org).

**June 19, 2003 - 9 a.m.** -- Open Meeting

**July 17, 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 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](mailto:Sandee.Mills@VirginiaDOT.org).



## TREASURY BOARD

† **June 18, 2003 - 10 a.m.** -- Open Meeting  
† **July 16, 2003 - 9 a.m.** -- Open Meeting  
† **August 20, 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.

## VIRGINIA INFORMATION PROVIDERS NETWORK AUTHORITY

† **June 25, 2003 - 3:30 p.m.** -- Open Meeting  
Virginia Interactive, Bank of America Building, 1111 East Main Street, Suite 901, Richmond, Virginia.

The meeting is subject to business and quorum considerations.

**Contact:** Will Prible, Assistant to the Director, Virginia Information Providers Network Authority, 110 S. 7th St., Richmond, VA 23219, telephone (804) 786-4583, e-mail wprible@vipnetboard.state.va.us.

## BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

† **July 22, 2003 - 10 a.m.** -- Open Meeting  
Virginia Department of Professional and Occupational Regulation, 3600 West Broad Street, Fifth Floor, Richmond, Virginia. ☎

A meeting to conduct board business and to consider proposing amendments to the Virginia Board for Waste Management Facility Operators Regulations (18 VAC 155-20).

**Contact:** David E. Dick, Executive Director, Board for Waste Management Facility Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail wastemgt@dpor.state.va.us.

## STATE WATER CONTROL BOARD

**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 cmb Berndt@deq.state.va.us.

**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, 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.

**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, 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.

**July 11, 2003 - 5:30 p.m.** -- Open Meeting  
Suffolk City Council Chambers, Municipal Building, 441 Market Street, Suffolk, Virginia. ☎

One of two public meetings to receive comments on four notices of intent to amend the water quality standards by designating various waters as exceptional resource waters (Tier III). The notices of intent appear in this issue of the Virginia Register of Regulations. The public comment period will close on July 25, 2003.

**Contact:** Jean W. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4113, FAX (804) 698-4522, e-mail jwggregory@deq.state.va.us.

**July 15, 2003 - 6 p.m.** -- Open Meeting  
Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, Virginia. ☎

One of two public meetings to receive comment on four notices of intent to amend the water quality standards by designating various waters as outstanding state resource waters. The notices of intent appear in this issue of the Virginia Register of Regulations. The public comment period will close on July 25, 2003.

**Contact:** Jean W. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4113, FAX (804) 698-4522, e-mail jwggregory@deq.state.va.us.

† **July 17, 2003 - 2 p.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ☎

A public meeting to receive comments on the State Water Control Board's notice of intent to adopt a regulation concerning water supply planning. The NOIRA will be

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# Calendar of Events


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published in the Virginia Register and the comment period will begin on June 16, 2003. The comment period will end on July 21, 2003. In addition to the meeting contact below, interested persons can also contact Terry Wagner at 804-698-4043.

**Contact:** Scott Kudlas, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4456, FAX (804) 698-4346, e-mail [swkudlas@deq.state.va.us](mailto:swkudlas@deq.state.va.us).

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

**June 19, 2003 - 8:30 a.m.** -- Open Meeting


† **September 9, 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](mailto:waterwasteoper@dpor.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](mailto:brobertson@valottery.state.va.us).

### VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY

**June 19, 2003 - 9 a.m.** -- Open Meeting  
Hampton Inn and Suites, 900 West Main Street, Charlottesville, Virginia.  (Interpreter for the deaf provided upon request)


Public comment is welcome and will be received at approximately 9:10 a.m.


**Contact:** Kim Ware, Program Operations Coordinator, Virginia Office for Protection and Advocacy, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2061, FAX (804) 225-3221, toll-free (800) 552-3962, (804) 225-2042/TTY , e-mail [wareka@vopa.state.va.us](mailto:wareka@vopa.state.va.us).

### VIRGINIA RETIREMENT SYSTEM


**June 16, 2003 - 9 a.m.** -- Canceled  
Location to be determined.

The Board of Trustees' annual retreat has been canceled.

**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](mailto:dkestner@vrs.state.va.us).


**August 20, 2003 - 11 a.m.** -- Open Meeting  
Bank of America Building, 1111 East Main Street, 4th Floor, Conference Room, Richmond, Virginia. 

A regular meeting of the Investment Advisory Committee. No public comment will be received.


**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](mailto:dkestner@vrs.state.va.us).

† **June 17, 2003 - 9 a.m.** -- Open Meeting  
The Omni Hotel, 100 South 12th Street, Richmond, Virginia.


NOTE: CHANGE IN MEETING TIME

**August 21, 2003 - 9 a.m.** -- Open Meeting  
VRS Headquarters, 1200 East Main Street, Richmond, Virginia. 


A regular meeting of the Board of Trustees. No public comment will be received.


**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](mailto:dkestner@vrs.state.va.us).

† **June 24, 2003 - Noon** -- Open Meeting

† **July 22, 2003 - Noon** -- Open Meeting  
VRS Headquarters Building, 1200 East Main Street, Richmond, Virginia. 

The meeting of the Optional Retirement Plan Advisory Committee. No public comment will be received at the meeting.

**Contact:** LaShaunda B. King, Administrative Secretary, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23218, telephone (804) 344-3124, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail [lking@vrs.state.va.us](mailto:lking@vrs.state.va.us).

**August 20, 2003 - 3 p.m.** -- Open Meeting  
VRS Headquarters, 1200 East Main Street, Richmond, Virginia. 

The following committees will meet:

- 3 p.m. - Administration and Personnel Committee
- 3 p.m. - Benefits and Actuarial Committee
- 4 p.m. - Audit and Compliance Committee

**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

### DR. MARTIN LUTHER KING JR. MEMORIAL COMMISSION

† **July 8, 2002 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. ♿

A regular meeting. Questions about the agenda should be addressed to Brenda Edwards or Norma Szakal, Division of Legislative Services, (804) 786-3591.

**Contact:** Anne R. Howard, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

### VIRGINIA CODE COMMISSION

† **June 18, 2003 - 10 a.m.** -- Open Meeting  
General Assembly Bldg., 9th and Broad Streets, 6th Floor, Speaker's Conference Room, Richmond, Virginia. ♿  
(Interpreter for the deaf provided upon request)

A meeting to discuss the recodification of Title 3.1 (Agriculture, Horticulture and Food). 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.

† **August 20, 2003 - 10 a.m.** -- Open Meeting  
General Assembly Bldg., 9th and Broad Streets, 6th Floor, Speaker's Conference Room, Richmond, Virginia. ♿  
(Interpreter for the deaf provided upon request)

A meeting to discuss the recodifications of Titles 1, 3.1 and 37.1. 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.

### JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

† **July 8, 2003 - 9:30 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿

A meeting of the JCOTS Cyberlaw Advisory Committee.

**Contact:** Mitchell Goldstein, Director, Joint Commission on Technology and Science, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, e-mail jcots@leg.state.va.us.

† **July 9, 2003 - 1:30 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿

† **August 5, 2003 - 9:30 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿

† **August 6, 2003 - 1:30 p.m.** -- Open Meeting

† **September 17, 2003 - 1:30 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿

A meeting of the JCOTS Advisory Committee on the Hard Sciences.

**Contact:** Eric Link, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 371-0169, e-mail elink@leg.state.va.us.

† **August 19, 2003 - 10 a.m.** -- Open Meeting  
Video conference; location to be determined.

A meeting to discuss homeland security.

**Contact:** Mitchell Goldstein, Director, Joint Commission on Technology and Science, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

† **September 3, 2003 - 1:30 p.m.** -- Open Meeting  
Location to be determined.

A meeting of the JCOTS Advisory Committee on Integrated Government.

**Contact:** Eric Link, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 371-0169, e-mail elink@leg.state.va.us.

† **September 16, 2003 - 9:30 a.m.** -- Open Meeting  
Location to be determined.

A meeting of the JCOTS Advisory Committee on Consumer Protection.

**Contact:** Mitchell Goldstein, Director, Joint Commission on Technology and Science, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

**June 16**

Chesapeake Bay Local Assistance Board  
Library of Virginia, The  
- Archival and Informational Services Committee

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# Calendar of Events

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- Collection Management Services Committee
- Executive Committee
- Legislative and Finance Committee
- Library Board
- Publications and Educational Services Committee
- Public Library Development Committee
- Records Management Committee

Real Estate Board

## June 17

Agriculture and Consumer Services, Department of

- Virginia Aquaculture Advisory Board
- Virginia Marine Products Board

Aviation Board, Virginia

† Conservation and Recreation, Board of

† Conservation and Recreation, Department of

- Grayson Highlands State Park Master Plan Advisory Committee

Contractors, Board for

Environmental Quality, Department of

Mines, Minerals and Energy, Department of

- Virginia Gas and Oil Board

Old Dominion University

- Board of Visitors

† Retirement System, Virginia

- Board of Trustees

## June 18

† Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for

Aviation Board, Virginia

† Code Commission, Virginia

Compensation Board

Lottery Board, State

Museum of Fine Arts, Virginia

- Expansion Committee

Social Services, State Board of

Transportation Board, Commonwealth

† Treasury Board

## June 19

Design-Build/Construction Management Review Board

† Higher Education Tuition Trust Fund, Virginia

Labor and Industry, Department of

- Virginia Apprenticeship Council

Manufactured Housing Board, Virginia

† Medicine, Board of

- Informal Conference Committee

Museum of Fine Arts, Virginia

- Executive/Finance Committee

Protection and Advocacy, Virginia Office for

Public Guardian and Conservator Advisory Board, Virginia

Social Services, State Board of

Social Work, Board of

Technology Services, Council on

- Security Workgroup

Transportation Board, Commonwealth

Water Control Board, State

Waterworks and Wastewater Works Operators, Board for

## June 20

† Funeral Directors and Embalmers, Board of

Health Professions, Department of

- Intervention Program Committee

Social Services, Department of

- Family and Children's Trust Fund

## June 23

Alcoholic Beverage Control Board

† Alzheimer's Disease and Related Disorders Commission

Conservation and Recreation, Department of

- Leesylvania State Park Master Plan Advisory Committee

† Contractors, Board for

† Environmental Quality, Department of

## June 24

Contractors, Board for

† Environmental Quality, Department of

Marine Resources Commission

Nursing, Board of

- Special Conference Committee

Outdoors Foundation, Virginia

- Board of Trustees

† Retirement System, Virginia

- Optional Retirement Plan Advisory Committee

Small Business Financing Authority, Virginia

## June 25

Accountancy, Board of

At-Risk Youth and Families, Comprehensive Services for

† Cemetery Board

Contractors, Board for

- Tradesman and Education Committee

Education, Board of

† Environmental Quality, Department of

Medicine, Board of

- Informal Conference Committee

Nursing, Board of

- Special Conference Committee

† Real Estate Appraiser Board

† Rehabilitative Services, Department of

- Commonwealth Neurotrauma Initiative Advisory Board

† Tobacco Settlement Foundation, Virginia

† Virginia Information Providers Network Authority Board

## June 26

† Agriculture and Consumer Services, Department of

- Virginia State Apple Board

† Environmental Quality, Department of

Gaming Commission, Charitable

Nursing, Board of

- Special Conference Committee

Pharmacy, Board of

- Special Conference Committee

## June 27

Dentistry, Board of

- Special Conference Committee

Real Estate Board

## June 30

† Criminal Justice Services Board

- Private Security Services Advisory Board

† Physical Therapy, Board of

## July 1

† Contractors, Board for

† Environmental Quality, Department of

## July 2

Water Control Board, State

## July 8

Child Fatality Review Team, State

† Environmental Quality, Department of

† Dr. Martin Luther King, Jr. Memorial Commission

† Technology and Science, Joint Commission on  
- Advisory Committee on Cyberlaw

## July 9

Contractors, Board for  
Medicine, Board of  
- Informal Conference Committee  
Motor Vehicles, Department of  
- Medical Advisory Board  
Technology Planning, Department of  
- Wireless E-911 Services Board  
† Technology and Science, Joint Commission on  
- Advisory Committee on Integrated Government  
Technology Services, Council on  
- Change Management Workgroup  
Water Control Board, State

## July 11

Art and Architectural Review Board  
Physical Therapy, Board of  
Tourism Authority, Virginia  
- Governor's Outdoor Resources Advisory Panel  
Water Control Board, State

## July 14

Alcoholic Beverage Control Board  
Nursing, Board of

## July 15

† Corrections, Board of  
- Correctional Services/Policy and Regulations Committee  
- Liaison Committee  
† Environmental Quality, Department of  
- Ground Water Protection Steering Committee  
† Medical Assistance Services, Department of  
- Medicaid Physician Advisory Committee  
† Nursing, Board of  
Water Control Board, State

## July 16

† Corrections, Board of  
- Administration Committee  
Juvenile Justice, State Board of  
Medicine, Board of  
- Informal Conference Committee  
Nursing, Board of  
† Real Estate Board  
- Education Committee  
Transportation Board, Commonwealth  
† Treasury Board

## July 17

† Agriculture and Consumer Services, Department of  
- Pesticide Control Board  
Design-Build/Construction Management Review Board  
Nursing, Board of  
† Real Estate Board  
Technology Services, Council on  
- Security Workgroup  
Transportation Board, Commonwealth  
† Water Control Board, State

## July 18

† Conservation and Recreation, Department of  
- Virginia Soil and Water Conservation Board  
† Education, Board of  
- State Special Education Advisory Committee

## July 22

Contractors, Board for

† Marine Resources Commission  
† Retirement System, Virginia  
- Optional Retirement Plan Advisory Committee  
† Waste Management Facility Operators, 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  
† Social Services, Department of  
Social Work, Board of

## July 26

† Social Services, Department of

## July 28

Alcoholic Beverage Control Board  
† Psychology, Board of

## July 29

Contractors, Board for  
Geology, Board for  
† Nursing, Board of  
- Special Conference Committee

## July 30

At-Risk Youth and Families, Comprehensive Services for

## July 31

Medicine, Board of  
- Informal Conference Committee  
† Polygraph Examiners Advisory Board  
Real Estate Board

## August 1

Art and Architectural Review Board

## August 5

Contractors, Board for  
† Technology and Science, Joint Commission on  
- Advisory Committee on Consumer Protection

## August 6

Contractors, Board for  
- Tradesman and Education Committee  
Jamestown-Yorktown Foundation  
- Steering Committee  
† Technology and Science, Joint Commission on  
- Advisory Committee on the Hard Sciences

## August 7

Technology Services, Council on  
- Executive Committee

## August 8

Health, Department of  
- Emergency Medical Services Advisory Board

## August 11

Alcoholic Beverage Control Board  
† Nursing, Board of  
- Special Conference Committee

## August 12

Contractors, Board for  
† Nursing, Board of  
- Special Conference Committee

## August 13

Environmental Quality, Department of  
- Litter Control and Recycling Fund Advisory Board

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# Calendar of Events

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† Milk Commission, State  
Technology Services, Council on  
- Change Management Workgroup

**August 14**  
† Nursing, Board of  
- Special Conference Committee

**August 15**  
Health Professions, Department of  
- Intervention Program Committee

**August 19**  
† Nursing, Board of  
- Special Conference Committee  
† Technology and Science, Joint Commission on

**August 20**  
† Code Commission, Virginia  
Contractors, Board for  
Environmental Quality, Department of  
- Recycling Markets Development Council  
† Retirement System, Virginia  
- Administration and Personnel Committee  
- Audit and Compliance Committee  
- Benefits and Actuarial Committee  
- Investment Advisory Committee  
† Treasury Board

**August 21**  
Design-Build/Construction Management Review Board  
Health, Department of  
- Sewage Handling and Disposal Advisory Committee  
Technology Services, Council on  
- Security Workgroup  
Retirement System, Virginia  
- Board of Trustees

**August 25**  
Alcoholic Beverage Control Board

**August 26**  
Contractors, Board for  
† Marine Resources Commission  
† Nursing, Board of  
- Special Conference Committee

**August 27**  
At-Risk Youth and Families, Comprehensive Services for  
- State Executive Council

**September 3**  
† Technology and Science, Joint Commission on  
- Advisory Committee on Integrated Government

**September 4**  
† Museum of Fine Arts, Virginia  
- Executive Committee  
† Technology Planning, Department of  
- VGIN Advisory Board  
† Technology Services, Council on  
- Executive Committee

**September 5**  
† Art and Architectural Review Board

**September 8**  
† Alcoholic Beverage Control Board

**September 9**  
† Contractors, Board for  
† Medical Assistance Services, Board of  
† Waterworks and Wastewater Works Operators, Board for

**September 10**  
† Jamestown-Yorktown Foundation

- Steering Committee  
† Technology Planning, Department of  
- Wireless E-911 Services Board CMRS Subcommittee  
† Technology Services, Council  
- Change Management Workgroup

**September 12**  
† Child Fatality Review Team, State

**September 16**  
† Contractors, Board for  
† Technology and Science, Joint Commission on  
- Consumer on Consumer Protection

**September 17**  
† Technology and Science, Joint Commission on  
- Advisory Committee on the Hard Sciences

## PUBLIC HEARINGS

**June 18**  
Environmental Quality, Department of

**July 2**  
Air Pollution Control Board, State

**July 3**  
Air Pollution Control Board, State

**July 17**  
Mental Health, Mental Retardation and Substance Services,  
State Board of