



# Virginia Register of Regulations

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MAY 28, 2007

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# THE VIRGINIA REGISTER INFORMATION PAGE

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**THE VIRGINIA REGISTER OF REGULATIONS** is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of public hearings and open meetings of state agencies.

## **ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS**

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

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

The Joint Commission of Administrative Rules (JCAR) or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

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

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

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

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date

specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

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

## **FAST-TRACK RULEMAKING PROCESS**

Section 2.2-4012.1 of the Code of Virginia provides an exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

## **EMERGENCY REGULATIONS**

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

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

## **STATEMENT**

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

## **CITATION TO THE VIRGINIA REGISTER**

The *Virginia Register* is cited by volume, issue, page number, and date. **23:7 VA.R. 1023-1140 December 11, 2006**, refers to Volume 23, Issue 7, pages 1023 through 1140 of the *Virginia Register* issued on December 11, 2006.

*The Virginia Register of Regulations* is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

Members of the Virginia Code Commission: **R. Steven Landes**, Chairman; **John S. Edwards**, Vice Chairman; **Ryan T. McDougle**; **Robert Hurt**; **Robert L. Calhoun**; **Frank S. Ferguson**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **James F. Almand**; **S. Bernard Goodwyn**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **June T. Chandler**, Assistant Registrar.

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# PUBLICATION SCHEDULE AND DEADLINES

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

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## May 2007 through March 2008

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
23:19	May 9, 2007	May 28, 2007
23:20	May 23, 2007	June 11, 2007
<b>INDEX 3 Volume 23</b>		<b>July 2007</b>
23:21	June 6, 2007	June 25, 2007
23:22	June 20, 2007	July 9, 2007
23:23	July 2, 2007 ( <b>Monday</b> )	July 23, 2007
23:24	July 18, 2007	August 6, 2007
23:25	August 1, 2007	August 20, 2007
23:26	August 15, 2007	September 3, 2007
<b>FINAL INDEX - Volume 23</b>		<b>October 2007</b>
24:1	August 29, 2007	September 17, 2007
24:2	September 12, 2007	October 1, 2007
24:3	September 26, 2007	October 15, 2007
24:4	October 10, 2007	October 29, 2007
24:5	October 24, 2007	November 12, 2007
24:6	November 7, 2007	November 26, 2007
24:7	November 20, 2007 ( <b>Tuesday</b> )	December 10, 2007
<b>INDEX 1 Volume 24</b>		<b>January 2008</b>
24:8	December 5, 2007	December 24, 2008
24:9	December 19, 2007	January 7, 2008
24:10	January 2, 2008	January 21, 2008
24:11	January 16, 2008	February 4, 2008
24:12	January 30, 2008	February 18, 2008
24:13	February 13, 2008	March 3, 2008
24:14	February 27, 2008	March 17, 2008

\*Filing deadlines are Wednesdays unless otherwise specified.

# 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 Fall 2006 VAC Supplement includes final regulations published through *Virginia Register* Volume 23, Issue 9, dated January 8, 2007). 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 2. Agriculture</b>			
2 VAC 5-195 (Form)	Added	23:15 VA.R. 2512	--
<b>Title 3. Alcoholic Beverages</b>			
3 VAC 5-10-40	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-50	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-60	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-130	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-150	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-230	Amended	23:13 VA.R. 2118	5/19/07
3 VAC 5-10-360	Amended	23:13 VA.R. 2118	5/19/07
3 VAC 5-10-400	Amended	23:13 VA.R. 2118	5/19/07
3 VAC 5-10-480	Amended	23:13 VA.R. 2129	5/19/07
3 VAC 5-40-20	Amended	23:13 VA.R. 2133	5/19/07
3 VAC 5-40-50	Amended	23:13 VA.R. 2134	5/19/07
3 VAC 5-60-20	Amended	23:13 VA.R. 2137	5/19/07
3 VAC 5-60-40	Amended	23:13 VA.R. 2138	5/19/07
3 VAC 5-60-80	Amended	23:13 VA.R. 2138	5/19/07
3 VAC 5-60-100	Added	23:13 VA.R. 2139	5/19/07
3 VAC 5-70-100	Amended	23:13 VA.R. 2142	5/19/07
3 VAC 5-70-150	Amended	23:13 VA.R. 2143	5/19/07
3 VAC 5-70-160	Amended	23:13 VA.R. 2143	5/19/07
3 VAC 5-70-230	Added	23:13 VA.R. 2143	5/19/07
<b>Title 4. Conservation and Natural Resources</b>			
4 VAC 20-70-100	Amended	23:12 VA.R. 1958	2/1/07
4 VAC 20-200-10	Amended	23:11 VA.R. 1659	2/1/07
4 VAC 20-200-20	Amended	23:11 VA.R. 1659	2/1/07
4 VAC 20-200-30	Amended	23:11 VA.R. 1659	2/1/07
4 VAC 20-200-40	Amended	23:11 VA.R. 1660	2/1/07
4 VAC 20-200-50	Amended	23:11 VA.R. 1660	2/1/07
4 VAC 20-270-30 emer	Amended	23:14 VA.R. 2276	3/1/07-3/30/07
4 VAC 20-270-30	Amended	23:17 VA.R. 2737	3/30/07
4 VAC 20-270-40 emer	Amended	23:14 VA.R. 2276	3/1/07-3/30/07
4 VAC 20-270-40	Amended	23:17 VA.R. 2737	3/30/07
4 VAC 20-300-20 emer	Amended	23:14 VA.R. 2277	3/1/07-3/30/07
4 VAC 20-300-20	Amended	23:17 VA.R. 2738	3/30/07
4 VAC 20-310-55	Added	23:15 VA.R. 2481	3/1/07
4 VAC 20-430-20	Amended	23:17 VA.R. 2738	3/30/07
4 VAC 20-430-45	Added	23:17 VA.R. 2738	3/30/07
4 VAC 20-450-30	Amended	23:17 VA.R. 2739	3/30/07
4 VAC 20-490-42	Amended	23:10 VA.R. 1540	12/21/06

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-510-10	Amended	23:12 VA.R. 1958	2/1/07
4 VAC 20-510-20	Amended	23:12 VA.R. 1958	2/1/07
4 VAC 20-510-33	Added	23:12 VA.R. 1959	2/1/07
4 VAC 20-510-35	Added	23:12 VA.R. 1959	2/1/07
4 VAC 20-510-37	Added	23:12 VA.R. 1959	2/1/07
4 VAC 20-530-10 emer	Amended	23:12 VA.R. 1959	2/1/07-3/1/07
4 VAC 20-530-20 emer	Amended	23:12 VA.R. 1959	2/1/07-3/1/07
4 VAC 20-530-31 emer	Amended	23:12 VA.R. 1960	2/1/07-3/1/07
4 VAC 20-530-31	Added	23:13 VA.R. 2144	2/1/07-3/1/07
4 VAC 20-530-31	Amended	23:15 VA.R. 2482	3/1/07
4 VAC 20-530-32 emer	Amended	23:12 VA.R. 1960	2/1/07-3/1/07
4 VAC 20-530-32	Added	23:13 VA.R. 2145	2/1/07-3/1/07
4 VAC 20-530-32	Amended	23:15 VA.R. 2482	3/1/07
4 VAC 20-610-30	Amended	23:11 VA.R. 1660	2/1/07
4 VAC 20-610-60	Amended	23:11 VA.R. 1662	2/1/07
4 VAC 20-620-50	Amended	23:15 VA.R. 2483	3/1/07
4 VAC 20-620-60	Amended	23:15 VA.R. 2483	3/1/07
4 VAC 20-620-70	Amended	23:15 VA.R. 2483	3/1/07
4 VAC 20-670-15	Added	23:17 VA.R. 2739	3/30/07
4 VAC 20-670-30	Amended	23:17 VA.R. 2739	3/30/07
4 VAC 20-720-40 emer	Amended	23:10 VA.R. 1540	1/1/07-1/30/07
4 VAC 20-720-50 emer	Amended	23:10 VA.R. 1541	1/1/07-1/30/07
4 VAC 20-950-40 emer	Amended	23:12 VA.R. 1961	2/1/07-3/1/07
4 VAC 20-950-40	Amended	23:15 VA.R. 2484	3/1/07
4 VAC 20-950-47 emer	Amended	23:12 VA.R. 1961	2/1/07-3/1/07
4 VAC 20-950-47	Amended	23:15 VA.R. 2484	3/1/07
4 VAC 20-950-47	Amended	23:17 VA.R. 2740	3/30/07
4 VAC 20-950-48.2 emer	Amended	23:12 VA.R. 1961	2/1/07-3/1/07
4 VAC 20-950-48.2	Amended	23:15 VA.R. 2484	3/1/07
4 VAC 20-950-48	Amended	23:17 VA.R. 2740	3/30/07
4 VAC 20-1090-30	Amended	23:11 VA.R. 1663	2/1/07
4 VAC 25-20-420	Amended	23:13 VA.R. 2146	4/4/07
4 VAC 25-130-700.12	Amended	23:13 VA.R. 2146	4/4/07
4 VAC 25-130-773.21	Amended	23:13 VA.R. 2147	4/4/07
4 VAC 25-130-775.11	Amended	23:13 VA.R. 2147	4/4/07
4 VAC 25-130-775.13	Amended	23:13 VA.R. 2148	4/4/07
4 VAC 25-130-784.20	Amended	23:13 VA.R. 2148	4/4/07
4 VAC 25-130-785.25	Amended	23:16 VA.R. 2592	5/16/07
4 VAC 25-130-800.51	Amended	23:13 VA.R. 2149	4/4/07
4 VAC 25-130-816.105	Amended	23:13 VA.R. 2150	4/4/07
4 VAC 25-130-816.116	Amended	23:16 VA.R. 2592	5/16/07
4 VAC 25-130-817.11	Amended	23:13 VA.R. 2150	4/4/07
4 VAC 25-130-817.64	Amended	23:13 VA.R. 2151	4/4/07
4 VAC 25-130-817.116	Amended	23:16 VA.R. 2594	5/16/07
4 VAC 25-130-817.121	Amended	23:13 VA.R. 2151	4/4/07
4 VAC 25-130-842.15	Amended	23:13 VA.R. 2153	4/4/07
4 VAC 25-130-843.12	Amended	23:13 VA.R. 2153	4/4/07
4 VAC 25-130-843.13	Amended	23:13 VA.R. 2154	4/4/07
4 VAC 25-130-843.15	Amended	23:13 VA.R. 2155	4/4/07
4 VAC 25-130-843.16	Amended	23:13 VA.R. 2156	4/4/07
4 VAC 25-130-845.13	Amended	23:13 VA.R. 2156	4/4/07

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 25-130-845.15	Amended	23:13 VA.R. 2158	4/4/07
4 VAC 25-130-845.18	Amended	23:13 VA.R. 2158	4/4/07
4 VAC 25-130-845.19	Amended	23:13 VA.R. 2159	4/4/07
4 VAC 25-130-846.14	Amended	23:13 VA.R. 2159	4/4/07
<b>Title 8. Education</b>			
8 VAC 20-350-10 through 8 VAC 20-350-660	Repealed	23:12 VA.R. 1962	5/8/07
8 VAC 20-700-10 through 8 VAC 20-700-50	Added	23:10 VA.R. 1541-1543	2/21/07
8 VAC 20-710-10 through 8 VAC 20-710-30	Added	23:10 VA.R. 1543-1544	2/21/07
<b>Title 9. Environment</b>			
9 VAC 5-50-400	Amended	23:17 VA.R. 2742	6/1/07
9 VAC 5-50-410	Amended	23:17 VA.R. 2742	6/1/07
9 VAC 5-60-60	Amended	23:17 VA.R. 2747	6/1/07
9 VAC 5-60-90	Amended	23:17 VA.R. 2748	6/1/07
9 VAC 5-60-100	Amended	23:17 VA.R. 2748	6/1/07
9 VAC 5-140-1010 through 9 VAC 5-140-1060	Added	23:14 VA.R. 2279-2291	4/18/07
9 VAC 5-140-1061	Added	23:14 VA.R. 2291	*
9 VAC 5-140-1062	Added	23:14 VA.R. 2291	*
9 VAC 5-140-1070 through 9 VAC 5-140-1150	Added	23:14 VA.R. 2292-2295	4/18/07
9 VAC 5-140-1200 through 9 VAC 5-140-1240	Added	23:14 VA.R. 2295-2296	4/18/07
9 VAC 5-140-1400 through 9 VAC 5-140-1430	Added	23:14 VA.R. 2296-2302	4/18/07
9 VAC 5-140-1500 through 9 VAC 5-140-1570	Added	23:14 VA.R. 2302-2306	4/18/07
9 VAC 5-140-1600 through 9 VAC 5-140-1620	Added	23:14 VA.R. 2307	4/18/07
9 VAC 5-140-1700 through 9 VAC 5-140-1750	Added	23:14 VA.R. 2307-2312	4/18/07
9 VAC 5-140-1800 through 9 VAC 5-140-1880	Added	23:14 VA.R. 2312-2317	4/18/07
9 VAC 5-140-2060	Added	23:14 VA.R. 2329	4/18/07
9 VAC 5-140-2061	Added	23:14 VA.R. 2331	*
9 VAC 5-140-2062	Added	23:14 VA.R. 2332	*
9 VAC 5-140-2070	Added	23:14 VA.R. 2333	4/18/07
9 VAC 5-140-2080	Added	23:14 VA.R. 2333	4/18/07
9 VAC 5-140-2100 through 9 VAC 5-140-2150	Added	23:14 VA.R. 2333-2336	4/18/07
9 VAC 5-140-2200 through 9 VAC 5-140-2240	Added	23:14 VA.R. 2336-2337	4/18/07
9 VAC 5-140-2400 through 9 VAC 5-140-2430	Added	23:14 VA.R. 2337-2342	4/18/07
9 VAC 5-140-2500 through 9 VAC 5-140-2570	Added	23:14 VA.R. 2342-2347	4/18/07
9 VAC 5-140-2600 through 9 VAC 5-140-2620	Added	23:14 VA.R. 2347	4/18/07
9 VAC 5-140-2700 through 9 VAC 5-140-2750	Added	23:14 VA.R. 2347-2353	4/18/07
9 VAC 5-140-2800 through 9 VAC 5-140-2880	Added	23:14 VA.R. 2353-2359	4/18/07
9 VAC 5-140-3010 through 9 VAC 5-140-3060	Added	23:14 VA.R. 2359-2368	4/18/07
9 VAC 5-140-3061	Added	23:14 VA.R. 2370	*
9 VAC 5-140-3062	Added	23:14 VA.R. 2371	*
9 VAC 5-140-3070	Added	23:14 VA.R. 2371	4/18/07
9 VAC 5-140-3080	Added	23:14 VA.R. 2371	4/18/07
9 VAC 5-140-3100 through 9 VAC 5-140-3150	Added	23:14 VA.R. 2371-2374	4/18/07
9 VAC 5-140-3200 through 9 VAC 5-140-3240	Added	23:14 VA.R. 2374-2375	4/18/07
9 VAC 5-140-3400 through 9 VAC 5-140-3420	Added	23:14 VA.R. 2375	4/18/07
9 VAC 5-140-3500 through 9 VAC 5-140-3570	Added	23:14 VA.R. 2375-2380	4/18/07
9 VAC 5-140-3600 through 9 VAC 5-140-3620	Added	23:14 VA.R. 2380-2381	4/18/07
9 VAC 5-140-3700 through 9 VAC 5-140-3750	Added	23:14 VA.R. 2381-2386	4/18/07
9 VAC 5-140-3800 through 9 VAC 5-140-3880	Added	23:14 VA.R. 2386-2391	4/18/07

\* Effective Date Suspended 23:19

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-140-5010 through 9 VAC 5-140-5750	Added	23:13 VA.R. 2160-2186	4/4/07
9 VAC 5-140-1020	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-1061	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-1062	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-1130	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-1420	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-1700	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-1740	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2020	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2030	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2040	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2060	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2062	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2740	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-3062	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-3840	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-5020	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5060	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5100	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5150	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5420	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5510	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5540	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5560	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5600	Erratum	23:16 VA.R. 2672	--
9 VAC 5-151-10 through 9 VAC 5-151-70	Added	23:17 VA.R. 2755-2764	5/31/07
9 VAC 5-240-10 through 9 VAC 5-240-50	Added	23:16 VA.R. 2595-2596	5/16/07
9 VAC 20-110-90	Amended	23:11 VA.R. 1665	3/21/07
9 VAC 20-110-110	Amended	23:11 VA.R. 1665	3/21/07
9 VAC 20-200-10 through 9 VAC 20-200-70	Added	23:11 VA.R. 1666-1667	3/21/07
9 VAC 25-71-20	Amended	23:15 VA.R. 2485	5/2/07
9 VAC 25-71-50	Amended	23:15 VA.R. 2485	5/2/07
9 VAC 25-71-70	Amended	23:15 VA.R. 2485	5/2/07
9 VAC 25-720-50	Amended	23:11 VA.R. 1669	3/21/07
9 VAC 25-720-50	Amended	23:15 VA.R. 2486	5/2/07
9 VAC 25-720-60	Amended	23:12 VA.R. 1966	5/21/07
9 VAC 25-720-80	Amended	23:11 VA.R. 1670	3/21/07
9 VAC 25-720-90	Amended	23:11 VA.R. 1671	3/21/07
9 VAC 25-720-100	Amended	23:11 VA.R. 1671	3/21/07
9 VAC 25-720-130	Amended	23:15 VA.R. 2487	5/2/07
<b>Title 10. Finance and Financial Institutions</b>			
10 VAC 5-40-50	Added	23:18 VA.R. 2882	5/1/07
10 VAC 5-160-40	Amended	23:13 VA.R. 2187	2/10/07
<b>Title 11. Gaming</b>			
11 VAC 10-20-310	Amended	23:18 VA.R. 2883	5/31/07
11 VAC 10-20-330	Amended	23:18 VA.R. 2884	5/31/07
11 VAC 10-20-340	Amended	23:18 VA.R. 2891	5/31/07
11 VAC 10-100-30	Amended	23:18 VA.R. 2892	5/31/07
11 VAC 10-110-30	Amended	23:18 VA.R. 2893	5/31/07
11 VAC 10-110-90	Amended	23:18 VA.R. 2893	5/31/07
11 VAC 10-120-80	Amended	23:18 VA.R. 2894	5/31/07

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
11 VAC 10-130-10	Amended	23:11 VA.R. 1672	1/10/07
11 VAC 10-130-10	Amended	23:18 VA.R. 2894	4/30/07
11 VAC 10-130-60	Amended	23:11 VA.R. 1673	1/10/07
11 VAC 10-140-12	Added	23:18 VA.R. 2896	5/31/07
11 VAC 10-140-15	Added	23:18 VA.R. 2896	5/31/07
11 VAC 10-140-210	Amended	23:18 VA.R. 2896	5/31/07
11 VAC 10-150-12	Added	23:18 VA.R. 2897	5/31/07
11 VAC 10-150-15	Added	23:18 VA.R. 2897	5/31/07
<b>Title 12. Health</b>			
12 VAC 5-70-10 through 12 VAC 5-70-50	Repealed	23:13 VA.R. 2187	4/4/07
12 VAC 5-71-10 through 12 VAC 5-71-190	Added	23:13 VA.R. 2188-2195	4/4/07
12 VAC 5-90 (Forms)	Erratum	23:15 VA.R. 2507-2509	--
12 VAC 5-90-10	Amended	23:15 VA.R. 2488	5/2/07
12 VAC 5-90-40	Amended	23:15 VA.R. 2493	5/2/07
12 VAC 5-90-80	Amended	23:15 VA.R. 2493	5/2/07
12 VAC 5-90-90	Amended	23:15 VA.R. 2497	5/2/07
12 VAC 5-90-100	Amended	23:15 VA.R. 2500	5/2/07
12 VAC 5-90-103	Added	23:15 VA.R. 2500	5/2/07
12 VAC 5-90-107	Added	23:15 VA.R. 2502	5/2/07
12 VAC 5-90-110	Amended	23:15 VA.R. 2503	5/2/07
12 VAC 5-90-130	Amended	23:15 VA.R. 2504	5/2/07
12 VAC 5-90-225	Amended	23:15 VA.R. 2504	5/2/07
12 VAC 5-90-250 through 12 VAC 5-90-280	Amended	23:15 VA.R. 2505-2506	5/2/07
12 VAC 5-90-330	Amended	23:15 VA.R. 2506	5/2/07
12 VAC 5-90-350	Amended	23:15 VA.R. 2507	5/2/07
12 VAC 5-90-360	Amended	23:15 VA.R. 2507	5/2/07
12 VAC 5-371-10	Amended	23:10 VA.R. 1544	3/1/07
12 VAC 5-371-20	Repealed	23:10 VA.R. 1546	3/1/07
12 VAC 5-371-30	Amended	23:10 VA.R. 1547	3/1/07
12 VAC 5-371-40	Amended	23:10 VA.R. 1547	3/1/07
12 VAC 5-371-50	Repealed	23:10 VA.R. 1548	3/1/07
12 VAC 5-371-60	Amended	23:10 VA.R. 1548	3/1/07
12 VAC 5-371-70 through 12 VAC 5-371-130	Amended	23:10 VA.R. 1548-1551	3/1/07
12 VAC 5-371-150	Amended	23:10 VA.R. 1551	3/1/07
12 VAC 5-371-160	Amended	23:10 VA.R. 1551	3/1/07
12 VAC 5-371-190	Amended	23:10 VA.R. 1551	3/1/07
12 VAC 5-371-200	Amended	23:10 VA.R. 1552	3/1/07
12 VAC 5-371-400	Amended	23:10 VA.R. 1552	3/1/07
12 VAC 5-371-410	Amended	23:10 VA.R. 1552	3/1/07
12 VAC 5-410-10	Amended	23:10 VA.R. 1554	3/1/07
12 VAC 5-410-30	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-70	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-80	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-100	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-110	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-130	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-140	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-150	Amended	23:10 VA.R. 1556	3/1/07
12 VAC 5-410-180	Amended	23:10 VA.R. 1556	3/1/07
12 VAC 5-410-210	Amended	23:10 VA.R. 1556	3/1/07

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-410-220	Amended	23:10 VA.R. 1557	3/1/07
12 VAC 5-410-270	Amended	23:10 VA.R. 1558	3/1/07
12 VAC 5-410-442	Amended	23:10 VA.R. 1558	3/1/07
12 VAC 5-410-445	Amended	23:10 VA.R. 1559	3/1/07
12 VAC 5-410-650	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-720	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-760	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-1150	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-1170	Amended	23:10 VA.R. 1561	3/1/07
12 VAC 5-410-1350	Amended	23:10 VA.R. 1561	3/1/07
12 VAC 5-410-1380	Amended	23:10 VA.R. 1561	3/1/07
12 VAC 30-10-140	Amended	23:16 VA.R. 2653	7/1/07
12 VAC 30-10-560	Amended	23:14 VA.R. 2396	9/1/07
12 VAC 30-20-140	Amended	23:14 VA.R. 2397	9/1/07
12 VAC 30-30-60	Added	23:11 VA.R. 1673	3/7/07
12 VAC 30-40-10	Amended	23:11 VA.R. 1674	3/7/07
12 VAC 30-40-20	Amended	23:18 VA.R. 2897	7/1/07
12 VAC 30-40-290	Amended	23:14 VA.R. 2398	9/1/07
12 VAC 30-50-20	Amended	23:16 VA.R. 2654	7/1/07
12 VAC 30-50-35	Added	23:11 VA.R. 1675	3/7/07
12 VAC 30-50-60	Amended	23:16 VA.R. 2654	7/1/07
12 VAC 30-50-75	Added	23:11 VA.R. 1676	3/7/07
12 VAC 30-50-320	Amended	23:16 VA.R. 2654	7/1/07
12 VAC 30-50-321	Added	23:16 VA.R. 2655	7/1/07
12 VAC 30-50-325	Added	23:16 VA.R. 2655	7/1/07
12 VAC 30-50-328	Added	23:16 VA.R. 2655	7/1/07
12 VAC 30-50-530	Amended	23:11 VA.R. 1676	3/7/07
12 VAC 30-90-264	Amended	23:14 VA.R. 2400	4/18/07
12 VAC 30-110-950	Amended	23:18 VA.R. 2898	7/1/07
12 VAC 30-120-61	Amended	23:16 VA.R. 2655	7/1/07
12 VAC 30-120-62	Amended	23:16 VA.R. 2657	7/1/07
12 VAC 30-120-64	Amended	23:16 VA.R. 2659	7/1/07
12 VAC 30-120-65	Amended	23:16 VA.R. 2660	7/1/07
12 VAC 30-120-66	Amended	23:16 VA.R. 2660	7/1/07
12 VAC 30-120-68	Amended	23:16 VA.R. 2661	7/1/07
12 VAC 30-130-900	Amended	23:12 VA.R. 1967	3/21/07
12 VAC 30-130-910	Amended	23:12 VA.R. 1968	3/21/07
12 VAC 30-130-930	Amended	23:12 VA.R. 1968	3/21/07
12 VAC 35-45-10	Amended	23:10 VA.R. 1562	2/21/07
12 VAC 35-45-25	Added	23:10 VA.R. 1565	2/21/07
12 VAC 35-45-70	Amended	23:10 VA.R. 1564	2/21/07
12 VAC 35-45-80	Amended	23:10 VA.R. 1564	2/21/07
12 VAC 35-45-210	Added	23:10 VA.R. 1564	2/21/07
12 VAC 35-105-20	Amended	23:10 VA.R. 1567	2/21/07
12 VAC 35-105-30	Amended	23:10 VA.R. 1575	2/21/07
12 VAC 35-105-115 emer	Added	23:10 VA.R. 1566	1/3/07-1/2/08
12 VAC 35-105-590	Amended	23:10 VA.R. 1575	2/21/07
12 VAC 35-105-660	Amended	23:10 VA.R. 1576	2/21/07
<b>Title 13. Housing</b>			
13 VAC 5-111-10 through 13 VAC 5-111-400	Repealed	23:12 VA.R. 1971	3/21/07
13 VAC 5-112-10 through 13 VAC 5-112-560	Added	23:12 VA.R. 1971-1994	3/21/07

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 14. Insurance</b>			
14 VAC 5-200-20	Repealed	23:17 VA.R. 2766	9/1/07
14 VAC 5-200-30 through 14 VAC 5-200-60	Amended	23:17 VA.R. 2766-2770	9/1/07
14 VAC 5-200-70 through 14 VAC 5-200-90	Amended	23:17 VA.R. 2770-2774	9/1/07
14 VAC 5-200-110	Amended	23:17 VA.R. 2774	9/1/07
14 VAC 5-200-120	Amended	23:17 VA.R. 2777	9/1/07
14 VAC 5-200-153	Amended	23:17 VA.R. 2777	9/1/07
14 VAC 5-200-170	Amended	23:17 VA.R. 2780	9/1/07
14 VAC 5-200-175	Amended	23:17 VA.R. 2781	9/1/07
14 VAC 5-200-181	Added	23:17 VA.R. 2782	9/1/07
14 VAC 5-200-183	Added	23:17 VA.R. 2782	9/1/07
14 VAC 5-200-185	Amended	23:17 VA.R. 2783	9/1/07
14 VAC 5-200-187	Amended	23:17 VA.R. 2785	9/1/07
14 VAC 5-200-200	Amended	23:17 VA.R. 2786	9/1/07
14 VAC 5-200-201	Added	23:17 VA.R. 2788	9/1/07
14 VAC 5-200-205	Added	23:17 VA.R. 2788	9/1/07
14 VAC 5-321-10	Amended	23:10 VA.R. 1577	1/1/07
14 VAC 5-321-20	Amended	23:10 VA.R. 1577	1/1/07
14 VAC 5-321-30	Amended	23:10 VA.R. 1578	1/1/07
14 VAC 5-321-70	Added	23:10 VA.R. 1578	1/1/07
14 VAC 5-322-10 through 14 VAC 5-322-50	Added	23:10 VA.R. 1579-1581	1/1/07
<b>Title 16. Labor and Employment</b>			
16 VAC 25-55-10 and 16 VAC 25-55-20	Added	23:12 VA.R. 1995-1996	3/22/07
16 VAC 25-90-1910.134	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1000	Amended	23:12 VA.R. 1996	3/21/07
16 VAC 25-90-1910.1001	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1017	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1018	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1025	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1027	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1028	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1029	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1043	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1044	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1045	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1047	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1048	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1050	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1052	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-100-1915.5	Amended	23:12 VA.R. 1998	3/21/07
16 VAC 25-100-1915.505	Amended	23:12 VA.R. 1998	3/21/07
16 VAC 25-100-1915.507	Amended	23:12 VA.R. 1998	3/21/07
16 VAC 25-100-1915.1000	Amended	23:12 VA.R. 1996	3/21/07
16 VAC 25-100-1915.1001	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.55	Added	23:12 VA.R. 1996	3/21/07
16 VAC 25-175-1926.60	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.62	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.1002, Appendix A of Subpart W	Amended	23:12 VA.R. 1999	3/21/07
16 VAC 25-175-1926.1101	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.1127	Amended	23:12 VA.R. 1997	3/21/07

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
16 VAC 25-190-1928.52	Amended	23:12 VA.R. 1999	3/21/07
16 VAC 25-190-1928.53, Appendix B to Subpart C	Amended	23:12 VA.R. 1999	3/21/07
<b>Title 18. Professional and Occupational Licensing</b>			
18 VAC 5-10-10 through 18 VAC 5-10-90	Amended	23:11 VA.R. 1678-1680	4/23/07
18 VAC 15-20 (Forms)	Added	23:15 VA.R. 2514	--
18 VAC 15-30 (Forms)	Amended	23:15 VA.R. 2514	--
18 VAC 41-60-10 through 18 VAC 41-60-220	Added	23:12 VA.R. 2000-2009	4/1/07
18 VAC 50-30-10 through 18 VAC 50-30-50	Amended	23:12 VA.R. 2020-2025	4/1/07
18 VAC 50-30-60	Repealed	23:12 VA.R. 2025	4/1/07
18 VAC 50-30-70	Amended	23:12 VA.R. 2025	4/1/07
18 VAC 50-30-80	Repealed	23:12 VA.R. 2025	4/1/07
18 VAC 50-30-90 through 18 VAC 50-30-150	Amended	23:12 VA.R. 2026-2028	4/1/07
18 VAC 50-30-180	Repealed	23:12 VA.R. 2028	4/1/07
18 VAC 50-30-185	Added	23:12 VA.R. 2028	4/1/07
18 VAC 50-30-190	Amended	23:12 VA.R. 2028	4/1/07
18 VAC 50-30-200	Amended	23:12 VA.R. 2029	4/1/07
18 VAC 50-30-210 through 18 VAC 50-30-260	Added	23:12 VA.R. 2030-2031	4/1/07
18 VAC 60-20-180	Amended	23:15 VA.R. 2510	5/2/07
18 VAC 65-40-10	Amended	23:12 VA.R. 2031	3/21/07
18 VAC 65-40-40	Amended	23:12 VA.R. 2031	3/21/07
18 VAC 65-40-90	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-110	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-130	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-160	Repealed	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-220	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-250	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-300	Repealed	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-320	Amended	23:12 VA.R. 2033	3/21/07
18 VAC 65-40-340	Amended	23:12 VA.R. 2033	3/21/07
18 VAC 85-20-235	Amended	23:11 VA.R. 1692	4/21/07
18 VAC 85-20-290	Amended	23:13 VA.R. 2206	4/4/07
18 VAC 85-101-50	Amended	23:15 VA.R. 2511	5/2/07
18 VAC 85-130-10 through 18 VAC 85-130-170	Added	23:10 VA.R. 1582-1586	2/21/07
18 VAC 90-20-60	Amended	23:12 VA.R. 2033	3/21/07
18 VAC 90-30-120	Amended	23:14 VA.R. 2404	4/18/07
18 VAC 90-30-230	Amended	23:12 VA.R. 2034	3/21/07
18 VAC 90-40-140	Amended	23:12 VA.R. 2034	3/21/07
18 VAC 110-20-285	Amended	23:17 VA.R. 2791	5/30/07
18 VAC 115-20-20	Amended	23:14 VA.R. 2404	4/18/07
18 VAC 115-30-30	Amended	23:14 VA.R. 2405	4/18/07
18 VAC 115-40-20	Amended	23:14 VA.R. 2405	4/18/07
18 VAC 115-50-20	Amended	23:14 VA.R. 2405	4/18/07
18 VAC 115-60-20	Amended	23:14 VA.R. 2406	4/18/07
18 VAC 125-20-30	Amended	23:12 VA.R. 2035	3/21/07
18 VAC 125-30-20	Amended	23:12 VA.R. 2035	3/21/07
<b>Title 19. Public Safety</b>			
19 VAC 30-20-80	Amended	23:10 VA.R. 1587	3/1/07
<b>Title 21. Securities and Retail Franchising</b>			
21 VAC 5-10	Erratum	23:18 VA.R. 2935	--
21 VAC 5-20	Erratum	23:18 VA.R. 2935	--
21 VAC 5-110	Erratum	23:18 VA.R. 2935	--

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 22. Social Services</b>			
22 VAC 15-10-40	Amended	23:10 VA.R. 1587	3/1/07
22 VAC 15-10-50	Amended	23:10 VA.R. 1587	3/1/07
22 VAC 40-740-10	Amended	23:10 VA.R. 1588	3/1/07
22 VAC 40-740-15	Added	23:10 VA.R. 1591	3/1/07
22 VAC 40-740-20	Repealed	23:10 VA.R. 1592	3/1/07
22 VAC 40-740-21	Added	23:10 VA.R. 1592	3/1/07
22 VAC 40-740-30	Repealed	23:10 VA.R. 1593	3/1/07
22 VAC 40-740-31	Added	23:10 VA.R. 1593	3/1/07
22 VAC 40-740-40	Amended	23:10 VA.R. 1593	3/1/07
22 VAC 40-740-50	Amended	23:10 VA.R. 1594	3/1/07
22 VAC 40-740-60	Amended	23:10 VA.R. 1595	3/1/07
22 VAC 40-740-70	Added	23:10 VA.R. 1596	3/1/07
22 VAC 40-740-80	Added	23:10 VA.R. 1596	3/1/07
<b>Title 24. Transportation and Motor Vehicles</b>			
24 VAC 30-155-10 through 24 VAC 30-155-100	Added	23:18 VA.R. 2915-2930	7/1/07
24 VAC 30-320	Repealed	23:16 VA.R. 2665	3/22/07
24 VAC 30-325-10	Added	23:16 VA.R. 2665	3/22/07
24 VAC 30-325-20	Added	23:16 VA.R. 2666	3/22/07
24 VAC 30-330	Repealed	23:16 VA.R. 2665	3/22/07

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# PETITIONS FOR RULEMAKING

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## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

#### Initial Agency Notice

Title of Regulation: 9 VAC 25-720. Water Quality Management Planning Regulation.

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

Name of Petitioner: C. Lee Lintecum, County Administrator.

Nature of Petitioner's Request: Amend the Water Quality Management Planning Regulation, 9 VAC 25-720-120 C, to include total nitrogen and total phosphorus waste load allocations for Louisa County's Zion Crossroads wastewater facility (VPDES Permit No. 0090743). The discharge permit, reissued 3/28/02 (expires 3/28/07), contains flow tiers of 0.10 and 0.70 million gallons per day (MGD). The plant currently operates at 0.10 MGD and the county plans to expand the design flow to the higher tier. The county claims that the expansion to 0.70 MGD will be completed and a Certificate to Operate will be issued by the first quarter of 2009.

Agency's Plan for Disposition of Request: Public-notice receipt of the petition and provide for a 21-day public comment period. Upon close of the public comment period, review any comments received and then make a decision to either initiate a rulemaking or place the petition on the board's next meeting agenda for their consideration.

Comments may be submitted until: June 18, 2007.

Agency Contact: John M. Kennedy, Department of Environmental Quality, Chesapeake Bay Program Manager, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4312, FAX (804) 698-4116, or email [jmkennedy@deq.virginia.gov](mailto:jmkennedy@deq.virginia.gov).

V.A.R. Doc. No. R07-210; Filed May 9, 2007, 8:35 a.m.

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# REGULATIONS

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For information concerning the different types of regulations, see the Information Page.

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## Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text. Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

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## TITLE 2. AGRICULTURE

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Final Regulation

**REGISTRAR'S NOTICE:** The agency is claiming an exemption from the Administrative Process Act in accordance with § 3.1-796.93:3 of the Code of Virginia, which excludes actions of the Department of Agriculture and Consumer Services relating to the establishment, operation, and maintenance of the Commonwealth of Virginia Dangerous Dog Registry under § 3.1-796.93:3.

**Title of Regulation:** **2 VAC 5-620. Regulations Pertaining to the Establishment of the Dangerous Dog Registry (adding 2 VAC 5-620-10 through 2 VAC 5-620-100).**

**Statutory Authority:** § 3.1-796.93:3 of the Code of Virginia.

**Effective Date:** July 1, 2007.

**Agency Contact:** Colleen Calderwood, DVM, Program Manager, Office of Veterinary Services, 102 Governor Street, Suite 141, Richmond, VA 23219, telephone (804) 786-2483, FAX (804) 371-2380, or email colleen.calderwood@vdacs.virginia.gov.

#### Summary:

*The regulation establishes the procedures and requirements for registration of dogs that have been adjudicated dangerous in Virginia with local jurisdictions and the Dangerous Dog Registry of the Commonwealth of Virginia. This regulation describes the responsibilities of owners of dangerous dogs, local animal control and law-enforcement officers, the Commissioner of the Virginia Department of Agriculture and Consumer Services, and the State Veterinarian. This regulation clarifies and establishes the requirements for initial registration and renewal registration for owners of dogs found dangerous by a court of competent jurisdiction in Virginia and describes the situations concerning their dangerous dogs that require owners to notify local animal control officers. The Dangerous Dog Registry will be established online by the Department of Agriculture and Consumer Services so that all interested persons will have electronic access to the information in the registry. As envisioned, the registry will require that the local animal control officer report only that information that the officer is required to obtain or is a matter of public record in the locality.*

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

### CHAPTER 620. REGULATIONS PERTAINING TO THE ESTABLISHMENT OF THE DANGEROUS DOG REGISTRY.

#### PART I. PURPOSE AND APPLICABILITY; DEFINITION.

#### **2 VAC 5-620-10. Purpose and applicability.**

The purpose of this regulation is to establish the procedures and requirements for registration of dangerous dogs with local jurisdictions and the Commonwealth of Virginia Dangerous Dog Registry. This regulation describes the responsibilities of owners of dangerous dogs; local animal control and law-enforcement officers; the Commissioner of the Virginia Department of Agriculture and Consumer Services; and the State Veterinarian.

#### **2 VAC 5-620-20. Definition.**

The following word and term when used in this regulation shall have the following meaning unless the context clearly indicates otherwise:

"Dangerous dog" means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat.

When a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite, (ii) if both animals are owned by the same person, (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian, or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. (See § 3.1-796.93:1 of the Code of Virginia.)

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## PART II.

### REGISTRATION, RENEWAL, AND NOTIFICATIONS.

#### **2 VAC 5-620-30. Initial registration requirements for owners of dangerous dogs.**

A. The owner of a dog adjudicated to be dangerous shall within 10 calendar days of the finding by a court of competent jurisdiction, unless the dog has been euthanized:

1. Provide the local animal control officer the following information required to obtain a Dangerous Dog Registration Certificate:

a. Identification verifying that all owners of the dangerous dog are 18 years of age or older or the identification of the guardian of any owner under the age of 18;

b. The address where the dangerous dog is maintained and the name of the owner residing at that address;

c. The dangerous dog's name, sex, age, weight, primary breed, secondary breed, color and markings;

d. Two photographs of the dangerous dog, one front view and one side view head to paw;

e. The number of the dog tag license issued by the locality;

f. Verification that the dog has a current rabies vaccination including expiration date, name, address, and telephone number of the veterinary practice that administered the vaccine and the rabies tag number;

g. Documentation from a veterinarian that the dangerous dog has been neutered or spayed [ , ] including date of surgery and name, practice name, address, and telephone number of the veterinary practice that performed the surgery;

h. Evidence that the dangerous dog is or will be confined in a proper enclosure or is or will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until a proper enclosure is constructed;

i. Evidence that the residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property;

j. Documentation that the animal has been identified permanently by means of a tattoo or electronic implantation or both, including the name, practice name, address, and telephone number of the veterinary practice that performed the procedure, the identification number(s), and the microchip company;

k. A copy of the liability insurance coverage from a company licensed to do business in Virginia in the

amount of at least \$100,000 that covers the owners for damages caused by dog bites. In lieu of liability insurance, the owner may obtain and maintain a bond in surety in the amount of \$100,000. The bond shall be made to the chief administrative officer of the locality where one of the owners resides or where the dangerous dog is maintained for the benefit of those damaged by the bite of a dangerous dog. The form of the bond should be approved by the local jurisdiction's attorney; and

1. A signed statement of compliance with the provisions of the order finding the dog dangerous;

2. Obtain a Dangerous Dog Registration Certificate from the local animal control officer or treasurer for a fee of \$50 in addition to other fees that may be authorized by law.

3. Obtain a uniformly designed Virginia Dangerous Dog tag from the local animal control officer or treasurer that has a unique identification number and identifies the animal as a Virginia dangerous dog.

4. Affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times.

B. The owner of a dog adjudicated to be dangerous shall within 45 calendar days of the finding by a court of competent jurisdiction, unless the dog has been euthanized:

1. Provide the local animal control officer the following information required to register the animal with the Virginia Dangerous Dog Registry:

a. The names, addresses, and telephone numbers of all owners;

b. All information necessary to locate the owners and the dog at all times;

c. The acts that resulted in the dog being designated as dangerous;

d. The parties to the proceeding wherein the dog was found to be dangerous, the docket number and the court where the case was tried, and the requirements imposed by the judge on the owners of the dog;

e. Any other complaints or incidents of attack by the dangerous dog upon any person or cat or dog after the dog has been declared dangerous;

f. Any claims made or lawsuits brought as a result of any attack occurring after the dog has been declared dangerous; and

g. A copy of a valid dangerous dog registration certificate as prepared in subsection A of this section.

2. The owner of a dog adjudicated to be dangerous shall submit by mail to the State Veterinarian, payable to the Treasurer of Virginia, a \$100 check or money order for the fee for registration in the Commonwealth of Virginia

Dangerous Dog Registry postmarked within 45 days of the date of final adjudication finding the dog to be dangerous.

C. The owner of the dangerous dog shall retain the original Dangerous Dog Registration Certificate with his permanent records.

## **2 VAC 5-620-40. Initial registration requirements for local animal control officers.**

A. The local animal control officer, upon receipt of all information from the owner as required under 2 VAC 5-620-30 A, shall then certify a dog found dangerous by a court of competent jurisdiction within 10 calendar days of such finding. The local animal control officer shall:

1. Provide the owner with a copy of the law and this regulation.
2. Verify the owner has submitted all information required by law and this regulation.
3. Fill out the Dangerous Dog Registration Certificate with the owner.
4. Transmit electronically the Dangerous Dog Registration Certificate to the State Veterinarian.
5. Provide the owner with a Dangerous Dog Registration Certificate. The fee for the certificate shall be \$50 payable to the treasurer of the locality, in addition to other fees that may be authorized by law.
6. Provide the owner with a remittance form for the \$100 Commonwealth of Virginia Dangerous Dog Registry registration fee and information for submission to the State Veterinarian.
7. Provide the owner with a change of address form and a Dangerous Dog Renewal Registration Form from the Dangerous Dog Registry website.
8. Provide the owner or cause the treasurer of the locality to provide the owner with a uniformly designed Virginia Dangerous Dog tag with a unique identification number.

B. The local animal control officer, upon receipt of all information from the owner as required under 2 VAC 5-620-30 A and B, shall submit the information to the State Veterinarian by electronic mail within 45 days of any adjudication by a court of competent jurisdiction that a dog has been found to be dangerous. The local animal control officer shall:

1. Fill out the Dangerous Dog Verification of Compliance and Registration Form with the owner.
2. Transmit electronically the information from the Dangerous Dog Verification of Compliance and Registration Form to the State Veterinarian for entry into the Registry.

## **2 VAC 5-620-50. Renewal registration procedures and requirements.**

The following shall be the procedures and requirements for renewal of registration in the dangerous dog registry:

1. The State Veterinarian shall mail each owner of a dangerous dog a Dangerous Dog Renewal Registration Form and remittance form for the Dangerous Dog Registry renewal at least 60 days prior to January 31 of each year. A copy shall be sent to the animal control officer of the political subdivision where the dangerous dog is maintained.
2. By January 31 of each year, until the dangerous dog is deceased, each owner of a dangerous dog shall renew the Dangerous Dog Registration Certificate with the local animal control officer for the same fee and in the same manner as the initial certificate was obtained.
3. By January 31 of each year, until the dangerous dog is deceased, each owner of a dangerous dog shall submit a Dangerous Dog Renewal Registration Form to the local animal control officer for renewal of the Dangerous Dog Registration Certificate and for renewal of registration in the Dangerous Dog Registry.
4. The Dangerous Dog Renewal Registration Form shall include all information initially submitted on the Dangerous Dog Verification of Compliance and Registration Form and any updates.
5. The local animal control officer shall verify all information submitted by the owner on the Dangerous Dog Renewal Registration Form and transmit electronically the information to the State Veterinarian for entry into the Dangerous Dog Registry.
6. Each owner of a dangerous dog shall submit a \$35 renewal registration fee and remittance form postmarked no later than January 31 to the State Veterinarian for renewal registration in the Dangerous Dog Registry.
7. The owner of any dog found to be dangerous by a court of competent jurisdiction within 60 calendar days prior to January 31 shall be exempt from the first annual renewal registration.

## **2 VAC 5-620-60. Registration procedures and requirements for dangerous dogs adjudicated prior to July 1, 2006.**

The following shall be the procedures and requirements for dangerous dogs adjudicated prior to July 1, 2006:

1. By October 1, 2007, each owner of a dog found to be dangerous prior to July 1, 2006, shall contact the local animal control officer to register the dangerous dog in the Dangerous Dog Registry. There shall be no fee for initial registration of dogs adjudicated prior to July 1, 2006.

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2. The local animal control officer shall transmit electronically this information to the State Veterinarian by October 1, 2007.

3. After initial registration in the Dangerous Dog Registry, each owner of a dangerous dog adjudicated prior to July 1, 2006, is required to renew the registration annually by January 31 in the same manner and for the same fees for renewal as required by these regulations.

4. The Dangerous Dog Registration Certificates shall be renewed annually by January 31 as required by these regulations.

## **2 VAC 5-620-70. Dangerous dog tag.**

The following shall be the procedures and requirements pertaining to the dangerous dog tag:

1. The State Veterinarian shall provide each jurisdiction a sequential batch of uniformly designed Virginia Dangerous Dog tags. Localities shall request additional tags from the State Veterinarian, as necessary.

2. The following information shall be inscribed on the front of the Virginia Dangerous Dog tag: "Virginia Dangerous Dog," and a unique dangerous dog identifying number. The back of the tag shall have inscribed return information: "If found contact the State Veterinarian's Office at (804) 692-0601."

3. The unique Virginia Dangerous Dog tag identification number shall remain active in the Dangerous Dog Registry until proof of death of the animal or until a new Virginia Dangerous Dog tag is issued.

4. The owner of a dangerous dog shall notify the local animal control officer within 10 calendar days of a lost Virginia Dangerous Dog tag.

5. The local animal control officer shall issue a new Virginia Dangerous Dog tag and identification number to the owner and electronically transmit this information to the State Veterinarian.

## **2 VAC 5-620-80. Notification requirements for dangerous dog incidents.**

At any time during the adjudication process or after an animal has been found to be a dangerous dog by a court of competent jurisdiction, the animal's owner shall notify the local animal control officer within 24 hours if any of the following occur:

1. The dangerous dog is loose or unconfined.

2. The dangerous dog bites or attacks a person or another animal.

3. There is a complaint that the dangerous dog bit or attacked a person or another animal.

4. The dangerous dog is sold, given away, or dies.

The local animal control officer shall promptly notify the State Veterinarian of these facts by electronic mail.

## **2 VAC 5-620-90. Notification requirements for change of address or contact information; updated information.**

If, at any time during the adjudication process or after an animal has been found to be a dangerous dog by a court of competent jurisdiction, there is a change in the address of the owner or a change in the address where the dangerous dog is maintained (within or outside of the Commonwealth of Virginia), the following notification shall occur within 10 days:

1. The owner shall provide written notice of an address change to the local animal control officer for both the old address from which the animal has moved and the new address to which that animal has been moved.

2. If the owner moves the dangerous dog to a new address within the same jurisdiction, the owner shall submit a Dangerous Dog Change of Address Form to the local animal control officer indicating the new address.

3. If the owner moves the dangerous dog to a different local jurisdiction, the owner shall submit a Dangerous Dog Renewal Registration Form and Dangerous Dog Change of Address Form to the local animal control officer in the new jurisdiction to which the animal has moved indicating the new address and any other updated information.

4. The local animal control officer of the jurisdiction of the old address from which the animal has moved shall provide written notice to the local animal control officer of the new jurisdiction, including the new address of the dangerous dog and any information necessary to contact the owner of the dangerous dog.

5. The local animal control officer of the old address from which the animal has moved and the local animal control officer of the new jurisdiction to which the animal has been moved shall send notice of the change to the State Veterinarian by electronic mail.

6. The owner shall notify the local animal control officer from the jurisdiction where the dog is maintained of any change in or updating of information required by the law or regulation. The local animal control officer shall transmit the changed information or updates into the Dangerous Dog Renewal Registration Form and send notice of this change to the State Veterinarian by electronic mail.

7. There shall be no charge for submitting updated information between registration renewals.

**PART III.**  
**COMMONWEALTH OF VIRGINIA DANGEROUS DOG**  
**REGISTRY.**

**2 VAC 5-620-100. Establishment, operation and maintenance of the Dangerous Dog Registry.**

The following shall be the procedures and requirements for establishment, operation, and maintenance of the Dangerous Dog Registry:

1. By July 1, 2007, the Commissioner of Agriculture and Consumer Services shall establish the Dangerous Dog Registry to be maintained by the Virginia Department of Agriculture and Consumer Services, State Veterinarian's Office.
2. The State Veterinarian shall cause a website to be created and named the Virginia Dangerous Dog Registry.
3. A personal identification number (PIN) shall be assigned by the State Veterinarian to each local jurisdiction for administrative access to the Dangerous Dog Registry.
4. All information in the Dangerous Dog Registry shall be available to the State Veterinarian, local jurisdictions, and the public via the website.
5. Any funds collected for the Dangerous Dog Registry shall be used by the State Veterinarian to maintain the Dangerous Dog Registry and website.

All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this section, shall be paid into a special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any training course required under § 3.1-796.104:1 of the Code of Virginia.

The governing body of any locality may enact an ordinance parallel to this statute regulating dangerous and vicious dogs provided, however, that no locality may impose a felony penalty for violation of such local ordinances.

**NOTICE:** The forms used in administering 2 VAC 5-620, Regulations Pertaining to the Establishment of the Dangerous Dog Registry, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Agriculture and Consumer Services, 102 Governor Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

**FORMS**

Dangerous Dog Verification of Compliance and Registration Form, VDACS-DDR-01 (eff. 07/07).

Dangerous Dog Verification of Compliance and Registration Supplemental Owner Information Form, VDACS-DDR-02 (eff. 07/07).

Dangerous Dog Renewal Registration Form, VDACS-DDR-03 (eff.07/07).

Dangerous Dog Registration Change of Address Form, VDACS-DDR-04 (eff. 07/07).

Dangerous Dog Registration Change of Address Supplemental Owner Information Form, VDACS-DDR-05 (eff. 07/07).

Dangerous Dog Registration Remittance Form, VDACS-DDR-06 (eff. 07/07).

VA.R. Doc. No. R07-165; Filed May 9, 2007, 9:44 a.m.



**TITLE 4. CONSERVATION AND NATURAL RESOURCES**

**MARINE RESOURCES COMMISSION**

**REGISTRAR'S NOTICE:** The following regulations filed by the Marine Resources Commission are exempt from the Administrative Process Act in accordance with § 2.2-4006 A 12 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

**Final Regulation**

**Title of Regulation:** **4 VAC 20-370. Pertaining to the Culling of Crabs (amending 4 VAC 20-370-10 through 4 VAC 20-370-30.).**

**Statutory Authority:** § 28.2-201 of the Code of Virginia.

**Effective Date:** May 1, 2007.

**Agency Contact:** Brandy L. Battle, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email brandy.battle@mrc.virginia.gov.

**Summary:**

*The amendments (i) repeal the prohibition on harvest and possession of dark (any shade of brown through black coloration) sponge crabs, (ii) make it unlawful to possess more than 10 dark sponge crabs or 35 dark sponge crabs per barrel from March 17 through July 15, and (iii) clarify under what conditions it is lawful to possess dark sponge crabs taken outside of Virginia waters by crab processing houses from March 17 through July 15.*

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## 4 VAC 20-370-10. Purpose.

The purpose of this chapter is to aid in enforcing the provisions of § 28.2-708 of the Code of Virginia and to protect and conserve the blue crab resource ~~by prohibiting the possession of dark sponge crabs.~~

## 4 VAC 20-370-20. Culling requirements.

A. All crabs taken from the tidal waters of Virginia shall be culled to the legal size and possession limits by the catcher at the location of the harvest.

B. The catcher shall use culling containers (other than bushel baskets and barrels normally used for crabs) for the purpose of culling crabs during the harvesting process. Crabs placed loose in any boat are subject to be culled at any time. The provisions of this section shall not apply to the harvesting of crabs from a licensed crab trap (crab pound).

C. During culling, all undersize crabs shall be immediately returned to the water as required by § 28.2-708 of the Code of Virginia.

D. ~~From March 17 through July 15, it shall be unlawful for any person to possess for a period longer than is necessary for immediate determination of the presence of a dark egg mass, more than 10 dark sponge crabs per United States standard bushel or 35 dark sponge crabs per barrel, and the following conservation measures shall be in effect:~~

1. During culling, those dark sponge crabs in excess of the allowance level shall be immediately returned to the water alive and shall not be altered or destroyed in any manner.

~~E. 2.~~ It shall be unlawful for any person to possess for a period longer than is necessary for immediate determination of unnatural removal of eggs, a female blue crab that has been scrubbed or has in any manner other than natural hatching had the eggs removed therefrom.

~~F. 3.~~ Any marine patrol officer may grade or cull any number of barrels, baskets or containers of crabs in any person's possession. If the officer finds more than 10 dark sponge crabs per United States standard bushel or 35 per barrel, he shall seize the entire quantity of crabs in or from each such container, and the person who possessed the crabs shall immediately return them to the water. Refusal to return the crabs to the water is a separate offense from any other violation.

~~G. E.~~ Nothing in this section shall prohibit the possession of dark sponge crab which have been taken outside of Virginia waters by crab processing houses meeting the following conditions:

1. It shall be unlawful for any crab processing house to import or possess any dark sponge crabs from any other state or jurisdiction without first providing notice to the operations office of its intent to import dark sponge crabs.

2. Any crab processing house shall notify the operations office of its intent to import or possess dark sponge crabs from another state at least 24 hours in advance, either by telephone (1-757-541-4646 or 757-247-2265/2266) or by FAX (757-247-8026). Each crab processing house shall provide the operations office with their company name, manager's name, business location, phone number, quantity of crabs to be imported, source of crabs, arrival date and approximate time.

3. Such imported crabs shall be accompanied by a bill of sale which shall include the name of the seller, address and phone number of the seller, the license number of the seller if such license is required in the jurisdiction of harvest, the date of sale, and the quantity of crabs sold or purchased under the bill of sale.

## 4 VAC 20-370-30. Penalty.

A. As set forth in § 28.2-708 of the Code of Virginia, any person violating any provision of this chapter other than ~~subsection D, E, F or G~~ subsections D and E of 4 VAC 20-370-20 shall be guilty of a Class 3 misdemeanor.

B. As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of subsections D, and E, ~~F or G~~ of ~~4 VAC 20-370-20~~ 4 VAC 20-370-20 shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of subsections D, and E, ~~F or G~~ of 4 VAC 20-370-20 committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

VA.R. Doc. No. R07-200; Filed April 27, 2007; 4:47 p.m.

## Final Regulation

Title of Regulation: **4 VAC 20-490. Pertaining to Sharks (amending 4 VAC 20-490-42).**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: May 1, 2007.

Agency Contact: Brandy L. Battle, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email [brandy.battle@mrc.virginia.gov](mailto:brandy.battle@mrc.virginia.gov).

### Summary:

*The amendment changes the daily catch limit of spiny dogfish for commercial purposes to 3,000 pounds per day.*

## 4 VAC 20-490-42. Spiny dogfish catch limitations.

A. It shall be unlawful for any person to take, possess aboard any vessel or land in Virginia any spiny dogfish harvested from federal waters (Exclusive Economic Zone (3-200 miles)), for commercial purposes after it has been announced that the federal quota for spiny dogfish has been taken.

B. It shall be unlawful for any person to take, possess aboard any vessel or land in Virginia more than ~~600 pounds of spiny dogfish per day from May 1 through October 30, or 4,000 pounds of spiny dogfish per day from November 1, 2006, through April 30, 2007,~~ 3,000 pounds of spiny dogfish per day for commercial purposes.

C. It shall be unlawful for any person to harvest any spiny dogfish for commercial purposes from state waters after it has been announced that the interstate quota for spiny dogfish has been taken.

D. All spiny dogfish harvested from state waters or federal waters, for commercial purposes, must be sold to a federally permitted dealer.

E. It shall be unlawful for any buyer of seafood to receive any spiny dogfish after any commercial harvest or landing quota described in this section has been attained and announced as such.

VA.R. Doc. No. R07-201; Filed April 30, 2007, 10:31 a.m.

**Emergency Regulation**

Title of Regulation: **4 VAC 20-720. Pertaining to Restrictions on Oyster Harvest (amending 4 VAC 20-720-10, 4 VAC 20-720-20, 4 VAC 20-720-60, 4 VAC 20-720-70, 4 VAC 20-720-90 and 4 VAC 20-720-110; adding 4 VAC 20-720-105).**

Statutory Authority: §§ 28.2-201, 28.2-210 and 28.2-507 of the Code of Virginia.

Effective Dates: May 1, 2007, through May 30, 2007.

Agency Contact: Katherine V. Leonard, Administrative and Program Specialist, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2120, FAX (757) 247-8101 or email kathy.leonard@mrc.virginia.gov.

Summary:

*The purpose of this emergency action is to establish summer harvest hours and other restrictions necessary when working on public or private oyster grounds in order to protect the public's health.*

**4 VAC 20-720-10. Purpose.**

The purpose of this emergency chapter is to protect and conserve Virginia's oyster resource ~~and~~, promote the preservation of oyster broodstock, which has been depleted by disease, harvesting, and natural disasters and to protect the public health.

**4 VAC 20-720-20. Definitions.**

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

"Coan River Area" means that area of the Coan River to the Virginia-Maryland state line (PRV1A to PRV1B), except for that area above a line from Walnut Point (Survey Station Walnut) to Stephens Point (Survey Station Arthur).

"Corrotoman River Hand Tong Area" means that area of the Corrotoman River north of the line drawn from Bar Pt. to the westernmost point on Black Stump Point.

"Deep Rock Dredge Area (Lower Chesapeake Bay)" means the area described as follows: starting at Cherry Point, Gwynns Island, thence northeast to G"1P" along the south side of the channel to Piankatank River; thence east-southeast to G"1R"; thence southwest to Sandy Point, Gwynns Island, North of Hole-in-the-Wall.

"Deep Water Shoal State Replenishment Seed Area (DWS)" in the James River (574.66 Acres) means the areas beginning at a point approximately 530 feet west of Deep Water Shoal Light, said point being Corner 1 as located by Virginia State Plane Coordinates, South Zone, NAD 1927, north 302,280.00, east 2,542,360.00; thence north azimuth 30°49'59", 4,506.99 feet to Corner 2, north 306,150.00, east 2,544,670.00; thence north azimuth 135°08'57", 5,430.60 feet to Corner 3, north 302,300.00, east 2,548,500.00; thence north azimuth 212°13'54", 3,487.42 feet to Corner 4, north 299,350.00, east 2,546,640.00; thence north azimuth 269°10'16", 2,765.29 feet to Corner 5, north 299,310.00, east 2,543,875.00; thence north azimuth 332°58'26", 3,334.09 feet to Corner 1, being the point of beginning.

"Drumming Ground Hand Scrape Area" means that portion of the Rappahannock and Corrotoman River, west of the Rt. 3 bridge (Norris Bridge), and north of a line from the center of the Rt. 3 bridge (Norris Bridge) following westward along the channel to Towles Point at Buoy "R6", excluding the Corrotoman River north of a line from Bar Pt. to the westernmost point on Black Stump Point.

"Great Wicomico River Hand Scrape Area" means that area of a line drawn from Sandy Point to Cockrell Point.

"Hand scrape" means any device or instrument with a catching bar having an inside measurement of no more than 22 inches, which is used or usable for the purpose of extracting or removing shellfish from a water bottom or the bed of a body of water.

"James River Hand Scrape Area" means those public oyster grounds of the James River west of the Monitor and Merrimac Bridge Tunnel and northeast of the Mills E. Godwin/Nansemond River Bridge (Route 17) to the James River Bridge (Route 17).

"Lower Machodoc Area" means that area of the Lower Machodoc River to the Virginia-Maryland state line (PRV5A to PRV5C).

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"Market Oyster" means a clean cull oyster to be marketed for direct human consumption.

"Nomini River Hand Scrape Area" means that area of the Nomini River inside of Public Ground #1 to the Virginia-Maryland state line (PRV6A to PRV6B) (Kingscopsico), Public Ground 26 (Deans) and Public Ground 28 (Cut).

"Pocomoke and Tangier Sounds Management Area (PTSMA)" means the area as defined in § 28.2-524 of the Code of Virginia.

"Pocomoke Sound" means that area northeast from a line from Beach Island Light to the house on the Great Fox Island.

"Public oyster ground" means all those grounds defined in § 28.2-551 of the Code of Virginia, all ground set aside as public oyster ground by court order, and all ground set aside as public oyster ground by order of the Marine Resources Commission.

"Rappahannock River Hand Scrape Area" means that area in the Rappahannock River including all public grounds between a line extending from the eastern-most point of Long Point thence in an easterly direction to flashing red buoy #8; thence due east to Rogue Point, upriver to a line extending from Tarpley Point; thence in a southwesterly direction to flashing green buoy #13; thence south-southwesterly to Jones Point.

"Rappahannock River Hand Tong Area" means that area of the Rappahannock River west of the line drawn from Tarpley Pt. to Green Buoy #13 to Jones Pt.

"Standard oyster dredge" means any device or instrument having a maximum weight of 150 pounds with attachments, maximum width of 50 inches and maximum tooth length of four inches.

"Tangier Sound" means that area from Tangier Light north to the Maryland-Virginia line (red buoy #6).

"Tangier Sound Hand Tong Area" means that area in the PTSMA south and west of a line from Fishbone Island thence southeast to bell buoy #5, thence south southwest to buoy #3 (such area to include all of Public Ground 3 and Flat Rock) and shall be a hand tong area only and Cod Harbor (approximately 1,124 acres) beginning at a point of East Point Marsh, said point having the Virginia state coordinates, south section, coordinates of north 555,414.89, east 2,730,388.85; thence south 79°59', east 2,260 feet to a line designating the western extent of the PTSMA as described in § 28.2-524 of the Code of Virginia; thence south 10°16', west 2,800 feet; thence south 28°46', west 8,500 feet to a point on Sand Spit, position north 545,131.78, east, 2,728,014.94; thence along the mean low water line of Cod Harbor in a west, north and northeast direction crossing Canton Creek and Mailboat Harbor from headland to headland to the point of beginning.

"Temples Bay Hand Scrape Area" means that area in the Rappahannock River west of the Rt. 3 bridge (Norris Bridge) and south of a line drawn from the center of the Rt. 3 bridge (Norris Bridge) upriver to Towles Pt. continuing the line upriver to Red Buoy 8; thence across to the southside of the river to Long Pt., thence back to the Rt. 3 bridge (Norris Bridge) along the southern shoreline.

"Thomas Rock Hand Scrape Area" means an area in the James River with an eastern boundary being the James River, Route 17 bridge and a western boundary being a line drawn from the south side of the river at Rainbow Farm Point; thence to the channel buoy green #5; and thence to Blunt Point on the north side of the river.

"Unassigned ground" means all grounds other than public oyster ground as defined by this chapter and which have not been set aside or assigned by lease, permit, or easement by the Marine Resources Commission.

"Upper Chesapeake Bay (Blackberry Hangs Hand Scrape Area)" means the area in Public Ground Number 118, south from the Smith Point Light to the Great Wicomico Light.

"Yeocomico River Area" means that area of the Yeocomico River inside Public Grounds 102, 104, 107, 112 and 113.

"York River Hand Scrape Area" means an area above the Route 17 or Coleman Bridge in Public Ground No. 30, along the north side of the river, to just above Aberdeen Creek.

#### **4 VAC 20-720-60. Day and time limit.**

A. It shall be unlawful to take, catch or possess oysters on Saturday and Sunday from the public oyster grounds or unassigned grounds in the waters of the Commonwealth of Virginia, except that this provision shall not apply to any person harvesting no more than one bushel per day by hand for household use only during the season when the public oyster grounds or unassigned grounds are legally open for harvest. The presence of any gear normally associated with the harvesting of oysters on board the boat or other vehicle used during any harvesting under this exception shall be prima facie evidence of violation of this chapter.

B. It shall be unlawful for any person to harvest or attempt to harvest oysters prior to sunrise or after 2 p.m. from the areas described in subdivisions 1, 3 and 4 of 4 VAC 20-720-40, except as described in 4 VAC 20-720-105.

~~C. It shall be unlawful for any person to harvest or attempt to harvest oysters by dredge from private grounds in the Chesapeake Bay and its tributaries, including the tributaries of the Potomac River, until one hour before sunrise or after 10 a.m. in the months of May through September and these oysters shall be refrigerated within one hour of landing.~~

~~D. C.~~ C. It shall be unlawful for a boat with an oyster dredge aboard to leave the dock until one hour before sunrise or return to the dock after sunset.

~~E. D.~~ It shall be unlawful for a boat with a hand scrape aboard to leave the dock until one-half hour before sunrise or return to the dock after sunset.

**4 VAC 20-720-70. Gear restrictions.**

A. It shall be unlawful for any person to harvest oysters in the James River Seed Areas, including the Deep Water Shoal State Replenishment Seed Area the James River Jail Island and Point of Shoals Clean Cull Areas, the Rappahannock River Hand Tong Area, the Corrotoman River Hand Tong Area, except by hand or ordinary tong. It shall be unlawful for any person to have a hand scrape on board a boat that is harvesting or attempting to harvest oysters from public grounds by hand tong.

B. It shall be unlawful to harvest oysters from the seaside of the Eastern Shore, except by hand.

C. It shall be unlawful to harvest oysters from the hand scrape areas in the Rappahannock River; James River, Nomini River, Upper Chesapeake Bay, and York River, except by hand scrape.

D. It shall be unlawful for any person to have more than one hand scrape on board any boat that is harvesting oysters or attempting to harvest oysters from public grounds. It shall be unlawful for any person to have a hand tong on board a boat that is harvesting or attempting to harvest oysters from public grounds by hand scrape.

E. It shall be unlawful to harvest oysters from the Pocomoke and Tangier Sounds Management Area, except by a standard oyster dredge.

~~F. During the months of May through September any vessel used for the harvest of oysters from both public and private grounds shall have shading over the storage area for the oysters, and all oysters in the vessel shall be offloaded every day.~~

**4 VAC 20-720-90. Harvest permit required; for the James River Hand Scrape Area; and Thomas Rock Hand Scrape Area; and Seaside of Eastern Shore.**

~~A. It shall be unlawful for any person to harvest, or attempt to harvest, oysters from leased oyster ground, fee simple ground, or aquacultural operations on the Seaside of Eastern Shore without first obtaining a harvest permit from the Marine Resources Commission.~~

~~B. Applicants for the harvest permit shall have paid all rent fees and shall specify the location of the lease or fee simple ground to be harvested and shall verify that the ground is marked properly as specified by 4 VAC 20-290.~~

~~C. Applicants for the permit to harvest from aquacultural operations shall have these operations verified by the Marine Resources Commission and with this aquaculture harvest~~

~~permit shall be exempt from all other fisheries regulations pertaining to harvesting and handling of wild oyster stocks.~~

~~D. No person shall hold more than four permits at any time.~~

~~E. The aquaculture harvest permit does not eliminate or exempt the aquacultural operation from all applicable Division of Shellfish Sanitation regulations pertaining to the harvest and marketing of shellfish.~~

~~F. A permit is required for the James River Hand Scrape Area and the Thomas Rock Hand Scrape Area. It shall be unlawful for any person to harvest, or attempt to harvest, oysters from the James River Hand Scrape Area and the Thomas Rock Hand Scrape Area without first obtaining a harvest permit from the Marine Resources Commission as required by § 28.2-518 of the Code of Virginia.~~

**4 VAC 20-720-105. Public health and warm water harvest restrictions.**

A. It shall be unlawful for any person to have any cats, dogs, or other pets on board a vessel during the harvest of market oysters.

B. From May 15 through September 30, any vessel used for the harvest of market oysters, from either public or private grounds, shall have shading over the area that serves as storage for the oysters (except as described in subsection C of this section), and all oysters in the vessel shall be offloaded every day.

C. From May 15 through September 30, any vessel used for the harvest of market oysters that are placed in an aquaculture container completely covered by a lid or top, shall not be required to have shading over that container.

D. It shall be unlawful for any person to harvest or attempt to harvest market oysters, from public or private grounds, prior to one hour before sunrise or after 10 a.m., from May 15 through September 30. Oysters harvested before 10 a.m., from May 15 through September 30, shall be refrigerated by 10 a.m. that same day, except that:

1. This shall not apply to the harvest of seed oysters or the customary husbandry processes associated with aquaculture of oysters.

2. This shall not apply to the harvest of oysters if there is a Virginia Department of Health, Division of Shellfish Sanitation-approved refrigeration system or ice storage area for the oysters on board the harvest vessel.

3. This shall not apply to the harvest of oysters when there is verifiable documentation, such as a log book or GPS trip documentation, of a time duration from harvest to landing of less than 2 hours.

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## 4 VAC 20-720-110. Penalty.

A. As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

B. In addition to the penalty prescribed by law, any person violating ~~the~~ any provisions of this chapter shall return all oysters in possession to the water, shall cease harvesting on that day, and all harvesting apparatus shall be subject to seizure.

C. In addition to the penalty prescribed by § 28.2-802 of the Code of Virginia, any person violating any provisions of 4 VAC 20-720-105 shall destroy all oysters in his possession, in the presence of a Marine Police Officer, and shall be subject to the immediate forfeiture of all oyster licenses and permits until appearing before the Marine Resources Commission.

VA.R. Doc. No. R07-199; Filed April 30, 2007, 10:14 a.m.

## Final Regulation

Title of Regulation: **4 VAC 20-752. Pertaining to Blue Crab Sanctuaries (amending 4 VAC 20-752-20 and 4 VAC 20-752-30).**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: May 3, 2007.

Agency Contact: Brandy L. Battle, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email [brandy.battle@mrc.virginia.gov](mailto:brandy.battle@mrc.virginia.gov).

### Summary:

*The amendments (i) define COLREGS Line and Three Nautical Mile Limit Line, (ii) establish an additional blue crab sanctuary in Area 2 that extends to the Three Nautical Mile Limit Line from off the mouth of the Chesapeake Bay thence southward along the Virginia Beach coast to the Virginia – North Carolina line, and (iii) make it unlawful for any person to take, harvest, or possess crabs for commercial purposes from Area 2 from June 1 through September 15.*

## 4 VAC 20-752-20. Definitions.

"COLREGS Line" means the COLREGS Demarcation lines, as specified in Coastal Pilot, 35th and 36th editions by Lighthouse Press.

"Hampton Roads Blue Crab Sanctuary" means that area consisting of all tidal waters inshore and upstream of a line

formed by the extreme south and north ends of the westbound span of the Hampton Roads Bridge Tunnel.

"Three Nautical Mile Limit Line" means the outer limit of the area extending three miles out to sea from the coast as depicted on NOAA nautical charts.

"Virginia Blue Crab Sanctuary" means two distinct sanctuary areas, Area 1 and Area 2, with ~~one area~~ Area 1 consisting of all tidal waters that are bounded by a line beginning at a point, near the western shore of Fisherman's Island, being on a line from the Cape Charles Lighthouse to the Thimble Shoal Light, having NAD83 geographic coordinates of 37° 05' 58.00" N, 75° 58' 45.95" W; thence southwesterly to Thimble Shoal Light, 37° 00' 52.19" N, 76° 14' 24.63" W; thence southwesterly to the offshore end of Harrison's Fishing Pier, 36° 57' 44.98" N, 76° 15' 31.76" W; thence north to Flashing Green Buoy "9" on the York River Entrance Channel, 37° 11' 30.99" N, 76° 15' 16.85" W; thence northeasterly to Wolf Trap Light, 37° 23' 27.15" N, 76° 11' 46.01" W; thence northwesterly to a point, northeast of Windmill Point, 37° 38' 23.13" N, 76° 15' 59.54" W; thence northerly to a point due east of Great Wicomico Light at 37° 48' 15.72" N, 76° 14' 33.15" W; thence northeasterly to a point, 37° 49' 18.10" N, 76° 13' 06.00" W; thence northerly to a point on the Virginia-Maryland state line, 37° 54' 04.00" N, 76° 11' 49.15" W; thence northeasterly to a point on the Virginia-Maryland state line, 37° 55' 44.82" N, 76° 07' 13.41" W; thence southeasterly to a point, southwest of Tangier Island, 37° 44' 59.85" N, 76° 01' 34.31" W; thence southeasterly to a point, southeast of Tangier Island, 37° 43' 41.05" N, 75° 57' 51.84" W; thence northeasterly to a point, south of Watts Island, 37° 45' 36.95" N, 75° 52' 53.87" W; thence southeasterly to a point, 37° 44' 56.15" N, 75° 51' 33.18" W; thence southwesterly to a point, west of Parkers Marsh, 37° 42' 41.49" N, 75° 55' 06.31" W; thence southwesterly to a point, west of Cape Charles Harbor, 37° 15' 37.23" N, 76° 04' 13.79" W; thence southeasterly to a point near the western shore of Fisherman's Island, on the line from Cape Charles Lighthouse to Thimble Shoal Light, said point being the point of beginning, and a ~~second area~~ continuation of Area 1, consisting of all tidal waters that are bounded by a line beginning at Cape Charles Lighthouse, having NAD83 geographic coordinates of 37° 07' 31.63" N, 75° 53' 58.36" W; thence southwesterly to Cape Henry Lighthouse, 36° 55' 42.02" N, 76° 00' 18.44" W; thence southeasterly to a point, 36° 54' 42.39" N, 75° 56' 44.23" W; thence northeasterly to a point, east of Cape Charles Lighthouse 37° 06' 45" N, 75° 52' 05" W; thence westerly to the Cape Charles Lighthouse, said point being the point of beginning and a second area, Area 2, beginning at a point, 37° 06' 45.00" N, 75° 52' 05.00" W; thence southwesterly to a point, 37° 03' 11.49" N, 75° 53' 27.02" W, said point being a point on the Three Nautical Mile Limit Line; thence southerly following the Three Nautical Mile Limit Line to a point on the Virginia – North Carolina state boundary, 36° 33' 02.59" N, 75° 48' 16.21" W; thence westerly to a point, along the

Virginia – North Carolina state boundary to its intersection with the mean low water line, 36° 33' 01.34" N, 75° 52' 03.06" W; thence northerly, following the mean low water line to the Rudee Inlet weir; thence easterly along the weir to the stone breakwater; thence following the stone breakwater to its northernmost point; thence northerly to the mean low water line at the easternmost point of the stone jetty; thence northerly following the mean low water line to its intersection with the COLREG Line, 36° 55' 38.50" N, 76° 00' 20.32" W; thence southeasterly to a point, 36° 54' 42.39" N, 75° 56' 44.23", thence northeasterly to a point, 37° 06' 45.00" N, 75° 52' 05.00" W, said point being the point of beginning of this second area.

**4 VAC 20-752-30. Harvest restrictions.**

- A. It shall be unlawful for any person to dredge for crabs within the Hampton Roads Blue Crab Sanctuary at any time.
- B. It shall be unlawful for any person to conduct commercial or recreational crabbing within Area 1 of the Virginia Blue Crab Sanctuary from June 1 through September 15.
- C. It shall be unlawful for any person to take, harvest or possess crabs for commercial purposes from Area 2 from June 1 through September 15.

VA.R. Doc. No. R07-207; Filed May 3, 2007, 2:41 p.m.

**Final Regulation**

**Title of Regulation:** **4 VAC 20-890. Pertaining to Channeled Whelk (amending 4 VAC 20-890-20, 4 VAC 20-890-35 and 4 VAC 20-890-40; adding 4 VAC 20-890-45).**

**Statutory Authority:** § 28.2-201 of the Code of Virginia.

**Effective Date:** July 1, 2007.

**Agency Contact:** Brandy L. Battle, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email brandy.battle@mrc.virginia.gov.

**Summary:**

*The amendments (i) modify the definition of bait bag by limiting its mesh or slat openings to no greater than three-eighths of an inch in one dimension, either width or length, (ii) increase the daily vessel trip limit to 120 bushels when two Virginia conch-pot licensees are on board the same vessel, (iii) modify the provision that limits the use of horseshoe crabs as bait to no more than one-half of a female crab or one male horseshoe crab, whole or in parts, in any one conch pot, and (iv) establish a channeled whelk buyer's permit and annual reporting system for licensed seafood buyers that buy channeled whelk directly from the harvester.*

**4 VAC 20-890-20. Definitions.**

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

"Bait bag" means a bag, box, or other container, with mesh, slats or other types of openings no greater than three-eighths of an inch in one dimension, either width or length, that is designed for the purposes of containing the bait within a conch pot.

"Bushel" means a Virginia bushel with a volumetric measure equivalent to 1.4 U.S. standard bushels or 3003.9 cubic inches.

"Channeled whelk" means any whelk of the species *Busycotypus canaliculatus*.

"Land" or "landing" means to enter port with channeled whelk on board any boat or vessel, to begin offloading channeled whelk, or to offload channeled whelk.

"Length" means the total length of a channeled whelk, measured from the tip of the apex to the outer tip of the shell opening.

**4 VAC 20-890-35. Possession and landing limits.**

A. The possession and landing limits for channeled whelk shall be 60 bushels per licensed conch-pot fishermen on board a vessel but shall not exceed 120 bushels per vessel. Only one conch-pot license per person shall be used to calculate the vessel limit.

B. It shall be unlawful for any person to possess aboard any vessel or to land more than the possession and landing limit for channeled whelk specified in subsection A of this section. In the enforcement of this provision, the vessel operator or captain shall be responsible for the possession and landing limit.

**4 VAC 20-890-40. Gear restrictions.**

A. It shall be unlawful for any person to possess channeled whelk harvested from Virginia waters by any means other than by hand, licensed conch dredge, licensed crab dredge, or licensed conch pot.

B. Except as provided in subsection C of this section, it shall be unlawful for any person to place, set, or fish, or attempt to place, set, or fish any conch pot that does not contain a bait bag.

C. Any person not utilizing horseshoe crabs as bait for channeled whelk shall be exempt from the provisions of subsection B of this section, provided that the possession of any quantity of horseshoe crabs on board the vessel of such person shall constitute prima facie evidence of a violation of this chapter. Further, the presence of any quantity of horseshoe crab in any conch pot not equipped with a bait bag

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shall constitute prima facie evidence of a violation of this chapter.

D. It shall be unlawful for any person to place, set, or fish or attempt to place, set, or fish any conch pot that exclusively contains more than either one-half of a female horseshoe crab or more than two halves of one male horseshoe crabs crab, in whole or in parts.

E. It shall be unlawful for any person to land, attempt to land, or possess channeled whelk that were harvested by pots that do not meet the provisions of this chapter.

#### **4 VAC 20-890-45. Monitoring requirements.**

A. It shall be unlawful, for any person, firm or corporation to buy any channeled whelk from any lawful harvester on or after July 1, 2007, without first having obtained a Channeled Whelk Buyer's Permit from the Marine Resources Commission. Such permit shall be completed in full by the licensed seafood buyer. A copy of the Channeled Whelk Buyer's Permit shall be in possession of the permittee while buying or possessing channeled whelk.

B. Any licensed seafood buyer permitted to purchase channeled whelk shall provide written reports to the commission of daily purchases and harvest information organized by month on forms provided by the commission. Such information shall include the date of the purchase; the buyer's channeled whelk permit number and harvester's Commercial Fisherman Registration License number; the gear type; water area fished; city or county of landing; and number of bushels, bags or barrels of channeled whelk. These reports shall be completed in full and submitted to the commission no later than the 15th day of January for the prior year's purchases.

VA.R. Doc. No. R07-202; Filed April 30, 2007, 9:50 a.m.

### **Final Regulation**

**Title of Regulation: 4 VAC 20-900. Pertaining to Horseshoe Crab (amending 4 VAC 20-900-25 and 4 VAC 20-900-35).**

**Statutory Authority: § 28.2-201 of the Code of Virginia.**

**Effective Date: July 1, 2007.**

**Agency Contact: Brandy L. Battle, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email brandy.battle@mrc.virginia.gov.**

#### **Summary:**

*The amendments (i) describe a male horseshoe crab as one that possesses at least one modified, hook-like appendage as its first pair of walking legs, (ii) aid in identification and in the purchase and harvest enforcement of the horseshoe crab, and (iii) establish a horseshoe crab buyer's permit*

*for licensed seafood buyers and a monthly reporting system, to include a call-in provision.*

#### **4 VAC 20-900-25. Commercial fisheries management measures.**

A. It shall be unlawful for any person to harvest horseshoe crabs from any shore or tidal waters of Virginia within 1,000 feet in any direction of the mean low water line from May 1 through June 7. The harvests of horseshoe crabs for biomedical use shall not be subject to this limitation.

B. From January 1 through June 7 of each year, it shall be unlawful for any person to land, in Virginia, any horseshoe crab harvested from federal waters.

C. Harvests for biomedical purposes shall require a special permit issued by the Commissioner of Marine Resources, and all crabs taken pursuant to such permit shall be returned to the same waters from which they were collected.

D. The commercial quota of horseshoe crab for each calendar year shall be 152,495 horseshoe crabs. Additional quantities of horseshoe crab may be transferred to Virginia by other jurisdictions in accordance with the provisions of Addendum I to the Atlantic States Marine Fisheries Commission Fishery Management Plan for Horseshoe Crab, April 2000, provided that the combined total of the commercial quota and transfer from other jurisdictions shall not exceed 355,000 horseshoe crabs. It shall be unlawful for any person to harvest from Virginia waters, or to land in Virginia, any horseshoe crab for commercial purposes after any calendar-year commercial quota of horseshoe crab has been attained and announced as such.

During each calendar year no more than 40% of Virginia's horseshoe crab quota and any and all transfers of quota from other jurisdictions shall be harvested from waters east of the COLREGS Line. It shall be unlawful for any person to harvest horseshoe crabs from waters east of the COLREGS Line, or to land horseshoe crabs, in Virginia, that are harvested east of the COLREGS Line, after 40% of Virginia's horseshoe crab quota and any and all transfers of quota have been attained for this designated area and announced as such.

E. It shall be unlawful for any person whose harvest of horseshoe crabs is from waters east of the COLREGS Line to possess aboard a vessel or to land in Virginia any quantity of horseshoe crabs that, in aggregate, is not comprised of at least a minimum ratio of two male horseshoe crabs to one female horseshoe crab. For the purposes of this regulation, no horseshoe crab shall be considered a male horseshoe crab unless it possesses at least one modified, hook-like appendage as its first pair of walking legs.

F. Limitations on the daily harvest and possession of horseshoe crabs for any vessel described below are as follows:

1. It shall be unlawful for any person who meets the requirements of 4 VAC 20-900-30 D and holds a valid horseshoe crab endorsement license to possess aboard any vessel or to land any number of horseshoe crabs in excess of 5,000, except that when it is projected and announced that 85% of the commercial quota is taken it shall be unlawful for any person who meets the requirements of 4 VAC 20-900-30 D and holds a valid horseshoe crab endorsement license to possess aboard any vessel in Virginia any number of horseshoe crabs in excess of 2,500.

2. It shall be unlawful for any person who meets the requirements of 4 VAC 20-900-30 E and holds a valid horseshoe crab endorsement license to possess aboard any vessel or to land any number of horseshoe crabs in excess of 2,000, except that when it is projected and announced that 85% of the commercial quota is taken, it shall be unlawful for any person who meets the requirements of 4 VAC 20-900-30 D and holds a valid horseshoe crab endorsement license to possess aboard any vessel in Virginia any number of horseshoe crabs in excess of 1,000. The harvest of horseshoe crabs, described in this subdivision, shall be restricted to using only crab dredge.

3. It shall be unlawful for any registered commercial fisherman or seafood landing licensee who does not possess a horseshoe crab endorsement license to possess aboard any vessel more than 500 horseshoe crabs or for any vessel to land any number of horseshoe crabs in excess of 500.

G. It shall be unlawful for any fisherman issued a horseshoe crab endorsement license to offload any horseshoe crabs between the hours of 10 p.m. and 7 a.m.

**4 VAC 20-900-35. Monitoring requirements.**

A. Any person harvesting or landing horseshoe crabs in Virginia shall report monthly on forms provided by the Marine Resources Commission all harvests of horseshoe crabs including, but not limited to, bait fisheries, bycatch, biomedical industry, and scientific and educational research harvests. Reporting requirements shall consist of numbers and pounds landed by sex, harvest method and harvest location.

B. It shall be unlawful for a horseshoe crab endorsement license holder to fail to contact the Marine Resources Operations Station prior to the vessel issued a horseshoe crab endorsement license offloading horseshoe crabs. The horseshoe crab endorsement license holder shall provide the Marine Resources Commission the name of the vessel and its captain and the anticipated or approximate offloading time and site. Following offloading, the horseshoe crab endorsement license holder shall contact the Virginia Marine Resources Commission Interactive-Voice-Response (IVR) System within 24 hours of landing and provide his horseshoe

crab endorsement license number; the time, date and location of offloading; and the number of horseshoe crabs landed.

C. It shall be unlawful for any person, firm or corporation to buy any horseshoe crabs from any lawful harvester on or after July 1, 2007, without first having obtained a Horseshoe Crab Buying Permit from the Marine Resources Commission. The permit application shall be completed in full by the licensed seafood buyer, and a copy of the permit shall be kept in possession of the licensed buyer while buying or possessing horseshoe crabs.

D. Any licensed seafood buyer permitted to purchase horseshoe crabs shall provide written reports to the commission of daily purchases and harvest information on forms provided by the commission. Such information shall include the date of the purchase, the buyer's horseshoe crab permit number and harvester's Commercial Fisherman Registration License number, gear type used, water area fished, city or county of landing, and the number of female and male crabs for each purchased harvest of horseshoe crabs. These reports of any current monthly purchases shall be completed in full and submitted to the commission no later than the 5th day of the following month. In addition, once it has been projected and announced that 85% of the annual horseshoe crab quota has been landed, each permitted buyer shall call the commission's interactive voice recording system on a daily basis to report his name and permit number, date, number of female horseshoe crabs and number of male horseshoe crabs purchased, gear used and water area fished by the harvester.

~~E.~~ E. Persons harvesting horseshoe crabs for biomedical use and owners of facilities using horseshoe crabs for biomedical purposes shall monitor and report monthly to the commission all harvests or purchases of horseshoe crabs and the percentage of mortality up to the point of release including that mortality which occurs during harvest, shipping, handling, and bleeding.

~~D.~~ F. Owners of biomedical facilities using horseshoe crabs shall participate in the tagging program of the commission to evaluate the post-release mortality of horseshoe crabs.

~~E.~~ G. Monthly reports shall be due to the commission no later than the fifth day of the following month.

VA.R. Doc. No. R07-203; Filed April 30, 2007, 10:17 a.m.

**Final Regulation**

Title of Regulation: **4 VAC 20-1110. Pertaining to Sheepshead (adding 4 VAC 20-1110-10 through 4 VAC 20-1110-50).**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: May 1, 2007.

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Agency Contact: Brandy L. Battle, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email [brandy.battle@mrc.virginia.gov](mailto:brandy.battle@mrc.virginia.gov).

Summary:

*The amendments establish (i) recreational and commercial limitations on the harvest and landings of Sheepshead in Virginia, (ii) a four-fish recreational fishing possession limit, and (iii) a 500-pound commercial fishing possession limit.*

CHAPTER 1110.  
PERTAINING TO SHEEPSHEAD.

**4 VAC 20-1110-10. Purpose.**

The purpose of this chapter is to conserve and protect sheepshead stocks in Virginia waters.

**4 VAC 20-1110-20. Definitions.**

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

"Commercial fishing" or "fishing commercially" or "commercial fishery" means fishing by any person where the catch is for sale, barter, trade, or any commercial purpose, or is intended for sale, barter, trade, or any commercial purpose.

"Recreational fishing" or "fishing recreationally" or "recreationally fishing" means fishing by any person, whether licensed or exempted from licensing, where the catch is not for sale, barter, trade, or any commercial purpose, or is not intended for sale, barter, trade, or any commercial purpose.

"Sheepshead" means any fish of the species *Archosargus probatocephalus*.

**4 VAC 20-1110-30. Recreational harvest and possession limit.**

The recreational harvest, landing and possession limit for sheepshead, as described in 4 VAC 20-1110-20, shall be four fish. It shall be unlawful for any person to recreationally harvest, land or possess more than four sheepshead within or without Virginia tidal waters. When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limit for sheepshead shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by four. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limits.

**4 VAC 20-1110-40. Commercial limitations.**

A. It shall be unlawful for any vessel to land in Virginia more than 500 pounds of sheepshead, as described in 4 VAC 20-1110-20, per day.

B. It shall be unlawful to transfer harvest at sea.

**4 VAC 20-1110-50. Penalty.**

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

VA.R. Doc. No. R07-204; Filed April 30, 2007, 10:34 a.m.

**Final Regulation**

Title of Regulation: **4 VAC 20-1120. Pertaining to Tilefish and Grouper (adding 4 VAC 20-1120-10 through 4 VAC 20-1120-50).**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: May 1, 2007.

Agency Contact: Brandy L. Battle, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email [brandy.battle@mrc.virginia.gov](mailto:brandy.battle@mrc.virginia.gov).

Summary:

*The amendments establish (i) recreational and commercial limitations on the harvest and landings of Tilefish and Groupers in Virginia, (ii) a seven fish recreational fishing possession limit for tilefish and one fish for grouper, and (iii) a 300-pound commercial fishing possession limit for tilefish and 175-pound limit for grouper.*

CHAPTER 1120.  
PERTAINING TO TILEFISH AND GROUPEL.

**4 VAC 20-1120-10. Purpose.**

The purpose of this chapter is to provide for the conservation of tilefish and grouper and to reduce the potential for overfishing by establishing limits on the harvest and landing of these fish.

**4 VAC 20-1120-20. Definitions.**

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

"Commercial fishing" or "fishing commercially" or "commercial fishery" means fishing by any person where the catch is for sale, barter, trade, or any commercial purpose, or is intended for sale, barter, trade, or any commercial purpose.

"Grouper" means any of the following species:

Black grouper, *Mycteroperca bonaci*

Coney, *Epinephelus fulvus*

Gag grouper, *Mycteroperca microlepis*

Goliath grouper, Epinephelus itajara  
Graysby, Epinephelus cruentatus  
Misty grouper, Epinephelus mystacinus  
Nassau grouper, Epinephelus striatus  
Red grouper, Epinephelus morio  
Red Hind, Epinephelus guttatus  
Rock Hind, Epinephelus adscensionis  
Scamp, Mycteroperca phenax  
Snowy grouper, Epinephelus niveatus  
Speckled Hind, Epinephelus drummondhayi  
Tiger grouper, Mycteroperca tigris  
Warsaw grouper, Epinephelus nigritus  
Wreckfish, Polyprion americanus  
Yellowedge grouper, Epinephelus flavolimbatus  
Yellowfin grouper, Mycteroperca venenosa  
Yellowmouth grouper, Mycteroperca interstitialis

"Recreational fishing" or "fishing recreationally" or "recreationally fishing" means fishing by any person, whether licensed or exempted from licensing, where the catch is not for sale, barter, trade, or any commercial purpose, or is not intended for sale, barter, trade, or any commercial purpose.

"Tilefish" means any of the following species:

Blueline tilefish, Caulolatilus microps  
Golden tilefish, Lopholatilus chamaeleonticeps  
Sand tilefish, Lutjanus vivanus

**4 VAC 20-1120-30. Recreational harvest and possession limit.**

A. The recreational harvest, landing and possession limit for tilefish, as described in 4 VAC 20-1120-20, shall be seven fish. It shall be unlawful for any person to recreationally harvest, land or possess more than seven tilefish within or without Virginia tidal waters. When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limit for tilefish shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by seven. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limits.

B. The recreational harvest, landing and possession limit for grouper, as described in 4 VAC 20-1120-20, shall be one fish. It shall be unlawful for any person to recreationally harvest, land or possess more than one grouper within or without Virginia tidal waters. When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limit for grouper shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by one. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limits.

**4 VAC 20-1120-40. Commercial limitations.**

A. It shall be unlawful for any vessel to land in Virginia more than 300 pounds of tilefish, as described in 4 VAC 20-1120-20, per day when commercial fishing.

B. It shall be unlawful for any vessel to land in Virginia more than 175 pounds of grouper, as described in 4 VAC 20-1120-20, per day when commercial fishing.

C. It shall be unlawful for any person to transfer at sea to another person or vessel any harvest of tilefish or grouper.

**4 VAC 20-1120-50. Penalty.**

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

VA.R. Doc. No. R07-205; Filed April 30, 2007, 10:37 a.m.

**TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS**

**CRIMINAL JUSTICE SERVICES BOARD**

**Proposed Regulation**

Title of Regulation: **6 VAC 20-80. Rules Related to Certification of Criminal Justice Instructors (amending 6 VAC-20-80-10 through 6 VAC-20-80-90; repealing 6 VAC-20-80-100 and 6 VAC-20-80-110).**

Statutory Authority: § 9.1-10 of the Code of Virginia.

Public Hearing Date: September 13, 2007.

Public comments may be submitted until July 27, 2007.  
 (See Calendar of Events section for additional information)

Agency Contact: Judith Kirkendall, Regulatory Coordinator, Department of Criminal Justice Services, 202 North 9th Street, Richmond, VA 23219, telephone (804) 786-8003, FAX (804) 786-0410, or email judith.kirkendall@dcjs.virginia.gov.

Basis: Section 9.1-10(5) of the Code of Virginia provides the Criminal Justice Services Board with the authority to establish training standards as necessary.

Purpose: These rules were last amended in 1992. Over the years, the agency has discovered that some of the standards do not necessarily enhance the ability of instructors to conduct training. The amendments are intended to enhance the effectiveness of criminal justice instructors.

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**Substance:** The proposed recertification requirements provide an approach to allow certified training academies to formulate their own program for recertification of instructors. This program will be subject to scrutiny during academy recertification.

**Issues:** An indirect advantage to the public may be increased effectiveness of criminal justice instructors, thereby increasing the effectiveness of criminal justice training.

The primary advantage to the certified training academies is the ability to tailor recertification training to the specific needs of their instructors.

There are no disadvantages to the public or the Commonwealth.

## Department of Planning and Budget's Economic Impact Analysis:

**Summary of the Proposed Regulation.** The Department of Criminal Justice Services (department) proposes to amend instructor certification rules to increase the number of instructor apprenticeship hours needed for specialty training, allow training academy directors to determine criteria for instructor recertification and eliminate the need for training academies to report recertification hours to the board on paper forms. The proposed regulation will also allow individuals who are otherwise qualified as instructors, but are newly hired by an agency or department, to conduct training without having to work for the agency or department for two years first.

**Result of Analysis.** The benefits likely exceed the costs for all proposed changes encompassed by the proposed regulation.

**Estimated Economic Impact.** Current regulation requires that individuals seeking criminal justice instructor certification in all topics but firearms enter into a four-hour apprenticeship under an instructor already certified in the relevant subject area. Firearms instructor certification requires an eight-hour apprenticeship, four hours for classroom instruction and four hours of range presentation. The proposed regulation will extend the eight-hour apprenticeship requirement to all specialty and skill area certification but speed measurement. The length of apprenticeships for driver training instructors and defensive tactics instructors will effectively double under the proposed regulation. The department believes it necessary to lengthen apprenticeships in these particular areas because they represent a high liability risk for officers in the field. Because of the importance of these skill areas and the fact that, even doubled, these apprenticeships are only one working day long, the benefits very likely outweigh the costs for this change in policy.

Current regulation also explicitly lists the topics that must be covered during instructor recertification and requires that proof of completion of recertification training be submitted

on department forms. The proposed regulation increases the minimum hours of retraining from six to 10 hours, including two hours of general instructor training and two hours in each of the four skill areas, but allows academies to set their own recertification criteria. Both the department and the regulated community believe that this will allow academies to focus attention on areas where there may be local weaknesses in officer training that can be addressed through retraining of instructors. Again, the increase in training hours required is small enough that the benefits of the extra training will almost certainly outweigh the opportunity costs of that time not being available for other tasks. To the extent that local academies are able to identify, and adjust for, weaknesses in instructor training, the public will also benefit from the department giving up the management of recertification topics. Since recertification training can be, and is now, tracked online, language that requires proof of training completion on paper forms is obsolete and is being removed as a part of this regulatory action.

Current regulation requires that employees of criminal justice agencies have two years of work experience at a criminal justice agency before they are eligible for instructor certification training. This requirement leaves instructors who hold certification because they have subject matter expertise, but who have never worked for a criminal justice agency, in limbo. If these individuals accept employment at an agency, they will lose their certification to teach until they meet the experience requirement. The proposed regulation will allow these individuals to continue teaching in the subject areas in which they are expert for two years at which point they will be qualified to go through general instructor training as an agency employee. Instructors and criminal justice agencies will both benefit from this change. Instructors will gain greater freedom to accept the employment opportunity that best suits their needs and agencies will have a larger pool of potential employees to choose from.

**Businesses and Entities Affected.** The proposed regulation will affect all of the approximately 435 instructors currently licensed to teach at criminal justice academies. Individuals who may seek licensure in the future will also be affected.

**Localities Particularly Affected.** All localities in the Commonwealth are affected by the proposed regulation.

**Projected Impact on Employment.** Because the time required to complete specialization apprenticeships under new strictures is only marginally more than that required under current rules and because all regulated entities are public employees whose public employers are, within the confines of their budget, largely motivated by considerations other than costs, this proposed regulation is not likely to have a measurable effect on employment.

**Effects on the Use and Value of Private Property.** The proposed regulation affects public entities that train police

officers. No private entities, or their property, will be affected.

Small Businesses: Costs and Other Effects. No small businesses are directly affected by the proposed regulation.

Small Businesses: Alternative Method that Minimizes Adverse Impact. No small businesses are directly affected by the proposed regulation.

Legal mandate. 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. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Criminal Justice Services Standards and Training Section concurs with the economic impact analysis as reviewed by the Department of Planning and Budget with the following exceptions:

In the summary paragraph, the last sentence should read as follows: The proposed regulation will also allow individuals who are otherwise qualified as instructors in a specialized area, but are newly hired by an agency or department, to conduct training in their specialty without having to work for the agency or department two years first. The change in the rules applies only to specialties and the additional wording will add clarity.

In the second paragraph under the Estimated Economic Impact, additional clarification is also needed. The proposed regulation eliminates the current requirement of four hours of core instructor subjects and maintains the requirement of two hours per specialty, e.g., a general instructor takes two hours

related to general instruction, a firearms instructor takes two hours related to firearms, etc. As a result there is no increase in the training hours, instead, there is a four-hour decrease overall.

Summary:

*The proposed amendments (i) increase the number of instructor apprenticeship hours needed for specialty training; (ii) allow training academy directors to determine criteria for instructor recertification; (iii) eliminate the need for training academies to report recertification hours to the board on paper forms; and (iv) allow individuals who are newly hired by an agency or department and otherwise qualified as instructors in a specialized area to conduct training in their specialty without first having to work for the agency or department for two years.*

**6 VAC 20-80-10. Definitions.**

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

"Academy director" means the chief administrative officer of a certified training academy.

~~"Academy instructor" means an individual who has complied with all of the applicable standards for certification or recertification, whichever applies, contained herein and is eligible to instruct, teach or lecture for more than three hours of approved or mandated training at a certified training academy.~~

~~"Agency instructor" means any previously certified instructor who has complied with all of the applicable standards for instructor recertification contained herein, except 6 VAC 20-80-70 A-5.~~

~~"Apprenticeship" means a period of supervised instruction, occurring after satisfactory completion of an approved instructor development course, wherein the instructor applicant is evaluated by a certified instructor during mandated or approved instruction.~~

~~"Certified training academy" means a certified training academy which provides instruction of at least the minimum training standards mandated by the board and has been approved by the department for the specific purpose of training criminal justice personnel.~~

~~"Criminal justice agency" means any government agency or identifiable subunit which has as its principal duty(s): the prevention, detection, and investigation of crime; the apprehension, detection, and prosecution of alleged offenders; the confinement or correctional supervision of accused or convicted persons; or the administrative or technical support of these functions.~~

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~~"Department" means the Department of Criminal Justice Services.~~

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

~~"Instructional staff" means any individual employed in training on a full-time basis who shall instruct approved training.~~

"Apprenticeship" means a period of supervised instruction, occurring after satisfactory completion of an approved instructor development course, wherein the instructor applicant is evaluated by a certified instructor during mandated instruction.

"Certified training academy" means a certified training academy that provides instruction of at least the minimum training standards mandated by the board and has been approved by the department for the specific purpose of training criminal justice personnel.

"Criminal justice agency" means any government agency or identifiable subunit that has as its principal duty(s): the prevention, detection, and investigation of crime; the apprehension, detection, and prosecution of alleged offenders; the confinement or correctional supervision of accused or convicted persons; or the administrative or technical support of these functions, and is designated by the Code of Virginia as coming under the purview of the Department of Criminal Justice Services.

~~"Department" means the Department of Criminal Justice Services.~~

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

"Instructional staff" means any individual employed in training on a full-time basis who shall instruct mandated training.

"Instructor" means an individual who has complied with all of the applicable standards for certification or recertification, whichever applies, contained herein and is eligible to instruct or teach mandated training at a certified training academy.

"Mandated training" means training that satisfies compulsory minimum training requirements such as entry-level and in-service training.

## **6 VAC 20-80-20. ~~Minimum~~ Compulsory minimum standards for instructors.**

Individuals instructing ~~approved~~ mandated training shall possess one of the following certifications authorized by the department, excluding those enumerated in 6 VAC 20-80-50:

### A. Provisional instructor certification.

~~For the individual who has not previously met the requirements for instructor certification, this certification:~~

~~1. Requires a high school diploma or high school equivalency certificate (GED);~~

~~2. Requires that the individual has met the compulsory minimum training standards for the primary function for which employed by a criminal justice agency, if applicable;~~

~~3. Does not authorize an individual to instruct or qualify others in mandated firearms, defensive tactics, driver training, or radar courses; and~~

~~4. Is valid for not more than two years and is not renewable. An individual may apply for instructor certification upon meeting the requirements of 6 VAC 20-80-20 and 6 VAC 20-80-60.~~

### ~~B. 1. General instructor certification.~~

~~For individuals who have professional or proficiency skills in a field directly related to criminal justice, this certification:~~

~~1. a. Requires a high school diploma or high school equivalency certificate (GED);~~

~~2. b. Requires the applicant to be ~~instructional staff, a sworn officer or~~ an employee of a Virginia criminal justice agency, academy instructional staff, or an academy director. Nonsworn employees may apply for a general instructor certification provided that they only conduct training in their particular areas of expertise;~~

~~3. c. Requires a minimum of two years' experience in a criminal justice agency; or two years of experience in the subject area the individual will instruct;~~

~~4. d. Requires the applicant to have successfully completed an instructor development course which meets or exceeds the standards of the instructor development course enumerated in 6 VAC 20-80-30;~~

~~5. e. Is valid for not more than three years, but may be renewed;~~

~~6. f. Requires the applicant to serve an apprenticeship, as specified in 6 VAC 20-80-40, with a certified instructor until the applicant can demonstrate the ability to successfully instruct without supervision. The certified instructor shall document this successful completion of the apprenticeship ~~on the instructor application form; and. This documentation shall be maintained at the appropriate certified academy;~~~~

~~7. g. Does not authorize an individual to instruct or qualify others in mandated firearms, defensive tactics, driver training, or radar operator courses; and~~

~~h. Certification becomes null and void when the certified instructor is not employed by an agency that comes under the purview of the department.~~

### C. 2. Firearms instructor certification.

For the individual who has had extensive firearms training and experience, this certification:

- ~~1-~~ a. Requires a high school diploma or high school equivalency certificate (GED);
- ~~2-~~ b. Requires the applicant to be ~~instructional staff, a sworn officer or~~ an employee of a Virginia criminal justice agency, academy instructional staff, or an academy director; Nonsworn employees may apply for general instructor certification provided that they only conduct training in their particular area of expertise;
- ~~3-~~ c. Requires a minimum of two years' experience in a criminal justice agency;
- ~~4-~~ d. Requires the applicant to have attended and successfully completed an instructor development course which meets or exceeds the standards of the instructor development course enumerated in 6 VAC 20-80-30;
- ~~5-~~ e. Requires the applicant also to have successfully completed a firearms instructors course which meets or exceeds the standards of the firearms instructors course approved by the department;
- ~~6-~~ f. Is valid for not more than three years, but may be renewed;
- ~~7-~~ g. Requires prequalification on a department "Modified Double Action Course or Virginia Tactical Qualification Course" with a minimum score of 90%;
- ~~8-~~ h. Requires the applicant to serve an apprenticeship, as specified in 6 VAC 20-80-40, with a certified instructor until the applicant can demonstrate the ability to successfully instruct without supervision. The certified instructor shall document this successful completion of the apprenticeship ~~on the instructor application form; and. This documentation shall be maintained at the appropriate certified academy;~~
- ~~9-~~ i. Authorizes an individual to instruct mandated firearms training courses and to conduct annual firearms qualifications only; and
- j. Certification becomes null and void when the certified instructor is not employed by an agency that comes under the purview of the department.

~~D-~~ 3. Defensive tactics certification.

For the individual who has had extensive training and experience in the area of defensive tactics, this certification:

- ~~1-~~ a. Requires a high school diploma or a high school equivalency certificate (GED);
- ~~2-~~ b. Requires the applicant to be ~~instructional staff, a sworn officer or~~ an employee of a Virginia criminal justice agency, academy instructional staff, or an

~~academy director;~~ Nonsworn employees may apply for general instructor certification provided that they only conduct training in their particular area of expertise;

- ~~3-~~ c. Requires a minimum of two years experience in a criminal justice agency;
- ~~4-~~ d. Requires the applicant to have attended and successfully completed an instructor development course which meets or exceeds the standards of the instructor development course enumerated in 6 VAC 20-80-30.
- ~~5-~~ e. Requires the applicant also to have successfully completed a defensive tactics instructors course which meets or exceeds the standards of the defensive tactics instructors course approved by the department;
- ~~6-~~ f. Is valid for not more than three years, but may be renewed;
- ~~7-~~ g. Requires the applicant to serve an apprenticeship, as specified in 6 VAC 20-80-40, with a certified instructor until the applicant can demonstrate the ability to successfully instruct without supervision. The certified instructor shall document this successful completion of the apprenticeship ~~on the instructor application form; and. This documentation shall be maintained at the appropriate certified academy;~~
- ~~8-~~ h. Authorizes the individual to instruct defensive tactics subjects only; and
- i. Certification becomes null and void when the certified instructor is not employed by an agency that comes under the purview of the department.

~~E-~~ 4. Driver training instructor certification.

For the individual who has had extensive training and experience in the area of driver training, this certification:

- ~~1-~~ a. Requires a high school diploma or a high school equivalency certificate (GED);
- ~~2-~~ b. Requires the applicant to be ~~instructional staff, a sworn officer or~~ an employee of a Virginia criminal justice agency, academy instructional staff, or an academy director; Nonsworn employees may apply for general instructor certification provided that they only conduct training in their areas of expertise;
- ~~3-~~ c. Requires a minimum of two years experience in a criminal justice agency;
- ~~4-~~ d. Requires the applicant to have attended and successfully completed an instructor development course which meets or exceeds the standards of the instructor development course enumerated in 6 VAC 20-80-30;
- ~~5-~~ e. Requires the applicant also to have successfully completed a driver training instructors course which

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meets or exceeds the standards of the driver training instructors course approved by the department;

~~6. f.~~ Is valid for not more than three years, but may be renewed;

~~7. g.~~ Requires the applicant to serve an apprenticeship, as specified in 6 VAC 20-80-40, with a certified instructor until they can demonstrate the ability to successfully instruct without supervision. The certified instructor shall document this successful completion of the apprenticeship ~~on the instructor application form; and.~~ This documentation shall be maintained at the appropriate certified academy;

~~8. h.~~ Authorizes the individual to instruct driver training subjects only; and

~~i.~~ Certification becomes null and void when the certified instructor is not employed by an agency that comes under the purview of the department.

~~F. 5.~~ Radar instructor certification.

This certification:

~~1. a.~~ Requires a high school diploma or high school equivalency certificate (GED);

~~2. b.~~ Requires the applicant to be ~~instructional staff, a sworn officer or an employee of a Virginia criminal justice agency, academy instructional staff, or an academy director.~~ Nonsworn employees may apply for general instructor certification provided that they only conduct training in their particular area of expertise;

~~3. c.~~ Requires a minimum of two years experience in a criminal justice agency, including two years experience in radar operation;

~~4. d.~~ Requires the applicant to have attended and successfully completed an instructor development course which meets or exceeds the standards of the instructor development course enumerated in 6 VAC 20-80-30;

~~5. e.~~ Requires the applicant to have attended and successfully completed a radar instructor school which meets or exceeds the standards established by the department;

~~6. f.~~ Is valid for not more than three years, but may be renewed;

~~7. g.~~ Requires the applicant to serve an apprenticeship, as specified in 6 VAC 20-80-40, with a certified instructor until the applicant can demonstrate the ability to successfully instruct without supervision. The certified instructor shall document this successful completion of the apprenticeship ~~on the instructor application form; and.~~ This documentation shall be maintained at the appropriate certified academy;

~~8. h.~~ Authorizes an individual to instruct radar subjects only; and

~~9.~~ Certification becomes null and void when the certified instructor is no longer employed by an agency that comes under the purview of the department.

## **6 VAC 20-80-30. Compulsory minimum training standards for instructor development and recertification courses.**

The board establishes the following compulsory minimum training standards:

1. An instructor development course shall include a minimum of 40 hours of training and must address each of the following subjects:

~~a.~~ Role of the Instructor/Adult Learner

~~b.~~ Fundamentals of Communication

~~c.~~ Liability and Ethics of Instructors

~~d.~~ Research and Development

~~e.~~ Instructional Performance Objectives

~~f.~~ Preparation and Use of Lesson Plans

~~g.~~ Methods of Instruction

~~h.~~ Preparation and Use of Audio-Visual Material

~~i.~~ Criteria Testing and Test Construction

~~j.~~ Student Presentations

~~k.~~ Optional Topics (subject(s) selected at the discretion of the academy director, if applicable, but must pertain to instructor development.);

2. An instructor recertification course shall include a minimum of ~~six two~~ hours of training ~~and must address the following mandated subjects:~~ for each general instructor and all specialty designations. The director of a certified academy shall establish recertification criteria for that academy and submit completion of recertification training to the department.

~~a. Curriculum:~~

~~(1) Core subjects (4 hours minimum):~~

~~(a) Review of Instructional Techniques and Methods~~

~~(b) Review of Liability and Ethics of Instructors~~

~~(c) Training Innovations and Technology~~

~~(d) Testing and Measurements~~

~~(e) Record Keeping and Documentation~~

~~(2) Skill specific subjects (2 hours minimum)~~

~~(a) Review of Current Basic and In-Service Course Requirements (Skills Areas to Emphasize and Review Current Mandates)~~

~~(b) Skill Specific Liability Issues;~~

~~3. Application(s) to conduct approved instructor development and recertification courses shall be submitted on forms provided by the department and within the time limit prescribed by the department.~~

**6 VAC 20-80-40. Instructor apprenticeship requirements.**

A. The apprenticeship shall:

1. Occur after the successful completion of a Virginia certified or other equivalent instructor development course which meets or exceeds the standards of the instructor development course established by the department;

2. Be conducted under the supervision and evaluation of a Virginia certified instructor, who possesses at least three years of experience as a certified instructor in the topic of apprenticeship instruction; and

3. Consist of instructional presentation which shall total no less than four hours in duration ~~However, firearms instructor apprenticeship shall total no less than eight hours, four hours classroom and four hours range presentation.~~ for general instructor and no less than eight hours in any specialty or skill area except for speed measurement that shall consist of four hours. For the specialty or skill area the individual must demonstrate proficiency in both classroom and skills presentations.

B. The certified instructor shall document the successful completion of the apprenticeship ~~on the "Instructor Certification Application."~~ in a manner prescribed by the certified academy that is conducting the apprenticeship.

**6 VAC 20-80-50. Exemptions to certification requirements.**

The following individuals are exempted from the certification requirements set forth in 6 VAC 20-80-20:

~~1. Individuals who instruct three hours or less in any approved training session in a certified training academy;~~

~~2. 1.~~ 1. An individual assigned by the academy director to instruct in emergency situations;

~~3. 2.~~ 2. Individuals who possess professional or proficiency skills directly related to the subject matter in which they are instructing. This may include but not be limited to members of the bar, medical profession, public administrators, teachers, social service practitioners, etc. Documentation of skills may be requested and final approval, if necessary, rests with the department;

~~4. 3.~~ 3. Subdivision ~~3 2~~ 2 of ~~6 VAC 20-80-50~~ this section may apply to employees of criminal justice agencies of this

Commonwealth and its political subdivisions if approved by the department;

~~5. 4.~~ 4. Certified emergency care and first aid instructors; ~~and~~

~~6. 5.~~ 5. Individuals who serve as field training officers or on-the-job training officers for purposes of providing field training as required by minimum training standards. Such exemption shall not be construed to apply to training promulgated by the department other than field training or on-the-job training; ~~and~~

6. Individuals who have conducted training as a subject matter expert may continue to conduct training in their area of expertise only for two years after being hired by an agency designated by the Code of Virginia as coming under the purview of the department.

**6 VAC 20-80-60. Application for instructor certification.**

~~A. A properly completed "Instructor Certification Application" is required from each instructor prior to being considered for certification. The application must be received by the department within 12 months of completion of the instructor course for which certification is requested. The application shall be accompanied by a recommendation from the chief of police, sheriff, agency administrator or his designee, and endorsed by the academy director shall conform to the format and requirements specified by the department.~~

~~B. If a properly completed "Instructor Certification Application" is not received within the 12 month application period, the applicant must attend the applicable recertification course and must be reevaluated in accordance with the apprenticeship requirements set forth in 6 VAC 20-80-40 prior to consideration for certification.~~

**6 VAC 20-80-70. Instructor recertification.**

~~A. Instructor certifications, other than those issued to provisional instructors, will shall be valid for not more than three years. Individual instructors must meet all applicable recertification requirements by December 31 of the third calendar year following issuance of certification. Applications for recertification will be submitted on forms provided by the department.~~

~~1. Applicants for recertification shall be recommended by the chief of police, sheriff, agency administrator or his designee, and endorsed, where applicable, by the academy director.~~

~~2. A recertification application for departmental firearms instructors does not require endorsement by the academy director.~~

~~3. Applicants shall attend and successfully complete a recertification course which shall be approved by the department for each type of certification held. This~~

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~~requirement must be completed prior to December 31 of the calendar year in which the instructor is required to be recertified unless provided otherwise in accordance with subdivision 6 of 6 VAC 20-80-70.~~

~~Completion of one or more of the skills recertification seminars (firearms, defensive tactics, driver training, or radar training) will qualify an instructor for recertification in the general category.~~

~~4. Individuals whose certification expires shall comply with all requirements of 6 VAC 20-80-60 and meet any certification requirements that are in effect at that time.~~

~~5. Individuals who instruct in a certified training academy shall have taught a minimum of eight hours of mandated or approved instruction during the current period of certification, and shall have been evaluated by staff or students in order to be eligible for recertification as an academy instructor.~~

~~6. Individuals who have not taught a minimum of eight hours of mandated or approved instruction during the current period of certification and have not been evaluated by staff or students shall be designated as agency instructors. Agency instructors may become an academy instructor upon completion of the requirements set forth in paragraph 5 above under the supervision of a certified instructor.~~

~~7. The director may grant an extension of the time limit for completion of the recertification requirements under the following conditions:~~

~~a. The chief of police, sheriff or agency administrator shall present written notification that the officer was unable to complete the required training within the specified time limit due to:~~

- ~~(1) Illness;~~
- ~~(2) Injury;~~
- ~~(3) Military service;~~
- ~~(4) Special duty assignment required and performed in the public interest;~~
- ~~(5) Leave without pay or suspension pending investigation or adjudication of a crime; or~~
- ~~(6) Any other reason documented by the agency administrator. Such reason must be specified and any approval granted shall not exceed 90 days.~~

~~b. Requests for extension of the time limit shall be requested prior to certification expiration.~~

## **6 VAC 20-80-80. ~~Suspension and revocation~~ Revocation of instructor certification.**

A. The department may ~~suspend or~~ revoke any instructor certification issued under these rules if it is determined that an individual has:

1. Falsified any department report, application, form or roster;
2. Demonstrated instructional incompetence based upon observation and assessment; or
3. Otherwise misused the authority granted herein.

B. An instructor's certification may be recommended for ~~suspension or~~ revocation for cause upon written request of the chief of police, sheriff, agency administrator, or academy director.

C. When a certified instructor terminates employment with the criminal justice agency ~~which that~~ recommended certification, or is no longer an employee of a Virginia criminal justice agency, or an academy director, the instructor certification shall become null and void ~~upon written request of the chief of police, sheriff, agency administrator, or academy director~~. Upon reemployment with a Virginia criminal justice agency, the instructor's certification may be reinstated upon the written request of the chief of police, sheriff or agency administrator. Requests for reinstatement shall be authorized by an academy director. ~~Any reinstatement of certification shall not exceed the original date of expiration.~~

D. Any instructor whose certification is revoked as provided in subsection A of this section shall not be eligible to reapply for certification for a period of three years from the date of revocation.

## **6 VAC 20-80-90. Administrative requirements.**

Reports will be required from the ~~school~~ academy director, chief of police, sheriff, or agency administrator on forms provided by or approved by the director and at such times as designated by the director.

## **6 VAC 20-80-100. ~~Effective date.~~ (Repealed.)**

~~These rules shall be effective on and after July 1, 1992, and until amended or repealed.~~

## **6 VAC 20-80-110. ~~Adopted: July 6, 1983.~~ (Repealed.)**

~~Amended: April 1, 1992.~~

VA.R. Doc. No. R05-285; Filed May 7, 2007, 11:45 a.m.



## TITLE 12. HEALTH

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

#### Final Regulation

**REGISTRAR'S NOTICE:** The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Titles of Regulations: **12 VAC 30-70. Methods and Standards for Establishing Payment Rates - Inpatient Hospital Services (amending 12 VAC 30-70-311, 12 VAC 30-70-321, 12 VAC 30-70-341 and 12 VAC 30-70-391.)**

**12 VAC 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12 VAC 30-80-190).**

**12 VAC 30-90. Methods and Standards for Establishing Payment Rates for Long-Term Care (amending 12 VAC 30-90-31).**

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

Effective Date: July 1, 2007.

Agency Contact: William Lessard, Director, Provider Reimbursement, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-4593, FAX (804) 786-1680 or email william.lessard@dmas.virginia.gov.

Summary:

*This regulatory action is intended to implement reimbursement changes mandated by the Virginia General Assembly through the 2007 Appropriation Act to be effective July 1, 2007. These changes include raising the adjustment factor for hospitals that perform acute psychiatric services, removing freestanding psychiatric hospitals from hospital rebasing, eliminating the rural wage index for rural hospitals, physician rate increases, and redefining capital reimbursement for children's ICF/MR facilities.*

**12 VAC 30-70-311. Hospital specific operating rate per case.**

A. The hospital specific operating rate per case shall be equal to the labor portion of the statewide operating rate per case, as

determined in 12 VAC 30-70-331, times the hospital's Medicare wage index plus the nonlabor portion of the statewide operating rate per case.

B. For rural hospitals, the hospital's Medicare wage index used in this section shall be the Medicare wage index of the nearest metropolitan wage area or the effective Medicare wage index, whichever is higher.

**12 VAC 30-70-321. Hospital specific operating rate per day.**

A. The hospital specific operating rate per day shall be equal to the labor portion of the statewide operating rate per day, as determined in subsection A of 12 VAC 30-70-341, times the hospital's Medicare wage index plus the nonlabor portion of the statewide operating rate per day.

B. For rural hospitals, the hospital's Medicare wage index used in this section shall be the Medicare wage index of the nearest metropolitan wage area or the effective Medicare wage index, whichever is higher.

~~B.~~ C. The hospital specific rate per day for freestanding psychiatric cases shall be equal to the hospital specific operating rate per day, as determined in subsection A of this section plus the hospital specific capital rate per day for freestanding psychiatric cases.

~~C.~~ D. The hospital specific capital rate per day for freestanding psychiatric cases shall be equal to the Medicare geographic adjustment factor for the hospital's geographic area, times the statewide capital rate per day for freestanding psychiatric cases.

~~D.~~ E. The statewide capital rate per day for freestanding psychiatric cases shall be equal to the weighted average of the GAF-standardized capital cost per day of freestanding psychiatric facilities licensed as hospitals.

~~E.~~ F. The capital cost per day of freestanding psychiatric facilities licensed as hospitals shall be the average charges per day of psychiatric cases times the ratio total capital cost to total charges of the hospital, using data available from Medicare cost report.

**12 VAC 30-70-341. Statewide operating rate per day.**

A. The statewide operating rate per day shall be equal to the base year standardized operating costs per day, as determined in subsection B of 12 VAC 30-70-371, times the inflation values specified in 12 VAC 30-70-351 times the adjustment factor specified in subsection B or C of this section.

B. The adjustment factor for acute care ~~psychiatric cases and~~ rehabilitation cases shall be the one specified in subsection B of 12 VAC 30-70-331.

C. The adjustment factor for acute care psychiatric cases for Type Two hospitals shall be 0.8400. The adjustment factor for acute care psychiatric cases for Type One hospitals shall

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be the one specified in subdivision B 1 of 12 VAC 30-70-331 times 0.8400 divided by the factor in subdivision B 2 of 12 VAC 30-70-331.

## **12 VAC 30-70-391. Recalibration and rebasing policy.**

A. The department recognizes that claims experience or modifications in federal policies may require adjustment to the DRG payment system policies provided in this part. The state agency shall recalibrate (evaluate and adjust the DRG relative weights and hospital case-mix indices) and rebase (review and update the base year standardized operating costs per case and the base year standardized operating costs per day) the DRG payment system at least every three years. Recalibration and rebasing shall be done in consultation with the Medicaid Hospital Payment Policy Advisory Council noted in 12 VAC 30-70-490. When rebasing is carried out, if new rates are not calculated before their required effective date, hospitals required to file cost reports and freestanding psychiatric facilities licensed as hospitals shall be settled at the new rates, for discharges on and after the effective date of those rates, at the time the hospitals' cost reports for the year in which the rates become effective are settled.

B. Rates for freestanding psychiatric facilities licensed as hospitals shall continue to be based on the 1998 base year ~~until rates for all inpatient hospitals are rebased subsequent to SFY 2005.~~

## **12 VAC 30-80-190. State agency fee schedule for RBRVS.**

A. Reimbursement of fee-for-service providers. Effective for dates of service on or after July 1, 1995, the Department of Medical Assistance Services (DMAS) shall reimburse fee-for-service providers, with the exception of home health services (see 12 VAC 30-80-180) and durable medical equipment services (see 12 VAC 30-80-30), using a fee schedule that is based on a Resource Based Relative Value Scale (RBRVS).

### **B. Fee schedule.**

1. For those services or procedures which are included in the RBRVS published by the Centers for Medicare and Medicaid Services (CMS) as amended from time to time, DMAS' fee schedule shall employ the Relative Value Units (RVUs) developed by CMS as periodically updated.

2. DMAS shall calculate the RBRVS-based fees using conversion factors (CFs) published from time to time by CMS. DMAS shall adjust CMS' CFs by additional factors so that no change in expenditure will result solely from the implementation of the RBRVS-based fee schedule. DMAS shall calculate a separate additional factor for obstetrical/gynecological procedures (defined as maternity care and delivery procedures, female genital system procedures, obstetrical/gynecological-related radiological procedures, and mammography procedures, as defined by the American Medical Association's (AMA) ~~annual~~

publication of the Current Procedural Terminology (CPT) manual in effect at the time the service is provided). DMAS may revise the additional factors when CMS updates its RVUs or CFs so that no change in expenditure will result solely from such updates. Except for this adjustment, DMAS' CFs shall be the same as those published from time to time by CMS. The calculation of the additional factors shall be based on the assumption that no change in services provided will occur as a result of these changes to the fee schedule. The determination of the additional factors required above shall be accomplished by means of the following calculation:

a. The estimated amount of DMAS expenditures if DMAS were to use Medicare's RVUs and CFs without modification, is equal to the sum, across all relevant procedure codes, of the RVU value published by the CMS, multiplied by the applicable conversion factor published by the CMS, multiplied by the number of occurrences of the procedure code in DMAS patient claims in the most recent period of time (at least six months).

b. The estimated amount of DMAS expenditures, if DMAS were not to calculate new fees based on the new CMS RVUs and CFs, is equal to the sum, across all relevant procedure codes, of the existing DMAS fee multiplied by the number of occurrences of the procedures code in DMAS patient claims in the period of time used in subdivision 2 a of this subsection.

c. The relevant additional factor is equal to the ratio of the expenditure estimate (based on DMAS fees in subdivision 2 b of this subsection) to the expenditure estimate based on unmodified CMS values in subdivision 2 a of this subsection.

d. DMAS shall calculate a separate additional factor for:

(1) Emergency room services (defined as the American Medical Association's (AMA) ~~annual~~ publication of the Current Procedural Terminology (CPT) codes 99281, 99282, 99283, 99284, and 992851 in effect at the time the service is provided);

(2) Reserved;

(3) ~~Reserved~~ Pediatric Preventive Services (defined as Preventive E&M procedures, excluding those listed in (B)(2)(d)(1) above, as defined by the AMA's publication of the CPT manual, in effect at the time the service is provided, for recipients under age 21);

(4) ~~Reserved; and~~ Pediatric Primary Services (defined as Evaluation and Management (E&M) procedures, excluding those listed in (B)(2)(d)(1) and (B) (2) (d) (3) above, as defined by the AMA's ~~annual~~ publication of the CPT manual, in effect at the time the service is provided, for recipients under age 21);

(5) Reserved; and

(6) All other procedures set through the RBRVS process combined.

3. For those services or procedures for which there are no established RVUs, DMAS shall approximate a reasonable relative value payment level by looking to similar existing relative value fees. If DMAS is unable to establish a relative value payment level for any service or procedure, the fee shall not be based on a RBRVS, but shall instead be based on the previous fee-for-service methodology.

4. Fees shall not vary by geographic locality.

5. Effective for dates of service on or after May 1, 2006 July 1, 2007, fees for emergency room services (defined in subdivision 2 d (1) of this subsection) shall be increased by 3.0 5.0% relative to the fees that would otherwise be in effect on July 1, 2005. These CPT codes shall be as published by the American Medical Association in its Current Procedural Terminology (2004 edition), as may be amended from time to time.

C. Effective for dates of service on or after September 1, 2004, fees for obstetrical/gynecological procedures (defined as maternity care and delivery procedures, female genital system procedures, obstetrical/gynecological-related radiological procedures, and mammography procedures, as defined by the American Medical Association's (AMA) annual publication of the Current Procedural Terminology (CPT) manual in effect at the time the service is provided) shall be increased by 34% relative to the fees in effect on July 1, 2004. This 34% increase shall be a one-time increase, but shall be included in subsequent calculations of the relevant additional factor described in subdivision 2 of this subsection.

D. Effective for dates of service on or after July 1, 2007, fees for Pediatric Primary Services (defined in subdivision (B)(2)(d)(4) above) shall be increased by 10% relative to the fees that would otherwise be in effect.

E. Effective for dates of service on or after July 1, 2007, fees for Pediatric Preventive Services (defined in (B)(2)(d)(3) above) shall be increased by 10% relative to the fees that would otherwise be in effect.

F. Effective for dates of service on or after July 1, 2007, fees for Adult Primary and Preventive Services (defined in (B)(2)(d)(5) above) shall be increased by 5.0% relative to the fees that would otherwise be in effect.

G. Effective for dates of service on or after July 1, 2007, fees for all other procedures set through the RBRVS process combined (defined in (B)(2)(d)(6) above) shall be increased by 5.0% relative to the fees that would otherwise be in effect.

## **12 VAC 30-90-31. New nursing facilities and bed additions.**

A. Providers shall be required to obtain three competitive bids when (i) constructing a new physical plant or renovating a section of the plant when changing the licensed bed capacity, and (ii) purchasing fixed equipment or major movable equipment related to such projects.

All bids must be obtained in an open competitive market manner, and subject to disclosure to DMAS prior to initial rate setting. (Related parties see 12 VAC 30-90-51.)

B. Reimbursable costs for building and fixed equipment shall be based upon the 75th percentile square foot costs for NFs published annually in the R.S. Means Building Construction Cost Data as adjusted by the appropriate R.S. Means Square Foot Costs "Location Factor" for Virginia for the locality in which the NF is located. Where the specific location is not listed in the R.S. Means Square Foot Costs "Location Factor" for Virginia, the facility's zip code shall be used to determine the appropriate locality factor from the U.S. Postal Services National Five Digit Zip Code for Virginia and the R.S. Means Square Foot Costs "Location Factors." The provider shall have the option of selecting the construction cost limit which is effective on the date the Certificate of Public Need (COPN) is issued or the date the NF is licensed. Total cost shall be calculated by multiplying the above 75th percentile square foot cost by 385 square feet (the average per bed square footage). Effective July 1, 2007, the construction cost limit for children's ICF/MR facilities having 50 or more beds shall be calculated using up to 750 square feet per bed. Total costs for building additions shall be calculated by multiplying the square footage of the project by the applicable components of the construction cost in the R.S. Means Square Foot Costs, not to exceed the total per bed cost for a new NF. Reasonable limits for renovations shall be determined by the appropriate costs in the R.S. Means Repair and Remodeling Cost Data, not to exceed the total R.S. Means Building Construction Cost Data 75th percentile square foot costs for NFs.

C. New NFs and bed additions to existing NFs must have prior approval under the state's Certificate of Public Need Law and Licensure regulations in order to receive Medicaid reimbursement.

D. However in no case shall allowable reimbursed costs exceed 110% of the amounts approved in the original COPN, or 100% of the amounts approved in the original COPN as modified by any "significant change" COPN, where a provider has satisfied the requirements of the State Department of Health with respect to obtaining prior written approval for a "significant change" to a COPN which has previously been issued (see 12 VAC 5-220-10 et seq.).

VA.R. Doc. No. R07-209; Filed May 8, 2007, 11:37 a.m.

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## Final Regulation

**REGISTRAR'S NOTICE:** The Department of Medical Assistance Services is claiming an exclusion from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** 12 VAC 30-141. Family Access to Medical Security Insurance Plan (FAMIS) (amending 12 VAC 30-141-740).

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

**Effective Date:** July 1, 2007.

**Agency Contact:** Leah Walker, Children and Maternal Health Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8684, FAX (804) 786-1680 or email leah.walker@dmas.virginia.gov.

### Summary:

*The action implements a mandate of the 2007 Acts of Assembly to expand eligibility for the FAMIS MOMS programs from those with an income up to 166% of the federal poverty level to those with an income of up to 185% of the federal poverty level.*

### 12 VAC 30-141-740. Eligibility requirements.

A. This section shall be used to determine eligibility of pregnant women for FAMIS MOMS.

B. FAMIS MOMS shall be in effect statewide.

C. Eligible pregnant women must:

1. Be determined ineligible for Medicaid due to excess income by a local department of social services or by DMAS eligibility staff co-located at the FAMIS CPU;
2. Be a pregnant woman at the time of application;
3. Be a resident of the Commonwealth;
4. Be either a U.S. citizen, U.S. national or a qualified noncitizen;
5. Be uninsured, that is, not have comprehensive health insurance coverage;
6. Not be a member of a family eligible for subsidized dependent coverage, as defined in 42 CFR 457.310(c)(1)(ii) under any Virginia state employee health insurance plan on the basis of the family member's employment with a state agency; and

7. Not be an inpatient in an institution for mental diseases (IMD), or an inmate in a public institution that is not a medical facility.

D. Income.

1. Screening. All applications for FAMIS MOMS coverage received at the FAMIS central processing unit must be screened to identify applicants who are potentially eligible for Medicaid. Pregnant women screened and found potentially eligible for Medicaid cannot be enrolled in FAMIS MOMS until there has been a finding of ineligibility for Medicaid. Pregnant women who do not appear to be eligible for Medicaid due to excess income shall have their eligibility for FAMIS MOMS determined and, if eligible, will be enrolled in the FAMIS MOMS program. Applications for FAMIS MOMS received at a local department of social services shall have a full Medicaid eligibility determination completed. Pregnant women determined to be ineligible for Medicaid due to excess income will have their eligibility for FAMIS MOMS determined and, if eligible, the local department of social services will enroll the pregnant woman in the FAMIS MOMS program.

2. Standards. Income standards for FAMIS MOMS are based on a comparison of countable income to ~~166~~ 185% of the federal poverty level for the family size. Countable income and family size are based on the methodology utilized by the Medicaid program as defined in 12 VAC 30-40-100 e. Pregnant women who have income at or below ~~166~~ 185% of the federal poverty level, but are ineligible for Medicaid due to excess income, will be income eligible to participate in FAMIS MOMS.

3. Spenddown. Deduction of incurred medical expenses from countable income (spenddown) shall not apply in FAMIS MOMS. If the family income exceeds the income limits described in this section, the individual shall be ineligible for FAMIS MOMS regardless of the amount of any incurred medical expenses.

E. Residency. The requirements for residency, as set forth in 42 CFR 435.403, will be used when determining whether a pregnant woman is a resident of Virginia for purposes of eligibility for FAMIS MOMS. A child who is not emancipated and is temporarily living away from home is considered living with her parents, adult relative caretaker, legal guardian, or person having legal custody if the absence is temporary and the child intends to return to the home when the purpose of the absence (such as education, medical care, rehabilitation, vacation, visit) is completed.

F. Qualified noncitizen. The requirements for qualified aliens set out in Public Law 104-193, as amended, and the requirements for noncitizens set out in subdivisions 3 b and c of 12 VAC 30-40-10 will be used when determining whether

a pregnant woman is a qualified noncitizen for purposes of FAMIS MOMS eligibility.

G. Coverage under other health plans.

1. Any pregnant woman covered under a group health plan or under health insurance coverage, as defined in § 2791 of the Public Health Services Act (42 USC §300gg-91(a) and (b)(1)), shall not be eligible for FAMIS MOMS.

2. No substitution for private insurance.

a. Only uninsured pregnant women shall be eligible for FAMIS MOMS. A pregnant woman is not considered to be insured if the health insurance plan covering the pregnant woman does not have a network of providers in the area where the pregnant woman resides. Each application for FAMIS MOMS coverage shall include an inquiry about health insurance the pregnant woman has at the time of application.

b. Health insurance does not include Medicare, Medicaid, FAMIS or insurance for which DMAS paid premiums under Title XIX through the Health Insurance Premium Payment (HIPP) Program or under Title XXI through the SCHIP premium assistance program.

VA.R. Doc. No. R07-208; Filed May 7, 2007, 1:34 p.m.

**TITLE. 18. PROFESSIONAL AND OCCUPATIONAL LICENSING**

**BOARD OF NURSING**

**Final Regulation**

**Title of Regulation:** 18 VAC 90-60. Regulations Governing the Registration of Medication Aides (adding 18 VAC 90-60-10 through 18 VAC 90-60-120).

**Statutory Authority:** §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

**Effective Date:** July 1, 2007.

**Agency Contact:** Jay P. Douglas, R.N., Executive Director, Department of Health Professions, Alcoa Building, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, or email jay.douglas@dhp.virginia.gov.

**Summary:**

*Pursuant to Chapters 610 and 924 of the 2005 Acts of Assembly, the regulations establish criteria for registration of medication aides who administer drugs to residents of assisted living facilities, for approval of training programs in medication administration, and for standards of practice*

*and grounds for disciplinary action. Requirements for board-approved training programs include qualifications for instructors, hours of classroom instruction and practical skills training, content of the curriculum, and maintenance of certain records.*

*To be registered as a medication aide, an applicant must document completion of an approved training program and passage of a competency evaluation as determined by the board. Currently practicing medication aides will not be required to complete an approved training program but will be required to take an eight-hour refresher course and pass the competency examination. Requirements for renewal and reinstatement are set, including four hours of in-service training each year. Fees are established for program approval, application, and renewal as necessary to provide funding for the board to administer the regulatory program.*

*The following changes were made in the adoption of final regulations in response to public comment:*

*1. The board amended the regulations to require an annual renewal of registration for medication aides at a fee of \$25, rather than a biennial renewal of \$50. The reduced fee paid every year will be less burdensome for aides, some of whom will only work in that capacity for a short time while preparing for or moving on to other jobs. Since the application fee was intended to cover the cost of processing an application and accompanying documentation plus the first biennial renewal, that fee was reduced from \$75 to \$50 to include the first annual renewal. The returned check is required by the Code of Virginia to be at least \$35, so the regulation was amended from \$25 to \$35 to conform to all other regulations of the board and the department.*

*2. The board amended the regulations to allow LPNs to also be primary instructors for medication aide training programs. All licensees who are primary instructors must have at least three years of experience in administering or dispensing drugs in long-term care facilities. That experience, plus the requirement for every instructor to successfully complete a course with an examination on teaching the medication aide curriculum, should provide sufficient assurance of qualification for instructors. Those practitioners who have not had the requisite three years of experience could be used as secondary instructors for the skills practice portion of the course. These changes in the final regulation will greatly increase the availability of instructors for medication aide programs.*

*3. The requirement for completion of a course designed to prepare the instructor to teach the curriculum was clarified to specify what would be considered completion. The revised requirement states that the course must be successfully completed to include a post-course*

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*examination. The curriculum is further specified as that approved by the board for administration of medications.*

*4. The board clarified the requirement for a clinical practicum by eliminating the confusing term and specifying that the evaluation of the student's competency in the clinical skills of administering medications should be at the conclusion of the 20 hours of supervised clinical practice. It should be conducted by the training program as a one-on-one evaluation by a qualified instructor.*

*5. The language was amended from the proposed regulation for consistency with changing from a biennial to an annual renewal for renewal deadlines.*

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

CHAPTER 60.  
REGULATIONS GOVERNING THE REGISTRATION OF  
MEDICATION AIDES.

PART I.  
GENERAL PROVISIONS.

**18 VAC 90-60-10. Definitions.**

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

"Board" means the Virginia Board of Nursing.

"Client" means a person receiving the services of a medication aide in an assisted living facility.

"Committee" means the Special Conference Committee, comprised of not less than two members of the board in accordance with § 2.2-4019 of the Code of Virginia.

"Direct client care" means assisting residents in performance of personal care and activities of daily living.

"Medication" means drugs as scheduled in the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia).

**18 VAC 90-60-20. Identification; accuracy of records.**

A. Any person regulated by this chapter shall, while on duty, wear identification that is clearly visible to the client and that indicates the person's first and last name and the appropriate title issued to such person by the board under which he is practicing in that setting.

B. A medication aide who has changed his name shall submit as legal proof to the board a copy of the marriage certificate or court order evidencing the change. A duplicate certificate shall be issued by the board upon receipt of such evidence.

C. A medication aide shall maintain a record of his current mailing address with the board, and any change of address

shall be submitted in writing to the board within 30 days of such change. All notices required by law and by this chapter to be mailed by the board to any registrant shall be validly given when mailed to the latest address on file with the board.

**18 VAC 90-60-30. Fees.**

A. The following fees shall apply:

<u>1. Application for program approval</u>	<u>\$500</u>
<u>2. Application for registration as a medication aide</u>	<u>\$ [ <del>75</del>-50 ]</u>
<u>3. [ <del>Biennial</del> Annual ] renewal for medication aide</u>	<u>\$ [ <del>50</del> 25 ]</u>
<u>4. Late renewal</u>	<u>\$15</u>
<u>5. Reinstatement of registration</u>	<u>\$90</u>
<u>6. Returned check</u>	<u>\$ [ <del>25</del> 35 ]</u>
<u>7. Duplicate registration</u>	<u>\$5</u>
<u>8. Reinstatement following suspension, mandatory suspension or revocation</u>	<u>\$120</u>

B. Fees shall not be refunded once submitted.

C. The fee for the competency evaluation shall be paid directly to the examination service contracted by the board for its administration.

PART II.  
MEDICATION AIDE TRAINING PROGRAMS.

**18 VAC 90-60-40. Establishing and maintaining a medication aide training program.**

A. Establishing a medication aide training program.

1. A program provider wishing to establish a medication aide training program shall submit a completed application and pay the prescribed fee to the board at least 90 days in advance of the first expected offering of the program.

2. The application shall provide evidence of the program's compliance with requirements as set forth in this part.

3. The committee shall, in accordance with § 2.2-4019 of the Code of Virginia, receive and review the application and shall make a recommendation to the board to grant or deny approval.

4. If the committee's recommendation is to deny approval, no further action will be required of the board unless the program requests a hearing before the board or a panel thereof in accordance with § 2.2-4020 and subdivision 11 of § 54.1-2400 of the Code of Virginia.

B. Maintaining an approved medication aide training program. To maintain approval, the program shall:

1. Continue to comply with requirements as set forth in this part.

2. Document that the cumulative passing rate for the program's first-time test takers taking the competency evaluation required for registration over the past two years is not less than 80%.

3. Report all substantive changes within 10 days of the change to the board to include, but not be limited to, a change in the program instructors, curriculum or program location.

4. Cooperate with any unannounced visits to the program conducted by board representatives for the purpose of ensuring compliance with requirements for approval or in response to complaints about the program.

5. Provide documentation that each student enrolled in such program has been given a copy of applicable Virginia law and regulation for the registration and practice of medication aides.

6. Provide each student with a certificate of completion.

## **18 VAC 90-60-50. Requirements for instructional personnel.**

A. Primary instructors in an approved program shall be licensed registered nurses [ , licensed practical nurses ] or pharmacists who, consistent with provisions of the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia), are authorized to administer [ , ~~prescribe~~ ] or dispense drugs and have at least three years of experience in such practice.

B. Licensed practical nurses [ , registered nurses, or pharmacists who have not had at least three years of experience in administering or dispensing drugs ] may be used as secondary instructors for the supervised skills practice hours of the program.

C. To be qualified as an instructor, a nurse or a pharmacist shall:

1. Hold a current, active, unrestricted license or a multistate licensure privilege; and

2. [ Successfully ] complete a course [ , including a postcourse examination, that is ] designed to prepare the instructor to teach the medication aide curriculum [ ~~as it relates~~ approved by the board for administration of medications ] to clients in assisted living facilities. The course shall include adult learning principles and evaluation strategies and shall be completed prior to teaching a course in a medication aide program.

D. Each instructor in an approved program shall:

1. Participate in the planning of each learning experience and be responsible for the teaching and evaluation of students;

2. Ensure that course objectives are accomplished and the curriculum content has been completed; and

3. Maintain student records as required by 18 VAC 90-60-70 B.

## **18 VAC 90-60-60. Requirements for the program curriculum.**

A. Prerequisite for the program. A student seeking enrollment in a medication aide training program shall have successfully completed the direct care staff training required by the Department of Social Services for employment in an assisted living facility or an approved nurse aide education program.

B. Hours of instruction. An approved program shall consist of a minimum of 68 hours of student instruction and training to include:

1. At least 40 hours of classroom or didactic instruction over and above any facility orientation program or training in direct client care provided by the facility;

2. At least 20 hours of supervised skills practice in medication administration [ to residents of an assisted living facility, after which the training program shall evaluate the student's minimal competency in the clinical skills of administering medications on a form provided by the board. The clinical evaluation shall be conducted one-on-one with a qualified instructor with experience in medications in long-term care ]; and

3. An eight-hour module in facilitating client self-administration or assisting with the administration of insulin to include instruction and skills practice in the administration of insulin as specified in the board-approved curriculum.

C. Content of the curriculum. An approved program shall use the curriculum developed and provided by the board, which shall, at a minimum, include the following topics:

1. Preparing for safe administration of medications to clients in assisted living facilities;

2. Maintaining aseptic conditions;

3. Understanding of basic pharmacology;

4. Facilitating client self-administration or assisting with medication administration;

5. Following proper procedure for preparing, administering, and maintaining medications; and

6. Following appropriate procedures for documentation and reporting to the licensed healthcare professional on duty at the facility or to the client's prescriber.

D. In addition to the training curriculum, the program shall provide one or more four-hour modules that can be used by facilities as refresher courses or by medication aides to satisfy requirements for continuing education.

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## **18 VAC 90-60-70. Other program requirements.**

A. Ratio. An approved training program shall maintain a ratio of no more than 10 students for one instructor for the 20 hours of supervised skills practice as required by 18 VAC 90-60-60 B.

### B. Records.

1. Each medication aide training education program shall develop and maintain an individual record of major skills taught and the date of performance by the student. At the completion of the program, the medication aide must receive a copy of this record and a certificate of completion from the program.

2. A record of the reports of graduates' performance on the approved competency evaluation program shall be maintained.

3. A record that documents the disposition of complaints against the program shall be maintained.

4. All records required by this section shall be maintained for at least five years.

C. Student identification. The medication aide students shall wear identification that clearly distinguishes them as a "medication aide student" while engaged in practical skills training under direct supervision by an instructor.

## **18 VAC 90-60-80. Requirements for closing of a program.**

When a medication aide training program closes, the program provider shall:

1. Notify the board of the date of closing following completion of the last program for which students are already enrolled.

2. Submit to the board a list of all persons who have completed the program with the date of completion of each.

### PART III.

#### REGISTRATION OF MEDICATION AIDES.

## **18 VAC 90-60-90. Requirements for initial registration.**

A. To be registered as a medication aide, an applicant shall:

1. Provide documentation of successful completion of a staff training program in direct client care approved by the Department of Social Services or of an approved nurse aide education program;

2. Provide documentation of successful completion of one of the following:

a. A medication aide training program approved by the board in accordance with this chapter;

b. A nursing education program preparing for registered nurse licensure or practical nurse licensure; or

c. An eight-hour refresher course preparing a person to take the competency evaluations required for registration and one year of experience working as a medication aide in an assisted living facility. The one year of experience [ working ] as a medication aide shall be immediately prior to applying for registration and may only be accepted as evidence of training until [ ~~(one year following the effective date of this chapter); July 1, 2008~~ ];

3. Submit the required application and fee as prescribed by the board;

4. Disclose whether there are grounds for denial of registration as specified in § 54.1-3007 of the Code of Virginia; and

5. Provide documentation of successful completion of competency evaluations consisting of:

a. A clinical [ ~~practicum that evaluates~~ evaluation of ] minimal competency in the skills [ ~~of administering medications as~~ ] specified [ ~~by the board. The clinical practicum shall be a one on one evaluation with a registered nurse, a licensed practical nurse or a pharmacist with experience in medications in long term care~~ in 18 VAC 90-60-60 B 2 ] ; and

b. A written [ ~~evaluation~~ examination ] as specified by the board with a passing score determined by the board.

B. An applicant who fails to take the board-approved [ ~~competency evaluation~~ examination ] within one year of completion of the training or who has failed the [ ~~evaluation~~ examination ] in three attempts shall reenroll and successfully complete another approved medication aide training program.

## **18 VAC 90-60-100. Renewal or reinstatement of registration.**

A. Renewal of registration.

1. Registered medication aides [ ~~born in even-numbered years shall renew by the last day of the birth month in even-numbered years. Registrants born in odd-numbered years~~ ] shall renew by the last day of [ ~~the their~~ ] birth month [ ~~in odd-numbered years~~ each year ].

2. The medication aide shall complete the application and submit it with the required fee and an attestation that he has completed continuing education as required by subsection B of this section.

3. Failure to receive the application for renewal shall not relieve the medication aide of the responsibility for renewing his registration by the expiration date.

4. The registration shall automatically lapse if the medication aide fails to renew by the expiration date.

5. Any person administering medications in an assisted living facility during the time a registration has lapsed shall

be considered an illegal practitioner and shall be subject to prosecution under the provisions of § 54.1-3008 of the Code of Virginia.

## B. Continuing education required for renewal.

1. In addition to hours of continuing education in direct client care required for employment in an assisted living facility, a medication aide shall have four hours each year of population-specific training in medication administration in the assisted living facility in which the aide is employed or a refresher course in medication administration offered by an approved program.

2. A medication aide shall maintain documentation of continuing education for a period of four years following the renewal period for which the records apply.

3. The board shall periodically conduct a random audit of at least 1.0% of its registrants to determine compliance. A medication aide selected for audit shall provide documentation as evidence of compliance within 30 days of receiving notification of the audit.

4. The board may grant an extension for compliance with continuing education requirements for up to one year, for good cause shown, upon a written request from the registrant prior to the renewal deadline.

## C. Reinstatement of certification.

1. An individual whose registration has lapsed for less than one renewal cycle may renew by payment of the renewal fee and late fee and attestation that he has completed all required continuing education for the period since his last renewal.

2. An individual whose registration has lapsed for more than two years shall:

a. Apply for reinstatement of registration by submission of a completed application and fee;

b. Provide evidence of completion of all required continuing education for the period since his last renewal, not to exceed 16 hours of training in medication administration;

c. Retake the written and practical competency evaluation as required by the board; and

d. Attest that there are no grounds for denial of registration as specified in § 54.1-3007 of the Code of Virginia.

## **18 VAC 90-60-110. Standards of practice.**

### A. A medication aide shall:

1. Document and report all medication errors and adverse reactions immediately to the licensed healthcare professional in the facility or to the client's prescriber;

2. Give all medications in accordance with the prescriber's orders and instructions for dosage and time of administration and document such administration in the client's record; and

3. Document and report any information giving reason to suspect the abuse, neglect or exploitation of clients immediately to the licensed healthcare professional in the facility or to the facility administrator.

### B. A medication aide shall not:

1. Transmit verbal orders to a pharmacy;

2. Make an assessment of a client or deviate from the medication regime ordered by the prescriber;

3. Mix, dilute or reconstitute two or more drug products, with the exception of insulin; or

4. Administer by intramuscular or intravenous routes or medications via a nasogastric or percutaneous endoscopic gastric tube.

## **18 VAC 90-60-120. Disciplinary provisions for medication aides.**

The board has the authority to deny, revoke or suspend a registration issued, or to otherwise discipline a registrant upon proof that he has violated any of the provisions of § 54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:

1. Fraud or deceit in order to procure or maintain a registration shall mean, but shall not be limited to:

a. Filing false credentials;

b. Falsely representing facts on an application for initial registration, reinstatement or renewal of a registration; or

c. Giving or receiving assistance in taking the competency evaluation.

2. Unprofessional conduct shall mean, but shall not be limited to:

a. Performing acts beyond those authorized by the Code of Virginia and this chapter for practice as a medication aide;

b. Assuming duties and responsibilities within the practice of a medication aide without adequate training or when competency has not been maintained;

c. Obtaining supplies, equipment or drugs for personal or other unauthorized use;

d. Falsifying or otherwise altering client or drug records relating to administration of medication;

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e. Falsifying or otherwise altering employer records, including falsely representing facts on a job application or other employment-related documents;

f. Abusing, neglecting or abandoning clients;

g. Having been denied a license, certificate or registration having had a license, certificate or registration issued by the board revoked or suspended;

h. Giving to or accepting from a client property or money for any reason other than fee for service or a nominal token of appreciation;

i. Obtaining money or property of a client by fraud, misrepresentation or duress;

j. Entering into a relationship with a client that constitutes a professional boundary violation in which the [nurse medication] aide uses his professional position to take advantage of a client's vulnerability, to include but not limited to actions that result in personal gain at the expense of the client, an inappropriate personal involvement or sexual conduct with a client;

k. Violating state laws relating to the privacy of client information, including but not limited to § 32.1-127.1:03 of the Code of Virginia;

l. Failing to follow provisions of the Medication Management Plan for the assisted living facility in which the aide is employed; or

m. Violating standards of practice as set forth in this section.

3. For the purposes of interpreting provisions of subdivision 5 of § 54.1-3007 of the Code of Virginia, a pattern of medication errors may constitute practice that presents a danger to the health and welfare of clients or to the public.

**NOTICE:** The forms used in administering 18 VAC 90-60, Regulations Governing the Registration of Medication Aides, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 6603 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

## FORMS

Application to Establish a Medication Aide Training Program (eff. 7/07).

Instructions for Filing Application for Registration by Examination for Medication Aides (eff. 7/07).

Application for Registration - Medication Aide (eff. 7/07).

Instructions for Filing Application for Reinstatement as a Medication Aide (eff. 7/07).

Application for Reinstatement of Medication Aide Registration (eff. 7/07).

V.A.R. Doc. No. R05-241; Filed May 9, 2007, 9:54 a.m.

## TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

### 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.

#### Proposed Regulation

**Title of Regulation:** 20 VAC 5-417. Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers (amending 20 VAC 5-417-10 and 20 VAC 5-417-50).

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

**Public Hearing Date:** Upon request.

Public comments may be submitted until June 20, 2007.

**Agency Contact:** Katie Cummings, Deputy Director, Division of Communications, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9101, FAX (804) 371-9069, or email katie.cummings@scc.virginia.gov.

#### Summary:

*The proposed amendments incorporate changes in the telecommunications marketplace since these sections were last approved on April 9, 2003, in Case No. PUC-2002-00115.*

*The proposed regulations reflect incorporation of additional definitions, implementation of price ceilings for intrastate switched access rates, and a transitional period to implement the access charge ceilings as requested by the commission from the previous case. The proposed changes also provide competitive local exchange carriers shortened tariff filing intervals; relaxation of the current price ceilings; and pricing flexibility for all but basic telephone service, associated service charges, and switched access charge rates.*

AT RICHMOND, APRIL 30, 2007

APPLICATION OF

VERIZON VIRGINIA INC.,  
VERIZON SOUTH INC.

and

MCIMETRO ACCESS TRANSMISSION SERVICES  
OF VIRGINIA, INC.

CASE NO. PUC-2006-00154

For Modification to Rules Governing  
Certification and Regulation of Competitive  
Local Exchange Carriers, 20 VAC 5-417-10 et seq.

CASE NO. PUC-2007-00033

Ex Parte: Amendment of Rules Governing  
the Certification and Regulation of  
Competitive Local Exchange Carriers

ORDER ON APPLICATION AND ESTABLISHING  
PROCEEDING

On December 1, 2006, Verizon Virginia Inc., Verizon South Inc., and MCImetro Access Transmission Services of Virginia, Inc. (collectively, "Verizon") filed an application with the State Corporation Commission ("Commission") requesting "that the Commission initiate a rulemaking proceeding, pursuant to 5 VAC 5-20-100 (A), for the purpose of adopting regulations that would establish a cap on the intrastate access rates that [competitive local exchange carriers ('CLECs')] may charge."<sup>1</sup> Verizon "proposes that the Commission adopt a rule specifying that CLEC intrastate access rates may not exceed the access rates currently charged by the competing [incumbent local exchange carrier ('ILEC')] in the same service area."<sup>2</sup>

Verizon asserts that the Commission "can accomplish this either by modifying the existing rule, 20 VAC 5-417-50 (D), or by creating a new rule."<sup>3</sup> Specifically, Verizon proposes that the Commission adopt the following language:

A competitive local exchange carrier (CLEC) may not charge switched access rates that are higher than those of a competing incumbent local exchange carrier (ILEC) serving the same geographic location. A CLEC's aggregate charges for all of the rate elements that comprise its switched access service may not exceed the ILEC's aggregate charges for all rate elements that comprise its switched access service. If an ILEC lowers its access rates either pursuant to an order of the commission or on its own, then, no more than 90 days afterward, CLECs must adjust their access rates, as appropriate, so that they are not higher than the ILEC's new access

rates. A CLEC may only impose charges for those functions that the carrier actually provides.

For purposes of this rule, a competing incumbent local exchange carrier shall mean the ILEC that serves the same geographic area in which the CLEC operates.<sup>4</sup>

On December 27, 2006, the Commission issued an Order for Notice and Comment that docketed this proceeding, provided interested persons and the Commission's Division of Communications ("Staff") an opportunity to file written comments, and allowed Verizon to file a response.

PAETEC Communications of Virginia, Inc., and US LEC of Virginia, L.L.C. (collectively, "PAETEC/US LEC") filed comments on January 31, 2007. PAETEC/US LEC assert that "it would be inappropriate for the Commission to generally revise CLEC access charges, as suggested by Verizon, so that they would be equivalent to the local ILEC's intrastate access charges."<sup>5</sup> In addition, "if the Commission feels constrained to act with regard to CLECs whose access charges are significantly above the ILEC's, PAETEC/US LEC suggest: (i) that the Commission consider specifying a benchmark level of CLEC aggregate access rates, to be determined after further proceedings, that would continue to provide CLECs with adequate additional revenues and support; (ii) that any required reduction of CLEC access rates should be phased-in over a transition period of three years; and (iii) that CLECs should continue to be permitted to adopt their own access rate structures, including having a single access charge rate element."<sup>6</sup>

The Small Company Committee of the Virginia Telecommunications Industry Association ("Small ILECs") submitted comments on January 31, 2007.<sup>7</sup> The Small ILECs contend that "[t]here is no basis for the Commission to extend the issues raised in Verizon's Application as support for a separate generic proceeding regarding the access charge structure for the Small ILECs."<sup>8</sup>

Cavalier Telephone, LLC, NTELOS Network Inc., and XO Virginia, LLC (collectively, "Cavalier/NTELOS/XO") filed comments on February 1, 2007. Cavalier/NTELOS/XO "respectfully request that the Commission deny the Verizon Petition and defer any action on access charges at this time. . . . [T]he Commission should recognize that the existing CLEC rule is a validation of the fact that Verizon and CLECs

<sup>1</sup> Application at 14.

<sup>2</sup> *Id.* at 2.

<sup>3</sup> *Id.* at 11.

<sup>4</sup> *Id.*

<sup>5</sup> PAETEC/US LEC's January 31, 2007 comments at 14.

<sup>6</sup> *Id.*

<sup>7</sup> The Small Company Committee's members are as follows: Buggs Island Telephone Cooperative; Burke's Garden Telephone Co., Inc.; Citizens Telephone Cooperative, Inc.; Highland Telephone Cooperative; MGW Telephone Company; New Hope Telephone Company; North River Telephone Cooperative; NTELOS Telephone Company; Pembroke Telephone Cooperative; Peoples Mutual Telephone Company; Roanoke and Botetourt Telephone Company; Scott County Telephone Cooperative; Shenandoah Telephone Company; and TDS Telecom.

<sup>8</sup> Small ILEC's January 31, 2007 comments at 3.

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## Regulations

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face different economic realities and different cost structures. Unless Verizon can show that such differences are somehow mitigated by its reemergence as the dominant landline and long distance monopolist, no changes to the CLEC rule should be made."<sup>9</sup>

Cox Virginia Telcom, Inc. ("Cox Telcom") filed comments on February 1, 2007. Cox Telcom "respectfully requests that the Commission deny Verizon's request to establish a cap on competitive LEC intrastate access charges. In the alternative, the Commission should wait until the [Federal Communications Commission's ('FCC')] proceeding on intercarrier compensation is resolved before making any adjustments to competitive LEC intrastate access rates in Virginia. If adjustments are necessary before the FCC proceeding is resolved, Cox Telcom respectfully requests in the alternative that the Commission adopt a phased-in approach of three years and remove the cap on local service rates assessed by competitive LECs."<sup>10</sup>

AT&T Communications of Virginia, LLC, and TCG Virginia, Inc. (collectively, "AT&T") filed comments on February 1, 2007. AT&T states that "[n]ot only should the Commission require CLECs to cap intrastate switched access rates at the Verizon Virginia rate level, it should also require Virginia's other ILECs to cap their intrastate access rates as well, at either the Verizon Virginia rate or the company's interstate rate, whichever is higher. As the Verizon Virginia and interstate rates change over time, the Virginia intrastate access cap should follow in lockstep. At the same time it implements the access cap, the Commission should also afford the CLECs and ILECs greater retail pricing flexibility."<sup>11</sup>

United Telephone-Southeast, Inc., and Central Telephone Company of Virginia (collectively, "Embarq") filed comments on February 1, 2007. Embarq "encourages the Commission to adopt Verizon's proposed rule changes that would cap the intrastate access charges of CLECs [and] urges the Commission not to undertake a generic proceeding to examine the appropriate levels of the intrastate access charges of ILECs."<sup>12</sup>

Sprint Communications Company of Virginia, Inc., ASC Telecom, Inc., Sprint Spectrum, L.P., Sprintcom, Inc., Nextel Communications of the Mid-Atlantic, Inc., and NPCR, Inc. d/b/a Nextel Partners (collectively, "Sprint Nextel") filed comments on February 1, 2007. Sprint Nextel states that "[i]ntrastate switched access rates should be set at cost or, at very least, at parity with interstate rates. Sprint [Nextel] encourages the Commission to take this opportunity to consider the appropriate level of intrastate switched access charges for all local exchange carriers in a generic

proceeding. Further, any consideration of Verizon's retail deregulation request in PUC-2007-00008 should be linked to reform of Verizon's switched access rates."<sup>13</sup>

Qwest Communications Corporation of Virginia ("Qwest") filed comments on February 1, 2007. Qwest "urges the Commission to adopt the proposed modifications . . . recommended by Verizon, as supplemented by" the following language: "In addition, a CLEC's tariff and billing statements must separately identify and separately price each switched access service element for which it charges. If technically feasible, the level of disaggregation should mirror the rate element structure used by the competing ILEC."<sup>14</sup>

The Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel") filed comments on February 1, 2007. Consumer Counsel "agrees that some reduction in access charges towards cost may be warranted, but has concerns about Verizon's proposed rule. If the Commission determines to reduce the level of access charges of CLECs, the Commission may also want to consider the appropriate level(s) of intrastate switched access charges for all local exchange carriers in a generic proceeding."<sup>15</sup>

The Staff filed comments on February 23, 2007. The Staff concluded that the "Commission should require CLECs to lower their switched access rates to levels that do not exceed those of the ILECs," and the Staff suggested modifications to Verizon's proposed rule.<sup>16</sup> The Staff also stated that "the Commission should implement a transition period for CLECs to phase down their existing rates to the new switched access charge ceilings. Furthermore, we suggest that the Commission modify the CLEC Rules to provide additional pricing and tariff filing flexibility."<sup>17</sup> In addition, the Staff asserted that: (1) "the Commission can review the intrastate access charges of LECs (or groups of LECs) in separate proceedings" and that "[s]uch an approach may be more expedient;" (2) "the Commission should initiate an investigation into the appropriate level of access charges for the Embarq companies;" and (3) "[t]he Commission should consider whether it is timely to initiate an investigation to evaluate the intrastate switched access charges of the small telephone companies (and cooperatives) where it can address various issues."<sup>18</sup>

Verizon filed a response on March 9, 2007. Verizon responded to the previously filed comments and "urges the Commission to proceed quickly to establish a price ceiling for CLEC intrastate switched access rates that mirrors the comparable ILECs' access rates, and require compliance with that ceiling quickly."<sup>19</sup>

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<sup>9</sup> Cavalier/NTELOS/XO's February 1, 2007 comments at 6.

<sup>10</sup> Cox Telcom's February 1, 2007 comments at 11.

<sup>11</sup> AT&T's February 1, 2007 comments at 16.

<sup>12</sup> Embarq's February 1, 2007 comments at 4.

<sup>13</sup> Sprint Nextel's February 1, 2007 comments at 7.

<sup>14</sup> Qwest's February 1, 2007 comments at 5-6.

<sup>15</sup> Consumer Counsel's February 1, 2007 comments at 3-4.

<sup>16</sup> Staff's February 23, 2007 comments at 38.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 38-39.

<sup>19</sup> Verizon's March 9, 2007 response at 24.

On March 21, 2007, PAETEC/US LEC filed reply comments and moved for leave to file the same. On March 23, 2007, Cavalier/NTELOS/XO filed reply comments and a Motion for Leave to Respond to Verizon. On March 23, 2007, Cox Telcom filed reply comments and a Motion for Leave to File Reply Comments.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the application shall be granted in part and denied in part and that we shall initiate a rulemaking proceeding as set forth herein.

Verizon's application requests "that the Commission initiate a rulemaking proceeding . . . for the purpose of adopting regulations that would establish a cap on the intrastate access rates that CLECs may charge."<sup>20</sup> We grant the application to the extent that we are initiating such a proceeding, which shall be docketed as Case No. PUC-2007-00033. Virginia statutory law requires that the "Commission, in resolving issues and cases concerning local exchange telephone service under [Title 56], shall, consistent with federal and state laws, consider it in the public interest to, as appropriate, (i) treat all providers of local exchange telephone services in an equitable fashion and without undue discrimination and, to the greatest extent possible, apply the same rules to all providers of local exchange telephone services; . . ."<sup>21</sup> We find that the disparity between Verizon's intrastate access rates and CLECs' intrastate access rates warrants initiating a proceeding to consider changes to the Commission's Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, 20 VAC 5-417-10 *et seq.* ("CLEC Rules").

We deny the application to the extent that the proposed CLEC Rules attached hereto do not mirror the changes requested by Verizon. In general, the proposed rules in Case No. PUC-2007-00033 amend only 20 VAC 5-417-10 (Definitions) and 20 VAC 5-417-50 (Regulation of new entrants providing local exchange telecommunications services) and: (1) require that a CLEC's intrastate access rates not exceed the higher of (a) the interstate access rates of the CLEC, or (b) the intrastate access rates of the ILEC(s) in whose service territory the CLEC is providing service; (2) provide a transition period for CLECs to meet the new intrastate access rate requirements; (3) allow CLECs to request pricing structures or rates that do not conform to the new rule; and (4) provide CLECs with additional pricing and tariff filing flexibility.

The rulemaking proceeding in Case No. PUC-2007-00033 is limited to proposed changes for CLECs. Such limitation, however, does not represent a finding that no changes are warranted for ILECs' intrastate access rates. Rather, we conclude that any proposed changes to intrastate access rates

for ILECs should be considered in one or more separate proceedings.

Finally, we will not consider, in Case No. PUC-2006-00154, the unauthorized replies filed by PAETEC/US LEC, Cavalier/NTELOS/XO, and Cox Telcom.

Accordingly, IT IS HEREBY ORDERED THAT:

- (1) Verizon's application is granted in part and denied in part as set forth herein.
- (2) The motions for leave to file a reply by PAETEC/US LEC, Cavalier/NTELOS/XO, and Cox Telcom in Case No. PUC-2006-00154 are denied.
- (3) Case No. PUC-2007-00033 is docketed for the purposes set forth herein.
- (4) The Commission's Division of Information Resources shall forward the proposed Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers (Chapter 417), Attachment A hereto, to the Registrar of Virginia for publication in the Virginia Register of Regulations.
- (5) On or before May 18, 2007, the Commission's Division of Information Resources shall make a downloadable version of the proposed Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, Attachment A (amending only §§ 10 and 50), available for access by the public at the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>. The Clerk of the Commission shall make a copy of the proposed Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers available for public inspection and provide a copy, free of charge, in response to any written request for one.
- (6) On or before June 20, 2007, interested persons wishing to comment on, propose modifications to, or request a hearing on the proposed Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers (amending only §§ 10 and 50) shall file an original and fifteen (15) copies of such comments, proposals, or requests with the Clerk of the Commission, P.O. Box 2118, Richmond, Virginia 23218, making reference to Case No. PUC-2007-00033. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>. Requests for hearing shall state with specificity why such concerns cannot be adequately addressed in written comments.
- (7) On or before May 18, 2007, the Commission's Division of Information Resources shall publish the

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<sup>20</sup> Application at 14.  
<sup>21</sup> Va. Code § 56-235.5:1.

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following notice as classified advertising in newspapers of general circulation throughout the Commonwealth of Virginia:

NOTICE TO THE PUBLIC OF A  
PROCEEDING TO ADOPT AMENDED  
RULES GOVERNING THE  
CERTIFICATION AND REGULATION  
OF COMPETITIVE  
LOCAL EXCHANGE CARRIERS

CASE NO. PUC-2007-00033

The State Corporation Commission ("Commission") has initiated a proceeding to consider adopting changes to the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers (20 VAC 5-417-10 et seq.) ("CLEC Rules") for the purpose of establishing caps upon the prices new entrants may charge for switched access rates. The proposed changes apply only to 20 VAC 5-417-10 and 20 VAC 5-417-50. Interested persons may obtain a copy of the proposed CLEC Rules by visiting the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>, or by requesting a copy from the Clerk of the Commission. The Clerk's office will provide a copy of the proposed CLEC Rules to any interested person, free of charge, in response to any written request for one.

On or before June 20, 2007, any person wishing to comment on, propose modifications to, or request a hearing on the proposed CLEC Rules shall file an original and fifteen (15) copies of such comments, proposals, or requests with the Clerk of the Commission, P.O. Box 2118, Richmond, Virginia 23218, making reference to Case No. PUC-2007-00033. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>. Requests for hearing shall state with specificity why such concerns cannot be adequately addressed in written comments.

VIRGINIA STATE CORPORATION  
COMMISSION

(8) The Staff may file comments regarding the proposed Rules on or before July 20, 2007.

(9) Case No. PUC-2006-00154 is dismissed.

(10) Case No. PUC-2007-00033 is continued for further orders of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: the official Service List for this proceeding; all local exchange carriers certificated in Virginia as set out in Appendix A; all interexchange carriers certificated in Virginia as set out in Appendix B; and the

Commission's Office of General Counsel and Division of Communications.

**20 VAC 5-417-10. Definitions.**

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

"Attestation" means a written statement regarding compliance with a requirement or condition contained in this chapter, signed by an officer, director, or comparable official of the applicant or new entrant.

"Basic telephone service" means the customer's dial tone line and local usage. Local usage can be purchased on a flat rate, measured, or on a per message basis, or some combination thereof.

"Bundled service" means a designated group of services or products offered to customers at a package or set price. A bundled service may consist of regulated and nonregulated services or products.

"Casual user service" means a local exchange telecommunications service of a competitive local exchange carrier or municipal local exchange carrier that does not require a customer to actively subscribe or contract with the competitive local exchange carrier or municipal local exchange carrier to use the service. For example, these services may require alternate billing arrangements such as a calling card to use the service.

"Commission" means the State Corporation Commission.

"Competitive local exchange carrier" ("CLEC") means an entity, other than a locality, certificated to provide local exchange telecommunications services in Virginia after January 1, 1996, pursuant to § 56-265.4:4 of the Code of Virginia. An incumbent local exchange carrier shall be considered a CLEC in any territory that is outside the territory it was certificated to serve as of December 31, 1995, for which it obtains a certificate to provide local exchange telecommunications services on or after January 1, 1996.

"Customer" means any person, firm, partnership, corporation, or lawful entity that purchases local exchange telecommunications services.

"Incumbent local exchange carrier" or "incumbent" ("ILEC") means a public service company providing local exchange telecommunications services in Virginia on December 31, 1995, pursuant to a certificate of public convenience and necessity, or the successors to any such company.

"Individual customer pricing" means the offering of service or services to a specific customer at rates, terms, or conditions provided through an agreement instead of pursuant to tariff.

"Interconnection" means the point of interface between local exchange carriers' networks. Interconnection can be achieved at different points of the network.

"Interexchange carrier" ("IXC") means a carrier that provides intrastate interexchange long distance telephone service.

"Interstate service" means service that originates in one state and terminates in another state.

"Intrastate service" means service that originates and terminates within a state.

"Local exchange carrier" ("LEC") means a certificated provider of local exchange telecommunications services, whether an incumbent or new entrant.

"Local exchange telecommunications services" means local exchange telephone service as defined by § 56-1 of the Code of Virginia.

"Locality" means a city, town, or county that operates an electric distribution system in Virginia.

"Municipal local exchange carrier" ("MLEC") means a locality certificated to provide local exchange telecommunications services pursuant to § 56-265.4:4 of the Code of Virginia.

"New entrant" means a CLEC or an MLEC.

"Promotion or promotional rates" means an offering of limited duration that reduces, waives, or otherwise modifies applicable tariffed rates, terms, or conditions.

"Service charges" means charges associated with work activities performed by the LEC in conjunction with providing service. These include, but are not limited to, charges for installation, activation, order processing, line restoration, maintenance visits, or changes in service.

"Switched access charges" means the per minute rates billed by LECs to IXCs or other LECs for the use of the LEC's network when an end user makes or receives a long distance call.

**20 VAC 5-417-50. Regulation of new entrants providing local exchange telecommunications services.**

A. Unless otherwise allowed by the commission, tariffs are required for all local exchange telecommunications service offerings except those that are comparable to "competitive" offerings of any ILEC that does not require tariffs.

B. A new entrant that has received certification to provide local exchange telecommunications services shall, prior to offering such services, submit its proposed initial tariffs to the Division of Communications. A new entrant shall not offer any local exchange telecommunications services until its tariffs have been accepted by the Division of Communications and are effective.

C. A new entrant may petition the commission to consider deregulation or detariffing treatment for any of its specific service offerings.

~~D. Unless otherwise allowed by the commission, prices for local exchange telecommunications services provided by a new entrant basic telephone service and associated service charges, not purchased as part of a bundled service, shall not exceed the highest of the comparable tariffed services provided by the or applicable ceiling rates, as determined by the commission, of an incumbent local exchange carrier or carriers in the same local serving areas service territory. Price ceilings shall be the highest tariffed rates as of January 1, 1996, for comparable services of any ILEC serving the local service area of the new entrant. Price ceilings for a new entrant shall be increased if the highest tariffed rate of an incumbent is raised through applicable regulatory procedures. Unless otherwise determined by the commission, price decreases for an incumbent's service, whether initiated by the carrier or adopted by the commission, shall not require a corresponding decrease in the price ceilings applicable to the new entrant. Tariff changes pursuant to this price ceiling plan shall be implemented as follows:~~

~~1. Price decreases shall become effective on a minimum of one day's written notice to the Division of Communications.~~

~~2. Price increases below ceiling rates shall become effective after 30 days' written notice is provided to the Division of Communications and affected customers.~~

~~a. Written notice to affected customers shall be provided through bill inserts, bill messages, or direct mail.~~

~~b. Notice for price increases for a casual user or nonsubscriber service shall be provided through publication once as display advertising in newspapers having general circulation in the areas served by the new entrant. Display advertising shall only be used for notice for casual user or nonsubscriber services unless otherwise authorized by the commission.~~

~~c. A copy of the customer notice, the date or dates of such notification, and proof of publication, if applicable, shall be included with the notice to the Division of Communications.~~

~~d. A proposed rate increase below ceiling rates, if there are no current customers, shall not require customer notice. The notice to the Division of Communications shall include an attestation by the new entrant that it has no customers.~~

E. A new entrant may petition the commission for approval of pricing structures or rates that do not conform with the price ceilings. The new entrant shall provide appropriate documentation and rationale to support any request. The commission may permit such alternative pricing structures

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~~and rates unless there is a showing the public interest will be harmed.~~ 1. Beginning December 1, 2007, unless otherwise allowed by the commission, prices for a new entrant's intrastate access services shall not exceed the highest of the following:

a. The new entrant's comparable interstate switched access charge rates.

b. The aggregate intrastate switched access charge rates of the ILEC in whose service territory the new entrant is providing service. A new entrant may utilize a blended or composite rate to reflect applicable price ceilings of more than one ILEC or to reflect an alternative rate structure to the ILEC.

c. An intrastate switched access charge benchmark rate of \$.029 per minute for a transition period from December 1, 2007, through March 30, 2008.

Under subdivision E 1 c, a new entrant may not exceed its intrastate switched access rates in effect on May 1, 2007. Effective April 1, 2008, subdivision E 1 c no longer applies.

2. A new entrant may be required to submit supporting documentation to justify its rates and structure to the Division of Communications.

3. Unless otherwise ordered by the commission, if an ILEC lowers its switched access charges on its own, such reductions shall not be reflected in applicable price ceilings and a new entrant is not required to adjust its rates in such circumstances.

4. If an ILEC lowers switched access charges pursuant to a commission order, a new entrant shall have 90 days to adjust its switched access rates to correspond to the new applicable price ceiling. The commission may approve an alternative implementation schedule for a new entrant or new entrants to adjust their switched access rates.

~~F. The price ceiling requirements shall not apply to a new entrant's services: (i) that are comparable to services classified as competitive Tariff changes for the incumbent; or (ii) that have been provided regulatory treatment different than that specified by this chapter. local exchange telecommunications services of new entrants shall be implemented as follows:~~

1. Price decreases shall be noticed to the Division of Communications no later than three days after the effective date.

2. Price increases shall become effective after at least 30 days' written notice is provided to affected customers and at least seven business days' written notice to the Division of Communications.

a. Written notice to affected customers shall be provided through bill inserts, bill messages, or direct mail.

b. Notice for price increases for a casual user or nonsubscriber service shall be provided through publication once as display advertising in newspapers having general circulation in the areas served by the new entrant. Display advertising shall only be used for notice for casual user or nonsubscriber services unless otherwise authorized by the commission.

c. A copy of the customer notice, the date or dates of such notification, and proof of publication, if applicable, shall be included with the notice to the Division of Communications.

d. An allowable rate increase, if there are no current customers, shall not require customer notice. The notice to the Division of Communications shall include an attestation by the new entrant that it has no customers.

3. New service offerings shall become effective after at least three business days' written notice to the Division of Communications.

4. Administrative or nonprice changes shall become effective after at least three business days' written notice to the Division of Communications.

5. A new entrant, subject to prior approval of the Division of Communications, may seek to file tariff changes in less than the prescribed timeframe stated above.

~~G. Tariff filings and revisions shall be submitted to A new entrant may petition the Director commission for approval of the Division of Communications and shall include an original and two copies pricing structures or rates that do not conform with price ceiling requirements in subsections D and E. The new entrant shall provide appropriate documentation and rationale to support any request. The commission may permit such alternative pricing structures and rates unless there is a showing that the public interest will be harmed.~~

~~H. Tariffs for new services offered Unless otherwise ordered by a new entrant that are the commission, price ceiling requirements shall not comparable apply to services classified as competitive for the incumbent or for which the commission has not provided regulatory treatment different a new entrant's services other than that those specified by this chapter shall be filed with 30 days' prior notice to the commission in subsections D and E of this section. Price decreases for these services shall become effective on a minimum of one day's notice to the commission. Price increases shall become effective after 30 days' prior notice to the Division of Communications and affected customers in the manner prescribed by subdivision D 2 of this section.~~

~~I. A new entrant may, pursuant to § 56-481.2 of Tariff filings and revisions shall be submitted to the Code Director of Virginia, submit an alternative regulatory plan for the commission's consideration in the applicant's certification proceeding or at a later date if it desires regulation different~~

~~from that specified in this section Division of Communications and shall include an original and two copies.~~

J. ~~A new entrant providing may, for a specified period of time, offer promotional rates, terms, or conditions for its local exchange telecommunications services shall not abandon or discontinue such services except as prescribed offerings that differ from the rates, terms, or conditions in 20 VAC 5-423, Rules Governing the Discontinuance of Local Exchange Telecommunications Services Provided by Competitive Local Exchange Carriers its tariffs. Promotions may be submitted by letter and become effective after at least three business days' written notice to the Director of the Division of Communications.~~

K. ~~An MLEC A new entrant may petition the commission offer individual customer pricing for authority to include a subsidy in any of its local exchange telecommunications services to a customer that may differ from those in its tariffs in a competitive bid situation. The commission may approve such a subsidy if it is deemed new entrant shall retain records of any such agreements and make same available to be in the public interest the Division of Communications upon request. Any commission approved subsidy may not result in a price for the service lower than the price for the same service charged by the ILEC provider in the area.~~

L. ~~A new entrant requesting authority to expand its geographic service territory not covered by its existing certificate shall file a petition with the commission may, pursuant to § 56-481.2 of the Code of Virginia, submit an alternative regulatory plan for the commission's consideration in the applicant's certification proceeding or at a later date if it desires regulation different from that specified in this section.~~

M. ~~A new entrant providing local exchange telecommunications services shall not abandon or discontinue such services except as prescribed in 20 VAC 5-423, Rules Governing the Discontinuance of Local Exchange Telecommunications Services Provided by Competitive Local Exchange Carriers.~~

N. ~~An MLEC may petition the commission for authority to include a subsidy in any of its local exchange services. The commission may approve such a subsidy if it is deemed to be in the public interest. Any commission-approved subsidy may not result in a price for the service lower than the price for the same service charged by the ILEC provider in the area.~~

O. ~~A new entrant requesting authority to expand its geographic service territory not covered by its existing certificate shall file a petition with the commission.~~

VA.R. Doc. No. R07-206; Filed May 2, 2007, 11:05 a.m.

## TITLE 22. SOCIAL SERVICES

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

#### Proposed Regulation

Titles of Regulations: 22 VAC 42-10. Standards for Interdepartmental Regulation of Children's Residential Facilities (repealing 22 VAC 42-10-10 through 22 VAC 42-10-1000).

22 VAC 42-11. Standards for Interdepartmental Regulation of Children's Residential Facilities (adding 22 VAC 42-11-10 through 22 VAC 42-11-1090).

Statutory Authority: §§ 16.1-309.9, 22.1-321, 22.1-323, 22.1-323.2, 37.2-407, 37.2-408, 63.2-217, 63.2-1701, 63.2-1703, 63.2-1737, 63.2-203, 66-10 and 66-24 of the Code of Virginia.

Public Hearing Date:

July 9, 2007 - 6:30 p.m. (Roanoke)

July 10, 2007 - 6:30 p.m. (Richmond)

July 11, 2007 - 6:30 p.m. (Virginia Beach)

Public comments may be submitted until July 27, 2007.

(See Calendar of Events section

for additional information)

Agency Contact: Charlene Vincent, Coordinator, Office of Interdepartmental Regulation, Department of Social Services, 7 North 8th Street, Richmond, VA 23219, telephone (804) 726-7097, FAX (804) 726-7095, or email charlene.vincent@dss.virginia.gov.

Basis: Section 16.1-309.9 of the Code of Virginia mandates the State Board of Juvenile Justice to develop, promulgate and approve standards for the development, implementation, operation and evaluation of the range of community-based programs, services and facilities authorized by Article 12.1 (§ 16.1-309.2 et seq.) of Chapter 11 of Title 16.1 of the Code of Virginia. This section provides that the State Board shall also approve minimum standards for the construction and equipment of detention homes or other facilities and for food, clothing, medical attention, and supervision of juveniles to be housed in these facilities and programs.

Section 22.1-321 of the Code of Virginia authorizes the Board of Education to make regulations not inconsistent with law for the management and conduct of schools.

Section 22.1-323 of the Code of Virginia provides for the licensing of residential schools by the Board of Education for students with disabilities.

Section 22.1-323.2 of the Code of Virginia states that the Board of Education shall promulgate regulations allowing the

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Department of Education to so assist and cooperate with other state departments.

Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 of the Code of Virginia authorizes the State Mental Health, Mental Retardation and Substance Abuse Services Board to establish regulations for licensing providers of mental health, mental retardation and substance abuse services.

Section 63.2-217 of the Code of Virginia authorizes the Board of Social Services to adopt such regulations, not in conflict with Title 63.2, as may be necessary or desirable to carry out the purpose of that title.

Section 63.2-1737 of the Code of Virginia states that the Board of Social Services shall adopt regulations for the interdepartmental regulation of children's residential facilities, including group homes that shall allow the Department of Social Services to assist and cooperate with other state departments in fulfilling their respective licensing and certification responsibilities and in reducing and simplifying the regulations involved in such licensing and certification. This section further provides that the board's regulations for the interdepartmental regulation of children's residential facilities shall address the services required to be provided in such facilities as it may deem appropriate to ensure the health and safety of the children. In addition, the board's regulations shall include, but shall not be limited to (i) specifications for the structure and accommodations of such facilities according to the needs of the children; (ii) rules concerning allowable activities, local government- and facility-imposed curfews, and study, recreational, and bedtime hours; and (iii) a requirement that each facility have a community liaison who shall be responsible for facilitating cooperative relationships with the neighbors, the school system, local law enforcement, local government officials, and the community at large.

Section 66-10 of the Code of Virginia authorizes the State Board of Juvenile Justice to promulgate such regulations as may be necessary to carry out the provisions of Title 66 of the Code of Virginia and other laws of the Commonwealth administered by the Director or the Department of Juvenile Justice.

Section 66-24 of the Code of Virginia states that the State Board of Juvenile Justice shall promulgate regulations that shall allow the Department of Juvenile Justice to so assist and cooperate with other state departments.

**Purpose:** The purpose of the proposed action is to promulgate revised standards that better protect the health, safety and welfare of vulnerable children who are separated from their families and reside in children's residential facilities. The standards will assure that an acceptable level of care and education are provided to these children. Children placed in residential care typically need a higher level of service than can be provided in a foster home. It is important that staff who supervise these children have the appropriate knowledge

and experience to make decisions regarding their care. The appropriate number of trained staff on duty is needed to give the children adequate time and attention to meet their needs. Staff also need the time to plan a structured program of care for the residents and to document planning and decision making for each resident.

In the past, approximately 60 to 70 requests per year were received to operate a children's residential facility. Facilities were operated by organizations connected to groups with child welfare experience. Facilities were most often operated as nonprofits. Today the Office of Interdepartmental Regulation receives an average of 35 inquiries each month to operate a children's residential facility. Inquirers are private individuals who may not have had any children's residential experience. Many want to open for-profit facilities.

The Joint Legislative Audit and Review Commission's (JLARC) December 2006 report, "Evaluation of Children's Residential Services Delivered through the Comprehensive Services Act," recommends that collecting licensure fees be considered. The report recommends that these fees be used to provide training. The report states that training of facility staff is not adequately addressed in the current standards. In order to ensure that residents receive the care and education they need, staff must have the training and experience, as well as the time, to make quality decisions about the residents they are serving. The proposed changes to the regulation concerning licensure fees, additional required training and additional qualifications for administrative staff address issues discussed in the JLARC report.

An emergency regulation was required by Chapters 168 and 781 of the 2006 Acts of Assembly. This proposed regulation is necessary to replace the emergency regulation as required by the Code of Virginia.

**Substance:** Substantive changes include allowing the types of licenses issued to facilities regulated by Departments of Education, Mental Health, Mental Retardation and Substance Abuse Services, and Social Services to be changed when compliance is an issue; adding the option of summary suspension of the license to be consistent with the Code of Virginia; strengthening the qualifications of the staff who make administrative and supervision decisions at the facility and adding requirements ensuring that a qualified staff person is available to make decisions. All training requirements are moved to one section for clarity and additional training is required as suggested by the December 2006 JLARC report. Requirements are added that ensure that educational services are provided to the child in a timely manner. Recordkeeping requirements are clarified and written to comply with federal guidelines. Requirements for medical treatment and medication are improved according to guidance received from medical professionals. Staff supervision ratios are changed to better meet current practice and child advocacy guidelines. Emphasis has been redirected from behavior management to

behavior support and helping residents to manage their own behavior. Recreation guidelines are written to ensure better planning and supervision during overnight trips or activities. Emergency procedures are strengthened to ensure better preparation for an emergency in today's environment. Special requirements are added for specialized independent living programs, mother/baby programs, and for camping programs and programs that take residents on adventure activities. Requirements have also been added for every facility to name a community liaison person, to train staff and have policies and procedures regarding positive community relations.

Issues: Primary advantages to the public:

1. Better ensures that children placed in residential facilities receive the care and education that they need by requiring an adequate number of qualified staff;
2. Families and parents that place their children in residential care are offered reassurance that their child is safe and that his needs are being met;
3. Better ensures that taxpayer funds are used to pay for adequate services for children; and
4. Neighbors of facilities will see that there are requirements in place to protect their interests.

Primary disadvantages to the public: Although many providers are already meeting the proposed standards, operators of facilities that currently are not meeting the revised standards may incur additional expenses.

Primary advantages to the Commonwealth:

1. Better ensures that children placed in residential facilities receive the care and education that they need by requiring an adequate number of qualified and trained staff to work with them;
2. Better ensures that the services the Commonwealth pays for are received; and
3. Better ensures that the Commonwealth meets federal standards (including Title IV-E and the Child and Family Services Review).

Primary disadvantages to the Commonwealth: None

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Regulation. The Board of Education, the Board of Juvenile Justice, the Board of Mental Health, Mental Retardation and Substance Abuse Services and the Board of Social Services (Boards) propose to repeal 22 VAC 42-10 (the current Standards for Interdepartmental Regulation of Children's Residential Facilities) and promulgate replacement regulations (22 VAC 42-11) with the same title. Much of the proposed regulations mirror the

regulations being repealed; some new provisions will be finalized or added. This regulatory action will, in part, replace and finalize emergency changes made to 22 VAC 42-10 (these emergency regulations became effective December 28, 2006). The Boards additionally propose several substantive changes which will require, among other things, more stringent staff to resident ratios and expanded training for staff at residential facilities. The Boards also propose:

- more stringent requirements for dispensing medication in facilities covered by these regulations,
- more restrictive requirements for physical facilities that will house programs licensed after the effective date of these new regulations,
- to require that a certified lifeguard supervise all swimming activities and
- several new requirements for documentation and written policies.
- to add two new section to clarify standards for independent living facilities and mother/baby programs

Additionally the Boards propose to require new non-profit and for-profit applicants for licensure to pay a \$500 licensure fee. Regulants who are renewing their licenses, either annually or triennially, will be required to pay a \$100 licensure fee.

Results of Analysis. There is insufficient data to accurately compare the magnitude of total costs versus total benefits for these proposed regulations. Detailed analysis of benefits and costs can be found in the Estimated Economic Impact section below.

Estimated Economic Impact. Finalizing Emergency Regulations.

Legislative Mandates: In December 2006, the Boards promulgated emergency changes to Standards for Interdepartmental Regulation of Children's Residential Care Facilities. These emergency provisions became effective December 28, 2006 and will expire December 27, 2007. Many of the changes were in response to legislation passed by the General Assembly in 2006.

Specifically, Chapter 168 (2006 Acts of the Assembly) allows the head of whatever agency has lead authority over a residential facility to issue an order of summary suspension if "conditions or practices exist in the home or facility that pose an immediate and substantial threat to the health, safety and welfare of the children who are residents." Chapter 168 requires the Boards to promulgate this change into regulation within 280 days; consequently, the Boards promulgated emergency provisions that outlined procedures of summary suspension which include 1) requirements for an administrative hearing after summary suspension, and 2)

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requirements for final orders of summary suspension. Emergency provisions promulgated, and Chapter 168, also allow for licensees to appeal final summary suspension orders in an appropriate circuit court within 10 days after those orders are issued. There was no procedure for summary suspension in regulation before emergency regulations were promulgated. The Boards propose to make these emergency provisions permanent with this proposed regulation.

The provisions of this proposed regulation that are required by Chapter 168 will likely close deficient facilities sooner than they would have been closed under regulations that predate the emergency regulations promulgated in December 2006. The costs for affected licensees, however, will likely be smaller than the benefits for children who will likely be removed from egregiously inappropriate environments more quickly than they likely would have been in the past.

Chapter 781 (2006 Acts of the Assembly) requires that applicants for licensure under the Standards for Interdepartmental Regulation of Children's Residential Facilities be personally interviewed by lead agency staff "to determine the qualifications of the owner or operator before granting an initial license". Applicants must, in accordance with Chapter 781 and the Boards' emergency regulations, 1) provide evidence of relevant prior experience, 2) provide evidence of staff participation in training on "appropriate siting of residential facilities," good neighbor policies and community relations. Applicants were also required to screen potential residents so that individuals with behavior issues that cannot be managed at the applicants' facilities are not accepted. Chapter 781 also:

- requires lead agencies to notify local government and placing and funding agencies (Local Departments of Social Services, Office of Comprehensive Services, etc.) when a facility is downgraded to a provisional license on account of multiple health and safety or human rights violations.
- requires lead agencies to post information concerning applications for initial licensure and license renewal, as well as licenses that have been denied and licenses that have been downgraded to provisional, to their department website.
- requires licensees to self report lawsuits or settlements related to health and safety or human rights violations of residents as well as any criminal charges that have been made relating to health and safety or human rights violations of residents.
- requires licensees to have proof of contractual agreements or staff expertise to provide educational services, counseling services, psychological services, medical services or other services needed to fulfill the facilities operational plan.

- allows lead agencies to modify the terms of facility licenses based on a change in compliance.

Additionally, Chapter 781 requires the Boards to promulgate these changes into regulation within 280 days; the Boards are also directed to "include in the emergency regulations... requirements enacted by HB 2461 (2005) and SB 1304 (2005). These bills identically require that facilities have a "community liaison who shall be responsible for facilitating cooperative relationships with neighbors, the school system, local law enforcement, local government officials, and the community at large." None of the Chapter 781 requirements were in Administrative Code prior to December 2006. The Boards promulgated emergency provisions to implement the requirements of Chapter 781 in December 2006; the Boards propose to make these emergency provisions permanent with this proposed regulation.

Regulants and regulators will likely incur costs on account of proposed regulatory provisions that are required in the text of Chapter 781. Regulators will likely incur costs for gathering and posting information about licensees on department websites and for notifying local government and placing or funding agencies about facilities that have had their licenses downgraded to provisional. These costs are likely to be minimal because departments already post some of the required information on their websites and there are, at any given time, apparently very few to no facilities performing so poorly that they have to be downgraded to provisional licensure. Currently, the Department of Social Services (DSS) is the only lead agency that has any provisionally licensed facilities and they only have one. These costs will likely be outweighed by the benefits for placing agencies, and for the children they serve, because more and better information will be available to facilitate good placement decisions.

Regulants will likely incur some costs for the increased reporting and recordkeeping required by Chapter 781 (reporting law suits and settlements, proof of specialized contractual services) and will also incur costs for the training explicitly required by Chapter 781 (training on "appropriate siting of residential facilities," good neighbor policies and community relations). The cost of reporting and recordkeeping will likely be minimal; costs for training will likely be larger. A children's residential facility regulator (CRF regulator) reports that training in these three topics takes approximately a half hour (and that there will likely be no fees incurred for this training as it will likely be handled internally at facilities), using CRF regulator estimates of average staff hourly wage (\$11-\$12), using an average turnover rate of 25% and holding staff numbers constant at current levels (9,341 individuals are currently employed by regulated residential facilities); costs for this training will likely range between approximately \$12,844 and \$14,000

annually<sup>1</sup>. These costs will likely be higher if the number of licensed residential facilities continues to grow, if training takes more time than allotted in these figures or if average staff turnover is greater than 25%. Conversely, these training costs will be less if training takes less time than anticipated or if average turnover rates fall below 25%.

Staff and residents of residential facilities, as well as communities where residential facilities are located, will likely benefit from improved relations that will likely occur if training prompts staff to be more cognizant of their surroundings (and prompts them to more closely police resident behaviors that might be particularly bothersome to neighbors). Benefits may be greater than costs for these training requirements. Regulants, residents and neighborhoods where residential facilities are housed also likely benefited from the provision in Chapter 781 that requires licensees to screen residential applications so that children were not placed in homes that were obviously a bad fit for their needs. Children who are placed in programs that meet their needs are likely less able to act out in ways that are destructive to themselves or others.

Costs will likely also be incurred on account of requirements contained in HB 2461 (2005) and SB 1304 (2005). Facilities will have to develop policies for community relations and will either have to hire a community liaison or add community liaison duties to an existing employee's job description. A CRF regulator reports that facilities' Chief Administrative Officer (CAO) would be likely to take on these responsibilities since liaison duties would mirror promotional and public relations work that is likely already handled by the CAO. A representative of a non-profit group home reports that facilities which already have good community relations (because they are located near population centers) will likely only incur the cost for time spent developing written policies for community relations.

Assuming a CAO average hourly wage of \$25 (a CRF regulator reports that CAO's of smaller, non-profit facilities may have a lower wage rate and CAO's of larger, for-profit facilities may have a higher wage rate), and using the representative of a non-profit group home's estimate that developing written policies will take approximately two to three hours; the cost of developing written community relations policies for an average facility will range between \$50 and \$75. For all 306 regulated facilities, the accumulated cost for these policies will range between approximately \$15,300 and approximately \$23,000.

For facilities that do not already maintain close ties with the surrounding community, liaison duties will likely take up more of the designated employee's time leaving him or her with less time to devote to tasks that had previously held their full attention. Facilities will incur costs equal to time spent

on community liaison tasks multiplied by the hourly wage of the designated employee. Facilities will likely accrue benefits that will partially or completely offset these costs if their relationships with their neighbors become less fractious than they have historically been.

**Additional Emergency Provisions:** In addition to promulgating legislative mandates contained in Chapters 168 and 781; the Boards, at their discretion, promulgated several other provisions in their emergency action (December 2006). The Boards promulgated emergency regulations that allowed new residents of regulated facilities to undergo a tuberculosis risk assessment rather than undergoing testing for tuberculosis as required by regulations in place before December 2006. This change likely reduces costs for residential facilities because more expensive TB tests, x-rays and bacteriological tests (to identify tuberculosis) will no longer be routine for all incoming residents.

Emergency regulations also newly required that:

- licensees develop written policies and procedures for dispensing medication, documenting errors in dispensing medicine, reviewing medicine errors and reactions,
- policies must be approved by a medical professional and approval must be documented,
- medication refusals must be documented and the prescribing professional must be contacted unless medication refusal is addressed in standing orders,
- all extended recreational trips must have a detailed, documented trip plan and
- all aquatic activities that occur on extended recreational trips had to be supervised by a certified lifeguard.

All of these requirements would likely cause regulants (and or residents) to incur costs to a lesser or greater extent. Written policies take time to develop (see discussion about written community relations policies above). Most medical professionals would likely charge regulants a fee to review and approve medication policies. Staff time is taken away from other tasks when they must report medication refusals to the prescribing professional. Documenting detailed trip plans likely takes a non-negligible amount of staff time. Requiring all aquatic activities be supervised by a certified lifeguard would likely have one of two affects (or some mixture thereof). Staff would either have to curtail aquatic activities at locations not already staffed by certified lifeguards (places like lakes, rivers and streams), or licensees would have to make sure staff received lifeguard training. Both of these options are expensive in differing ways; residential children suffer if this requirement serves to curtail water activities which likely benefit the children taking part in them. Training staff to be lifeguards requires a large investment of time and money. Staff at a public (locality-run) residential

<sup>1</sup> 9341\*.25\*\$11\*1/2 hour = \$12,843.88...9341\*.25\*\$12\*1/2 hour = \$14,011.5

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facility reports that the YMCA lifeguard training costs \$200 plus 39 hours of staff time; total cost to train one staff member in lifeguard skills (assuming an hourly wage of \$11-\$12) will range between approximately \$630 and \$670. If each of the 244 non-Department of Juvenile Justice (DJJ) residential facilities trained one staff member as a lifeguard, the total cost would range between approximately \$153,700 and \$163,500. Costs for lifeguard training could easily balloon into a significantly larger dollar figure if facilities chose to have multiple staff members undergo lifeguard training or if facilities had to keep retraining new staff due to high turnover.

All of these provisions will also provide benefits. Written medical policies are likely easy to pull out and check if there is a question about medication issues and might save staff time that might otherwise be spent tracking down other staff or supervisors to answer questions. Medication policies that are approved by a medical professional might be more accurate and useful than policies developed without expert input. Requiring contact between staff and a prescribing entity in the event of medication refusal might allow staff to get advice on effects of skipped medication or likely reasons that medication might be refused (bad taste, etc) so that those reasons might be addressed. Having lifeguards supervise aquatic activities might help stop a high cost, very low probability event like a drowning or severe water related injury. For most of these provisions these benefits might only partially outweigh associated costs.

**Emergency Changes to Required Education and Experience:** The (non-legislative mandate driven) emergency provisions that will likely cost the most for regulated entities deal with education and experience requirements for various staff positions in residential facilities. At all levels, emergency regulations imposed higher, more restrictive standard for staffing than did previous permanent regulations.

CAO's, for instance, were previously required to have a baccalaureate degree in the field of human services, institutional management, social work, education or a related discipline, or any other type of baccalaureate degree plus two years of "successful work experience with children in the field of institutional management, social work, education or other allied profession." Emergency regulations increased the qualifications that newly hired CAO's must have and/or narrowed the fields of study that are acceptable. CAO's now must have either 1) a master's degree in social work, psychology, counseling or nursing plus two years of full time work experience in a children's residential facility (one of these years must be supervisory work), 2) a baccalaureate degree in social work, psychology, counseling or nursing plus three years full time work experience with children (two of these years must be full time work experience in a children's residential facility and one of these years must be supervisory work), 3) a master's degree in education plus two years of full time work experience in a children's residential facility (one

of these years must be supervisory work), 4) for CAO's that will staff facilities whose lead agency is the Department of Education (DOE), a baccalaureate degree in education plus three years full time work experience with children (two of these years must be full time work experience in a children's residential facility and one of these years must be supervisory work) or 5) any other type of baccalaureate degree plus seven years of full time paid work experience with children (four of these years must be full time work experience in a children's residential facility and two of these years must be supervisory work).

Although there are more bundles of education and experience that will allow individuals to work as a CAO of a children's residential facility, all bundles allowed by the emergency regulations, and these proposed regulations, are more restrictive and more costly. Each affected entity will either incur thousands of dollars worth of extra educational expenses or likely large cumulative wage losses due to experience requirements that will delay entry into a, likely higher paying, CAO position or will incur both increased educational costs and wage losses. All CAO's hired in private non-profit or for-profit non-DJJ licensed facilities after the effective date of this proposed regulations will have to meet new required qualifications. DJJ licensed facilities follow separate hiring guidelines that are not changing with this regulatory action. Facilities that are run by localities may use state hiring guidelines or may use locality specific hiring guidelines. There are 238 facilities in the Commonwealth that will be required to only hire individuals that meet these new more stringent qualifications.

DSS, The Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) and DOE report that these changes are being made because 1) they are in the models guidelines of the Child Welfare league of America (CWLA), 2) several surrounding states have qualification restrictions that are more stringent than those in Virginia's regulations (pre-December 2006) and 3) The Boards have been concerned that a increase in applications for for-profit residential facilities has lead to or will lead to lower quality of care for children placed in those facilities. Although agency staff reports that there is anecdotal evidence to show that facilities have greater compliance issues, they had not gathered any data that could be analyzed to ascertain whether there is quantitative evidence of more severe or more numerous compliance issues (that cannot be explained by the growth in the number of licensed facilities). No research was presented which would suggest that measurable outcomes for residential children were improved by having staff meet more stringent educational requirements than they were already meeting under pre-emergency regulations.

One study is available which does provide some evidence that, in general industry, individuals who have earned a master's degree do not do a measurably better job than their

cohorts that have only earned a bachelor's degree.<sup>2</sup> The paper's authors concluded "results indicate that companies in their search for the right CEO should not focus too much attention on the educational background of a CEO candidate if better firm performance is the goal." This research, while not directly on point, does bring into question whether requiring more education will actually benefit the children being served. The costs for implementing this provision will be delayed, since they affect only new hires or individuals who move from one facility to another, but these costs likely will be greater than the benefits that might arise from staff having more education.

Under the emergency regulations now in place and these proposed regulations, the positions of Program Director and Case Manager were subject to increases of education/experience requirements that were similar in scope to those which affected CAO's. Child Care Supervisors qualification requirements have changed less drastically from pre-December 2006 standards. The types of baccalaureate degrees that would be deemed acceptable have narrowed considerably under the emergency regulations now in place and these proposed regulations. Any four-year degree from an accredited college was acceptable before; now only degrees in psychology or social work will be accepted (for the education/experience bundle that requires a college degree).

Child Care Staff qualification requirements have changed only slightly from pre-December 2006 standards. A few months experience are required under most paths to employment and minimum age for these workers has been increased from 18 to 21. The change in age requirements will likely provide a benefit for both staff and residents. For the portion of the resident population that is composed of older teens and for staff that is about the same age, this change will likely change the perception that the staff in charge are peers rather than adults and may help curtail any inappropriate interaction between the two groups. Because there is such a high turnover rate for child care staff, and because some facilities apparently have difficulty hiring as many people as they need to meet staff ratios; the increased education/experience requirements, minimal though they are, may exacerbate staffing difficulties.

**New Requirements at the Proposed Stage. Staff to Resident Ratios:** Current regulation has several different staffing ratios for different types of programs. In general, a staffing ration of 1:10 is allowable during waking hours unless the residential facility served a target group with its own ratio. Independent living facilities are required to maintain a staffing ratio of 1:15 during waking hours. Programs that serve children under four years old are required to maintain a staffing ratio of 1:3 during waking hours. Programs that

house severely handicapped, non-ambulatory children are required to maintain a staffing ratio of 1:6. Programs that accept teenage mothers and their children must maintain a staffing ratio of 1:6. Programs licensed by DMHMRSAS must currently maintain a staffing ratio of at least 1:8 (residents that receive Medicaid funding must be staffed at a lower ratio than this). Nighttime staffing ratios are currently somewhat looser; with the exception of mother/child programs, nighttime hours must be staffed at a ratio of 1:16. Mother/child programs must currently maintain a nighttime staffing ratio of 1:10.

The Boards propose to repeal these separate standards and require a staffing ratio of 1:8, while also requiring that all proposed staffing ratios be approved by the lead licensing agency. Facilities will have the option of applying for a variance that will allow a staffing ratio that is higher than 1:8. The proposed regulation's language is less clear about staffing ratios than previous standards and can be enforced in many ways. Lead agencies might allow variances for all programs which currently have staffing ratios higher than 1:8 or they might deny most or all variance requests. Given the rationale for this regulatory change (to better reflect current industry practices and better meet child advocacy guidelines), there are likely to be at least some staff increases required under the new regulations. While there will be costs associated with staff increases (additional salaries, training, etc.), there will also likely be benefits for both residents and other staff. Residents would likely get more individualized care with lower staffing ratios and staff will likely experience a less stressful work atmosphere. It is nearly impossible to know whether benefits will outweigh costs without knowing how many staff positions will have to be added industry wide.

**Staff Training:** Current regulation requires that newly hired staff receive basic orientation on their facilities intervention policies, procedures and techniques. New staff and staff that are transferred from one facility to another must also currently receive training in the objectives and confidentiality practices of the facility. Additionally, staff that will be charged with dispensing medication must successfully complete a medication training program, which requires 32 hours of training and costs approximately \$200 per group in fees; even small facilities have to train their staff in more than one group since some staff would have to care for residents while other staff are being trained. Facilities are currently required to have one staff member who is certified in CPR and first aid on premises at all times; this training takes approximately 8 hours per staff employee and costs approximately \$65 per employee<sup>3</sup>; employees would require recertification every three years. DMHMRSAS staff are all currently required to receive annual training in recognizing child abuse and neglect, mandatory reporting requirements, maintaining professional relationships and suicide prevention;

<sup>2</sup> Gottesman, Aron A. and Morey, Matthew R., "Does a Better Education Make For Better Managers? An Empirical Examination of CEO Educational Quality and Firm Performance" (April 21, 2006). Available at SSRN: <http://ssrn.com/abstract=564443>

<sup>3</sup> This is the fee that the Red Cross charges for combined CRP and first aid training.

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this training requires approximately 8 hours and may or may not require payment of fees.

These proposed regulations will require that all residential facility staff be certified in first aid and CPR, as well as receive initial and annual training in child abuse and neglect, mandatory reporting requirements, maintaining professional relationships and suicide prevention. Staff will also be newly required to receive initial training regarding:

- quality improvement procedures (approximately one hour)<sup>4</sup>,
- these regulations (six hours) and
- their facility's decision-making plan (approximately 1/4 to 1/2 hour)

All staff will newly be required to receive annual, refresher, training regarding:

- emergency preparedness (two hours),
- medication administration (1-2 hours) and
- facility procedures regarding universal precautions (approximately one hour).

All staff will also have to complete an additional 15 hours of "training applicable to their job duties."

Using CRF regulator estimates for average hourly wages (\$11-\$12), assuming an average turnover rate of 25% and holding staff numbers constant at current levels (9,341 individuals are currently employed by regulated residential facilities), the total cost, minus fees<sup>5</sup>, for newly required initial training would range between approximately \$186,240 and \$210,170<sup>6</sup> for all facilities. Facilities will also incur greater costs arising from the new requirement that all staff be trained in CPR and first aid. Costs for newly required annual training, minus fees, will likely range between approximately \$1,952,270 and \$2,241,840 each year.<sup>7</sup> Actual costs are likely to be higher than these estimates because the number of individuals employed by residential facilities is likely to grow as new facilities open and fees will likely be incurred for at least some portion of the required training.

Staff and residents of facilities will likely both see benefits as training improves staff competency. This will likely particularly be true for training that covers emergency preparedness, administration of medication and other safety specific training. Benefits would have to be fairly large to outweigh the costs that will be incurred.

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<sup>4</sup> A CRF regulator provided estimates on how long each training requirement would take to complete.

<sup>5</sup> Agencies do not have any estimates for fees that might be incurred for this training.

<sup>6</sup>  $9341 * .25 * \$11 * 7.25 \text{ hours} = \$186,236.18$ ...  $9341 * .25 * \$12 * 7.5 \text{ hours} = \$210,172.5$

<sup>7</sup>  $9341 * \$11 * 19 \text{ hours} = \$1,952,269$ ...  $9341 * \$12 * 20 \text{ hours} = \$2,241,840$ . These costs DO NOT include first aid and CPR training since I cannot estimate how many additional employees would have to be trained.

Other Substantive Provisions: The Boards propose several other substantive changes which will have non-negligible costs. The Boards propose to require prescriptions for all over-the-counter medications that are dispensed in residential facilities. Agency representatives report that this action is being taken to reduce the rate of medication errors and/or misuse and that facilities have been expected to comply with the requirement (contained in Interdepartmental Program guidance language) for several years. While there may be some benefit to requiring all residential facilities to follow this policy, it is not at all apparent that these benefits outweigh the costs, in staff time spent (policing residents and obtaining prescriptions) and in delayed treatment of minor ailments (headache, stuffy nose, etc.).

The Boards propose to require a decreased ratio of bathroom appointments for all new residential facilities licensed after the effective date of these regulations. Currently, buildings constructed prior to 1981 must have one full, working bathroom for every eight residents. Any buildings constructed after 1981, or renovated after 1981 are required to have one full, working bathroom for every four residents. The Boards propose to require all newly licensed facilities meet the more restrictive, four residents to a bathroom, standard. This will cause newly licensed facilities to incur costs that they would not otherwise bear and may serve as a minor barrier to entry.

The Boards also propose to require that all swimming activities be supervised by a certified lifeguard. The emergency regulations require all aquatic activities that take place during extended recreational trips have to be supervised by a certified lifeguard. The proposed standard is less restrictive, in part, because only swimming activities will require lifeguard supervision; the standard is more restrictive, in part, because lifeguard supervision will be required for all swimming activities and not just those that occur during extended recreational trips. For costs and benefits, see discussion above under Additional Emergency Provisions. Finally, the Boards propose to require a new licensure fee. The Boards propose to require new non-profit and for-profit applicants for licensure to pay a \$500 licensure fee. Regulators who are renewing their licenses, either annually or triennially, will be required to pay a \$100 licensure fee. A CRF regulator reports that fees collected will be used to pay for training for regulators as well as residential facility staff. Details of this training are not currently available. Whatever benefits this training might bring about would have to be weighed against the cost, particularly for facilities that are seeking licensure. This fee may serve as a barrier to entry for applicants for licensure.

Businesses and Entities Affected. These proposed regulations will affect all public and private (non-profit and for-profit) residential facilities as well as individuals employed by, and children who live in, residential facilities. Currently, the Boards collectively license 306 facilities.

The Boards license 82 public facilities which are operated mainly by localities. Of these, DSS is the lead agency for 6 facilities, DJJ is the lead agency for 62 facilities, DMHMRSAS is the lead agency for 12 facilities and DOE is the lead agency for 2 facilities.

The Boards license 114 private, for-profit facilities. Of these, DSS is the lead agency for 47 facilities, DMHMRSAS is the lead agency for 61 facilities and DOE is the lead agency for 6 facilities.

The Boards license 110 private, non-profit facilities. Of these, DSS is the lead agency for 44 facilities and DMHMRSAS is the lead agency for 66 facilities.

**Localities Particularly Affected.** Localities that have residential facilities housed within their borders will be particularly affected by these proposed regulations.

**Projected Impact on Employment.** Changing staff to resident ratios in the proposed regulations may increase employment opportunities within residential facilities. On the other hand, increasing requirements and costs associated with opening a new residential facility will tend to discourage new applicants for licensure. If new facilities never open on account of the proposed regulations, employment opportunities, that would have otherwise been available, will be lost.

**Effects on the Use and Value of Private Property.** The proposed regulations raise several barriers (higher initial licensure fees, more strict building standards, etc) to entry that may make existing private facilities more valuable when compared to residential facilities that might open in the future and may be subject to unique extra costs. These costs would tend to lower new facilities' profit margins and, consequently, these new businesses would likely be less valuable than facilities that predate the proposed regulations.

**Small Businesses: Costs and Other Effects.** The Boards currently license 114 private, for-profit residential homes; 112 of these qualify as small businesses. These businesses will have to pay increased costs for staff training (see discussion on training costs above) and will likely incur extra costs for increasing staff to resident ratios. New record keeping costs (for keeping student and intern records for three years) and new administrative costs (associated with compiling various written policy and procedures manuals) will also likely be incurred. These small businesses will, likely, also incur extra costs for salaries to pay staff that are subject to stricter education/experience requirements.

**Small Businesses: Alternative Method that Minimizes Adverse Impact.** The Boards might wish to reexamine the proposed increased training requirements to see whether resident care could be improved in a more cost effective manner. For instance, the Boards might wish to only require staff training that has been proved to improve health and safety outcomes for facility residents rather than requiring all

staff complete specific training plus 15 extra hours. Additionally, the Boards may wish to revisit the issue of increasing education/experience requirements, particularly for CAO's, Program Managers and Case Managers, to see if these new requirements will actually provide a benefit.

**Legal mandate.** 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. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Coordinating Committee for Interdepartmental Regulation of Children's Residential Facilities has the following comments regarding the economic impact statement. No comments were received from the Departments of Education or Juvenile Justice.

The Department of Planning and Budget refers to the Department of Social Services (DSS) throughout the report. In many instances the reference to DSS should state children's residential facility regulators or the Interdepartmental Regulation Program to indicate that regulatory staff at the agencies and facilities regulated by the four departments were contacted for information, not just DSS staff and facilities.

The number of staff at children's residential facilities used in the report, 9,341, is an approximation. The accuracy of this figure is unknown.

All changes to the Standards for Interdepartmental Regulation of Children's Residential Facilities in the emergency regulation were based on legislative mandates. House Bill 2461 (2005) and Senate Bill 1304 (2005) required regulations

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that ensured the welfare and safety of residents. Several of the changes found in the emergency regulation were made as the result of this legislative requirement.

The proposed regulation requires certified life guards for swimming activities, not all aquatic activities. Most children's residential facilities are concentrated in urban areas located in close proximity to swimming pools offering certified lifeguard services. It is unnecessary for each facility to have, on staff, a trained certified lifeguard. Those choosing swimming options that do not offer certified lifeguard services could contract for a life guard for the specific activity or choose to train a staff member. Although the summary suggests that drowning is a low probability, two residents of children's residential facilities drowned while swimming in rivers and lakes where no lifeguard was present and no attempt was made to save the residents. The youth were allowed to swim in dangerous areas and in conditions beyond their swimming capabilities. The summary did not discuss the economic impact of these deaths to the facilities and others involved other than to state that a death or injury would be a high cost event. The report also did not address the liability that the state faces knowing that deaths from drownings have occurred and not addressing safeguards to prevent future deaths.

In the section discussing qualifications, the three departments agreed on the qualification requirements because of the (1) guidelines suggested by Child Welfare League of America, (2) other states' qualification requirements, and (3) the qualification requirements of facilities that have a positive compliance licensing history. The departments' concern is not that lower qualifications have lead to an increase in applications. The concern is that the current lower qualifications have lead to lower quality of care. The summary does not take into account the number of facilities that already comply with the proposed qualification requirements.

The requirement that staff shall complete a 32-hour training program before they can administer medication is a current requirement and is not new in the proposed regulation. The Board of Nursing established the requirement for 32 hours of training.

The discussion on training does not include that it is unknown how many facilities already comply with the new training requirements.

The current regulation requires a prescription for all over-the-counter medications. This is not a new requirement in the proposed regulation. The requirement has been reworded to provide clarification.

## Summary:

*This is a joint action to repeal 22 VAC 42-10 and adopt a new regulation, 22 VAC 42-11, Standards for Interdepartmental Regulation of Children's Residential*

*Facilities. The regulation applies to all children's residential facilities licensed or certified by the Departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services. The proposed changes made to this regulation reflect changes to the children's residential facility industry in recent years, and in federal requirements regarding recordkeeping and behavior management. The proposed changes also incorporate the requirements found in Chapters 168 and 781 of the 2006 Acts of Assembly. Proposed substantive changes address changes in the types of licenses issued in response to compliance issues, summary suspensions, staff training requirements and qualifications, timely educational services, recordkeeping requirements, medication, staff supervision ratios, behavior management, recreation, emergency procedures, and community relations.*

## CHAPTER 11. STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S RESIDENTIAL FACILITIES.

### 22 VAC 42-11-10. Definitions.

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

"Allegation" means an accusation that a facility is operating without a license or receiving public funds for services it is not certified to provide.

"Annual" means within 12 months of the previous event or occurrence.

"Applicable state regulation" means any regulation that the promulgating state agency determines applies to the facility. The term includes, but is not necessarily limited to, modules, standards, and other regulations promulgated by the Departments of Education; Health; Housing and Community Development; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; or other state agencies.

"Applicant" means the person, corporation, partnership, association, or public agency that has applied for a license or certificate.

"Application" means a document completed by the facility to furnish the regulatory authority details about the facility's operations and includes certifications that the facility understands and intends to comply with regulatory requirements. An application includes inspection reports necessary to verify compliance with applicable requirements of other state agencies. An application is complete when all required information is provided and the application is signed and dated by the individual legally responsible for operation of the facility.

"Aversive stimuli" means physical forces (e.g., sound, electricity, heat, cold, light, water, or noise) or substances (e.g., hot pepper, pepper sauce, or pepper spray) measurable in duration and intensity that when applied to an individual, are noxious or painful to the individual, but in no case shall the term "aversive stimuli" include striking or hitting the individual with any part of the body or with an implement or pinching, pulling, or shaking the individual.

"Behavior support" means those principles and methods employed by a provider to help a child achieve positive behavior and to address and correct a child's inappropriate behavior in a constructive and safe manner in accordance with written policies and procedures governing program expectations, treatment goals, child and staff safety and security, and the child's service plan.

"Behavior support assessment" means identification of a resident's behavior triggers, successful intervention strategies, anger and anxiety management options for calming, techniques for self-management, and specific goals that address the targeted behaviors that lead to emergency safety interventions.

"Body cavity search" means any examination of a resident's rectal or vaginal cavities, except the performance of medical procedures by medical personnel.

"Case record" or "record" means up-to-date written or automated information relating to one resident. This information includes social data, agreements, all correspondence relating to care of the resident, service plans with periodic revisions, aftercare plans and discharge summary, and any other data related to the resident.

"Child" means any person legally defined as a child under state law. The term includes residents and other children coming in contact with the resident or facility (e.g., visitors). When the term is used, the requirement applies to every child at the facility regardless of whether the child has been admitted to the facility for care (e.g., staff/child ratios apply to all children present even though some may not be residents).

"Child-placing agency" means any person licensed to place children in foster homes or adoptive homes or a local board of public welfare or social services authorized to place children in foster homes or adoptive homes.

"Child with a visual impairment" means one whose vision after best correction limits the child's ability to profit from a normal or unmodified educational or daily living setting.

"Child with special needs" means a child in need of particular services because the child has mental retardation, a developmental disability, mental illness, emotional disturbance, a substance abuse problem, is in need of special educational services, or requires security services.

"Children's residential facility" or "facility" means a publicly or privately operated facility, other than a private family home, where 24-hour per day care is provided to children separated from their legal guardians and is required to be licensed or certified by the Code of Virginia except:

1. Any facility licensed by the Department of Social Services as a child-caring institution as of January 1, 1987, and that receives no public funds; and

2. Acute-care private psychiatric hospitals serving children that are licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services under Rules and Regulations for the Licensing of Providers of Mental Health, Mental Retardation, Substance Abuse, the Individual and Family Developmental Disabilities Support Waiver, and Residential Brain Injury Services, 12 VAC 35-105.

"Complaint" means an accusation against a licensed or certified facility regarding an alleged violation of standards or law.

"Corrective action plan" means violations documented by the regulatory authority and the facility's corrective action to the documented violations within a specified time frame.

"Confined in postdispositional detention" means that a court has sentenced the juvenile to a detention home for a period exceeding 30 days as found in § 16.1-284.1 B of the Code of Virginia.

"Contraband" means any item prohibited by law or by the rules and regulations of the agency, or any item that conflicts with the program or safety and security of the facility or individual residents.

"Corporal punishment" means punishment administered through the intentional inflicting of pain or discomfort to the body through actions such as, but not limited to (i) striking or hitting with any part of the body or with an implement; (ii) pinching, pulling, or shaking; or (iii) any similar action that normally inflicts pain or discomfort.

"Day" means calendar day unless the context clearly indicates otherwise.

"Detention home" or "secure detention" means a local, regional or state, publicly or privately operated secure custody facility that houses juveniles who are ordered detained pursuant to the Code of Virginia. The term does not include juvenile correctional centers.

"DJJ" means the Department of Juvenile Justice.

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

"DOE" means the Department of Education.

"DSS" means the Department of Social Services.

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"Emergency" means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action. Emergency does not include regularly scheduled time off for permanent staff or other situations that should reasonably be anticipated.

"Emergency admission" means the sudden, unplanned, unexpected admittance of a child who needs immediate care except self-admittance to a temporary care facility or a court-ordered placement.

"Goal" means expected results or conditions that usually involve a long period of time and that are written in behavioral terms in a statement of relatively broad scope. Goals provide guidance in establishing specific short-term objectives directed toward the attainment of the goal.

"Good character and reputation" means findings have been established and knowledgeable and objective people agree that the individual maintains business or professional, family and community relationships that are characterized by honesty, fairness, truthfulness, and dependability, and has a history or pattern of behavior that demonstrates that the individual is suitable and able to care for, supervise, and protect children. Relatives by blood or marriage, and persons who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references.

"Group home" means a children's residential facility that is a community-based, home-like single dwelling, or its acceptable equivalent, other than the private home of the operator, and serves up to 12 residents.

"Health record" means the file maintained by a provider that houses personal health information.

"Human research" means any systematic investigation utilizing human subjects that may expose such human subjects to physical or psychological injury as a consequence of participation as subjects and that departs from the application of established and accepted therapeutic methods appropriate to meet the subjects' needs.

"Immediately" means directly without delay.

"Independent living program" means a competency-based program that is specifically approved to provide the opportunity for the residents to develop the skills necessary to live successfully on their own following completion of the program.

"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the needs of a specific resident. It specifies measurable short and long-term goals, objectives, strategies and time frames for reaching the goals and the individuals responsible for carrying out a plan.

"Interdepartmental standards" means the standards for residential care that are common to the departments and that

must be met by a children's residential facility in order to qualify for a license or certificate.

"Juvenile correctional center" means a secure custody facility operated by, or under contract with, the Department of Juvenile Justice to house and treat persons committed to the department.

"Legal guardian" means the natural or adoptive parents or other person, agency, or institution that has legal custody of a child.

"License or certificate" means a document verifying approval to operate a children's residential facility and that indicates the status of the facility regarding compliance with applicable state regulations.

"Live-in staff" means staff who are required to be on duty for a period of 24 consecutive hours or more during each work week.

"Living unit" means the space in which a particular group of children in care of a residential facility reside. A living unit contains sleeping areas, bath and toilet facilities, and a living room or its equivalent for use by the residents of the unit. Depending upon its design, a building may contain one living unit or several separate living units.

"Mechanical restraint" means the use of an approved mechanical device that involuntarily restricts the freedom of movement or voluntary functioning of a limb or portion of a person's body as a means to control his physical activities when the individual receiving services does not have the ability to remove the device.

"Medication error" means that an error has been made in administering a medication to a resident when any of the following occur: (i) the wrong medication is given to a resident; (ii) the wrong resident is given the medication; (iii) the wrong dosage is given to a resident; (iv) medication is given to a resident at the wrong time or not at all; and (v) the proper method is not used to give the medication to a resident. A medication error does not include a resident's refusal of offered medication.

"Objective" means expected short-term results or conditions that must be met in order to attain a goal. Objectives are stated in measurable, behavioral terms and have a specified time for achievement.

"On duty" means that period of time during which a staff person is responsible for the supervision of one or more children.

"Parent" means a natural or adoptive parent or a surrogate parent appointed pursuant to DOE's regulations governing special education programs for students with disabilities. "Parent" means either parent unless the facility has been provided evidence that there is a legally binding instrument, a

state law or a court order governing such matters as divorce, separation, or custody, that provides to the contrary.

"Pat down" means a thorough external body search of a clothed resident.

"Personal health information" means the information that encompasses the universe of oral, written or otherwise recorded information that is created or received by an entity and relating to either an individual's physical or mental health or the provision of or payment for health care to an individual.

"Pharmacological restraint" means the use of a medication that is administered involuntarily for the emergency control of an individual's behavior when the administered medication is not a standard treatment for the individual's medical or psychiatric condition when that individual's behavior places him or others at imminent risk.

"Physical restraint" (also referred to as a "manual hold") means use of a physical intervention or "hands-on" hold to prevent an individual from moving his body when that individual's behavior places him or others at imminent risk.

"Placement" means an activity by any person that provides assistance to a parent or legal guardian in locating and effecting the movement of a child to a foster home, adoptive home, or children's residential facility.

"Premises" means the tracts of land on which any part of a residential facility for children is located and any buildings on such tracts of land.

"Provider" or "licensee" means the person, corporation, partnership, association, or public agency to whom a license or certificate is issued and who is legally responsible for compliance with the standards and statutory requirements relating to the facility.

"Regulatory authority" means the department or state board that is responsible under the Code of Virginia for the licensure or certification of a children's residential facility.

"Resident" means a person admitted to a children's residential facility for supervision, care, training or treatment on a 24-hour per day basis.

"Respite care facility" means a facility that is specifically approved to provide short-term, periodic residential care to children accepted into its program in order to give the legal guardians temporary relief from responsibility for their direct care.

"Rest day" means a period of not less than 24 consecutive hours during which a staff person has no responsibility to perform duties related to the facility.

"Right" is something to which one has a legal or contractual claim.

"Routine admission" means the admittance of a child following evaluation of an application for admission and execution of a written placement agreement.

"Rules of conduct" means a listing of rules or regulations that is maintained to inform residents and others about behaviors that are not permitted and the consequences applied when the behaviors occur.

"Sanitizing agent" means any substance approved by the Environmental Protection Agency to destroy bacteria.

"Seclusion" means the involuntary placement of an individual alone, in an area secured by a door that is locked or held shut by a staff person, by physically blocking the door, or by any other physical or verbal means so that the individual cannot leave it.

"Secure custody facility" means a detention home or a juvenile correctional center.

"Self-admission" means the admittance of a child who seeks admission to a temporary care facility as permitted by Virginia statutory law without completing the requirements for "routine admission."

"Severe weather" means extreme environment or climate conditions that pose a threat to the health, safety, or welfare of residents.

"Shall" means an obligation to act is imposed.

"Shall not" means an obligation not to act is imposed.

"Standard" means a statement that describes in measurable terms a required minimum performance level.

"Strategies" means a series of steps and methods used to meet goals and objectives.

"Strip search" means a visual inspection of the body of a resident when that resident's outer clothing or total clothing is removed and an inspection of the removed clothing. Strip searches are conducted for the detection of contraband.

"Structured program of care" means a comprehensive planned daily routine including appropriate supervision that meets the needs of each resident both individually and as a group.

"Student/intern" means an individual who simultaneously is affiliated with an educational institution and a residential facility. Every student/intern who is not an employee is either a volunteer or contractual service provider depending upon the relationship among the student/intern, educational institution, and facility.

"Systemic deficiency" means violations documented by the regulatory authority that demonstrate defects in the overall operation of the facility or one or more of its components.

"Target population" means individuals with a similar, specified characteristic or disability.

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"Temporary care facility" means a facility or an emergency shelter specifically approved to provide a range of services, as needed, on an individual basis not to exceed 90 days, except that this term does not include secure detention facilities.

"Temporary contract worker" means an individual who is not a direct salaried employee of the provider but is employed by a third party and is not a consistently scheduled staff member.

"Therapy" means provision of direct diagnostic, preventive and treatment services where functioning is threatened or affected by social and psychological stress or health impairment.

"Time out" means the involuntary removal of an individual by a staff person from a source of reinforcement to a different open location for a specified period of time or until the problem behavior has subsided to discontinue or reduce the frequency of problematic behavior.

"Treatment" means individually planned, sound, and therapeutic interventions that are intended to improve or maintain functioning of an individual receiving services in those areas that show impairment as the result of mental disability, substance addiction, or physical impairment. In order to be considered sound and therapeutic, the treatment must conform to current acceptable professional practice.

"Variance" means temporary or permanent waiver of compliance with a standard or portion of a standard, or permission to meet the intent of the standard by a method other than that specified in the standard, when the regulatory authority, in its sole discretion, determines: (i) enforcement will create an undue hardship and (ii) resident care will not be adversely affected. The denial of a request for a variance is appealable when it leads to the denial or revocation of a license or certificate.

"Wilderness program" means a facility specifically approved to provide a primitive camping program with a nonpunitive environment and an experience curriculum for residents nine years of age and older who cannot presently function in home, school, and community. In lieu of or in addition to dormitories, cabins or barracks for housing residents, primitive campsites are used to integrate learning, mentoring, and group process with real living needs and problems for which the resident can develop a sense of social responsibility and self worth.

## **22 VAC 42-11-20. Interdepartmental cooperation.**

The Departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services shall assist and cooperate with each other in the licensing and certification of children's residential facilities.

## **22 VAC 42-11-30. Applications.**

A. Initial applications.

1. A completed application includes, but is not limited to, an initial application form; proposed working budget for the year showing projected revenue and expenses for the first year of operation and a balance sheet showing assets and liabilities; evidence of financial resources or a line of credit sufficient to cover estimated operating expenses for 90 days unless the facility is operated by a state or local government agency, board, or commission; a description of the program; a proposed staffing/supervision plan including the staff information sheet; copies of all job descriptions; evidence of the applicant's authority to conduct business in Virginia; a copy of the floor plan with dimensions of rooms; a certificate of occupancy; current health inspection; evidence of consultation with state or local fire prevention authorities; a list of board members, if applicable; three references for the applicant; and, if required by the regulatory authority, references for three officers of the board if applicable. This information must be submitted to and approved by the lead regulatory agency in order for the application to be considered complete.

2. All initial applications that are not complete within 12 months will be closed.

3. Facilities operated by state or local government agencies, boards, and commissions shall submit evidence of sufficient funds to operate including a working budget showing appropriated revenue and projected expenses for the coming year.

4. Currently licensed providers must demonstrate that they are operating in substantial compliance with applicable regulations before new facilities operated by the same provider will be licensed.

B. Renewal applications. A completed application for renewal of a facility's license or certificate shall be submitted within 30 days after being notified to submit a renewal application.

## **22 VAC 42-11-40. Investigation.**

The regulatory authority or regulatory authorities will arrange and conduct an on-site inspection of the facility and a thorough review of the services, and investigate the character, reputation, status, and responsibility of the applicant.

## **22 VAC 42-11-50. Review of facilities.**

A. Representatives of the departments shall make announced and unannounced reviews during the effective dates of the license/certificate. The purpose of these reviews is to monitor compliance with applicable standards.

B. The regulatory authority shall notify relevant local governments and placing and funding agencies, including the Office of Comprehensive Services, of multiple health and safety or human rights violations in children's residential facilities when such violations result in the lowering of the license or certificate to provisional status.

**22 VAC 42-11-60. Posting of information.**

A. Information concerning the application for initial licensure of children’s residential facilities shall be posted to the Interdepartmental Regulation website by locality.

B. An accurate listing of all licensed or certified facilities including information on renewal, denial, or provisional licensure, services and identification of the lead regulatory authority shall be posted to the Interdepartmental Regulation website by locality.

**22 VAC 42-11-70. General requirements.**

A. The facility shall demonstrate full compliance with sufficient applicable standards to clearly demonstrate that its program and physical plant provides reasonably safe and adequate care while approved plans of action to correct findings of noncompliance are being implemented and there are no noncompliances that pose an immediate and direct danger to residents.

B. Corporations sponsoring residential facilities for children shall maintain their corporate status in accordance with Virginia law.

C. The facility shall comply with the terms of its license or certificate.

D. A license or certificate is not transferable and automatically expires when there is a change of ownership or sponsorship.

E. The current license or certificate shall be posted at all times in a place conspicuous to the public.

F. A license or certificate shall not be issued to a facility when noncompliance poses an immediate danger to the resident’s life, health, or safety.

G. Intermediate sanctions authorized by statute may be imposed at the discretion of the regulatory authorities.

H. Each facility shall self-report within 72 hours, to the lead regulatory agency, lawsuits against or settlements with residential facility operators relating to the health and safety or human rights of residents and any criminal charges against staff that may have been made relating to the health and safety or human rights of residents.

I. The provider shall comply with all other applicable federal, state, or local laws and regulations.

J. The provider’s current policy and procedure manual shall be readily accessible to all staff.

K. The provider shall comply with their own policies and procedures.

**22 VAC 42-11-80. Written corrective action plans.**

A. If there is noncompliance with any of these standards during an initial or ongoing review or investigation, the

regulatory authority shall issue a licensing report describing the noncompliance and requesting the provider to submit a corrective action plan.

B. The provider shall submit to the regulatory authority and implement a written corrective action plan for each standard found to be in noncompliance as identified on the licensing report.

C. The plan of corrective action shall include a:

1. Description of each corrective action to be taken and person responsible for implementation;
2. Date of completion for each action; and
3. Signature of the person responsible for oversight of the implementation of the pledged corrective action.

D. The provider shall submit the corrective action plan to the regulatory authority within 15 business days of the issuance of the licensing report. Extensions may be granted by the regulatory authority when requested prior to the due date, but extensions shall not exceed an additional 10 business days. An immediate corrective action shall be required if the regulatory authority determines that the violations are related to the health, safety or welfare of residents.

E. A corrective action plan shall be approved by the regulatory authority. The provider has an additional 10 business days to submit a revised corrective action plan after receiving a notice that the plan submitted has not been approved.

**22 VAC 42-11-90. Licenses and certificates.**

A. The Board of Juvenile Justice shall issue a certificate to each facility regulated by the board indicating the facility’s certification status when the facility is in compliance with these interdepartmental standards, other applicable regulations issued by the board, and applicable statutes. The certificate shall be effective for the period specified by the board unless it is revoked or surrendered sooner.

B. Facilities regulated by DOE, DMHMRSAS, or DSS.

1. A conditional license shall be issued to a new provider that demonstrates compliance with administrative and policy requirements but has not demonstrated compliance with all the Interdepartmental Standards. A conditional license shall not exceed six months unless allowed by the Code of Virginia.

2. A provisional license may be issued to a provider that has demonstrated an inability to maintain compliance with the Interdepartmental Standards or other applicable regulations; has violations of licensing standards that pose a threat to the health or safety of residents being served; has multiple violations of licensing standards; or has failed to comply with a previous corrective action plan and has one or more systemic deficiencies.

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- a. A provisional license may be issued at any time.
- b. The term of a provisional license may not exceed six months unless allowed by the Code of Virginia.

### 3. An annual license or certificate:

a. Shall be issued when the provider applies for renewal while holding a conditional or provisional license or certificate and substantially meets or exceeds the requirements of the Interdepartmental Standards and other regulations and statutes.

b. May be issued at any time if the provider has received one systemic deficiency.

c. May be renewed, but an annual license or certificate and any renewals thereof shall not exceed a period of 36 successive months for all annual licenses and renewals combined.

### 4. A triennial license or certificate shall be issued when the provider:

a. Applies for renewal while holding an annual or triennial license or certificate; and

b. Substantially meets or exceeds the requirements of the Interdepartmental Standards and other applicable regulations and statutes.

C. The term of a facility's license or certificate may be modified at any time during the licensure or certification period based on a change in the facility's compliance with this regulation.

### **22 VAC 42-11-100. Application fees.**

A. There shall be a \$500 nonrefundable initial application fee. If the application is closed, denied, or withdrawn all subsequent initial applications will require another \$500 fee.

B. There shall be a \$100 nonrefundable renewal application fee.

C. No renewal fee will be charged to providers directly following the issuance of a conditional license.

D. This application fee does not apply to state or locally owned, operated, or contracted facilities.

E. Such fees are to be used for the development and delivery of training for providers and staff of children's residential facilities and regulators of these facilities.

### **22 VAC 42-11-110. Modification.**

A. The conditions of a license or certificate may be modified during the term of the license or certificate with respect to the capacity, residents' age range, facility location, gender, or changes in the services. Limited modifications may be approved during the conditional licensure or certification period.

B. The provider shall submit a written report of any contemplated changes in operation that would affect the terms of the license or certificate or the continuing eligibility for licensure or certification to the lead regulatory authority.

C. A change shall not be implemented prior to approval by the regulatory authority. A determination will be made as to whether changes will be approved and the license or certificate modified accordingly or whether an application for a new license or certificate must be filed. The provider will be notified in writing within 60 days following receipt of the request as to whether the modification is approved or a new license or certificate is required.

### **22 VAC 42-11-120. Denial.**

A. An application for licensure or certification may be denied when the applicant:

1. Violates any provision of applicable laws or regulations made pursuant to such laws;

2. Has a founded disposition of child abuse or neglect after the appeal process has been completed;

3. Has been convicted of a crime listed in § 37.2-416 or 63.2-1726 of the Code of Virginia;

4. Has made false statements on the application or misrepresentation of facts in the application process;

5. Has not demonstrated good character and reputation as determined through references, background investigations, driving records, and other application materials; or

6. Has a history of adverse licensing actions or sanctions.

B. If denial of a license or certificate is recommended, the facility will be notified in writing of the deficiencies, the proposed action, the right to appeal, and the appeal process.

### **22 VAC 42-11-130. Revocation.**

A. The license or certificate may be revoked when the provider:

1. Violates any provision of applicable laws or applicable regulations made pursuant to such laws;

2. Engages in conduct or practices that are in violation of statutes related to abuse or neglect of children;

3. Deviates significantly from the program or services for which a license or certificate was issued without obtaining prior written approval from the regulatory authority or fails to correct such deviations within the specified time; or

4. Engages in a willful action or gross negligence that jeopardizes the care or protection of residents.

B. If revocation of a license or certificate is recommended, the facility will be notified in writing of the deficiencies, the proposed action, the right to appeal, and the appeal process.

**22 VAC 42-11-140. Summary suspension.**

A. In conjunction with any proceeding for revocation, denial, or other action, when conditions or practices exist that pose an immediate and substantial threat to the health, safety, and welfare of the residents, the lead regulatory authority agency head may issue an order of summary suspension of the license or certificate to operate a children's residential facility when he believes the operation of the facility should be suspended during the pendency of such proceeding.

B. Prior to the issuance of an order of summary suspension, the regulatory authority shall contact the Executive Secretary of the Supreme Court of Virginia to obtain the name of a hearing officer. The lead regulatory authority shall schedule the time, date, and location of the administrative hearing with the hearing officer.

C. The order of summary suspension shall take effect upon its issuance. It shall be delivered by personal service and certified mail, return receipt requested, to the address of record of the facility as soon as practicable. The order shall set forth:

1. The time, date, and location of the hearing;
2. The procedures for the hearing;
3. The hearing and appeal rights; and
4. Facts and evidence that formed the basis for the order of summary suspension.

D. The hearing shall take place within three business days of the issuance of the order of summary suspension.

E. The regulatory authority shall have the burden of proving in any summary suspension hearing that it had reasonable grounds to require the facility to cease operations during the pendency of the concurrent revocation, denial, or other proceeding.

F. The administrative hearing officer shall provide written findings and conclusions, together with a recommendation as to whether the license or certificate should be summarily suspended, to the lead regulatory authority agency head within five business days of the hearing.

G. The lead regulatory authority agency head shall issue a final order of summary suspension or make a determination that the summary suspension is not warranted based on the facts presented and the recommendation of the hearing officer within seven business days of receiving the recommendation of the hearing officer.

H. The lead regulatory authority agency head shall issue and serve on the children's residential facility or its designee by personal service or by certified mail, return receipt requested, either:

1. A final order of summary suspension including (i) the basis for accepting or rejecting the hearing officer's

recommendations and (ii) notice that the children's residential facility may appeal the lead regulatory authority head's decision to the appropriate circuit court no later than 10 days following issuance of the order; or

2. Notification that the summary suspension is not warranted by the facts and circumstances presented and that the order of summary suspension is rescinded.

I. The facility may appeal the lead regulatory authority agency head's decision on the summary suspension to the appropriate circuit court no more than 10 days after issuance of the final order.

J. The outcome of concurrent revocation, denial, and other proceedings shall not be affected by the outcome of any hearing pertaining to the appropriateness of the order of summary suspension.

K. At the time of the issuance of the order of summary suspension, the lead regulatory authority shall contact the appropriate agencies to inform them of the action and the need to develop relocation plans for residents, and ensure that parents and guardians are informed of the pending action.

**22 VAC 42-11-150. Variances.**

A. Any request for a variance shall be submitted in writing to the regulatory authority and should include a:

1. Justification why enforcement of the standard would create an undue hardship; and
2. Justification why resident care would not be adversely affected if the variance was granted.

B. A variance shall not be effected prior to approval of the regulatory authority.

**22 VAC 42-11-160. Investigation of complaints and allegations.**

The Departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Service; and Social Services are responsible for complete and prompt investigation of all complaints and allegations at the facilities where they have regulatory authority, and for notification of the appropriate persons or agencies when removal of residents may be necessary. Suspected criminal violations shall be reported to the appropriate law-enforcement authority.

**22 VAC 42-11-170. Governing body.**

A. The provider shall clearly identify the corporation, association, partnership, individual, or public agency that is the licensee.

B. The provider shall clearly identify any governing board, body, entity or person to whom it delegates the legal responsibilities and duties of the provider.

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## **22 VAC 42-11-180. Responsibilities of the provider.**

A. The provider shall appoint a qualified chief administrative officer to whom it delegates, in writing, the authority and responsibility for administrative direction of the facility.

B. The provider shall develop and implement a written decisionmaking plan that shall provide for a staff person with the qualifications of the chief administrative officer or program director to be designated to assume the temporary responsibility for the operation of the facility. Each plan must be approved by the regulatory agency and include an organizational chart.

C. The provider shall develop a written statement of the objectives of the facility including a description of the target population and the programs to be offered.

D. The provider shall develop and implement written policies and procedures to monitor and evaluate service quality and effectiveness on a systematic and on-going basis. The provider shall implement improvements when indicated.

## **22 VAC 42-11-190. Fiscal accountability.**

A. Facilities operated by corporations, unincorporated organizations or associations, individuals, or partnerships shall prepare at the end of each fiscal year:

1. An operating statement showing revenue and expenses for the fiscal year just ended;
2. A working budget showing projected revenue and expenses for the next fiscal year that gives evidence that there are sufficient funds to operate; and
3. A balance sheet showing assets and liabilities for the fiscal year just ended.

B. There shall be a system of financial recordkeeping that shows a separation of the facility's accounts from all other records.

C. The provider shall develop and implement written policies and procedures that address the day-to-day handling of facility funds to include:

1. Handling of deposits;
2. Writing of checks; and
3. Handling of petty cash.

## **22 VAC 42-11-200. Insurance.**

A. The facility shall maintain liability insurance covering the premises and the facility's operations.

B. The facility shall provide documentation that all vehicles used to transport residents are insured, including vehicles owned by staff.

C. The members of the governing body and staff who have been authorized to handle the facility's or residents' funds

shall be bonded or otherwise indemnified against employee dishonesty.

## **22 VAC 42-11-210. Fundraising.**

The facility shall not use residents in its fundraising activities without written permission of the legal guardian and the permission of residents 14 years or older.

## **22 VAC 42-11-220. Weapons.**

The facility shall develop and implement written policies and procedures governing the possession and use of firearms, pellet guns, air guns, and other weapons on the facility's premises and on facility related activities. The policy shall provide that no firearms, pellet guns, air guns, or other weapons shall be permitted on the premises or at facility-sponsored activities unless the weapons are:

1. In the possession of licensed security personnel or law-enforcement officers;
2. Kept securely under lock and key; or
3. Used by a resident with the legal guardian's permission under the supervision of a responsible adult in accord with policies and procedures developed by the facility for the weapons' lawful and safe use.

## **22 VAC 42-11-230. Relationship to regulatory authority.**

A. The provider shall submit or make available to the regulatory authority such reports and information as the regulatory authority may require to establish compliance with these interdepartmental standards and other applicable regulations and statutes.

B. The governing body or its official representative shall notify the regulatory authorities within five working days of any change in administrative structure or newly hired chief administrative officer.

## **22 VAC 42-11-240. Facilities serving persons over the age of 17 years.**

Facilities that are approved to serve persons over the age of 17 years shall comply with these interdepartmental standards for all occupants regardless of age, except when it is determined by the regulatory authorities that housing, programs, services, and supervision for such persons are provided separately from those for the residents.

## **22 VAC 42-11-250. Health information.**

A. Health information required by this section shall be maintained for each staff member and for each individual who resides in a building occupied by residents, including each person who is not a staff member or resident of the facility. Health information is to be handled, maintained and stored in a fashion that maintains confidentiality of the information at all times.

B. Tuberculosis evaluation.

1. At the time of hire, each individual shall submit the results of a screening assessment documenting the absence of tuberculosis in a communicable form as evidenced by the completion of a form containing, at a minimum, the elements of a current screening form published by the Virginia Department of Health. The screening assessment shall be no older than 30 days.

2. Each individual shall annually submit the results of a screening assessment, documenting that the individual is free of tuberculosis in a communicable form as evidenced by the completion of a form containing, at a minimum, the elements of a current screening form published by the Virginia Department of Health.

**C. Subsequent evaluations for tuberculosis.**

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

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

**D. An individual suspected of having infectious tuberculosis shall not be permitted to return to work or have contact with staff or residents until a physician has determined that the individual is free of infectious tuberculosis.**

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

**22 VAC 42-11-260. Physical or mental health of personnel.**

A. The provider or the regulatory authority may require a report of examination by a licensed physician or mental health professional when there are indications that an individual's physical, mental, or emotional health may jeopardize the care of residents.

B. An individual who is determined by a licensed physician or mental health professional to show an indication of a physical or mental condition that may jeopardize the safety of residents or that would prevent the performance of duties shall be removed immediately from contact with residents and food served to residents until the condition is cleared as evidenced by a signed statement from the physician or mental health professional.

**22 VAC 42-11-270. Qualifications.**

A. Standards establishing minimum position qualifications shall be applicable to all facilities. In lieu of the minimum position qualifications contained in this chapter, facilities subject to (i) the rules and regulations of the Virginia Department of Human Resource Management or (ii) the rules and regulations of a local government personnel office may

develop written minimum entry-level qualifications in accord with the rules and regulations of the supervising personnel authority.

B. A person who assumes or is designated to assume the responsibilities of a position or any combination of positions described in these standards shall:

1. Meet the qualifications of the position or positions;

2. Fully comply with all applicable standards for each function; and

3. Demonstrate a working knowledge of the policies and procedures that are applicable to his specific position or positions.

C. When services or consultations are obtained on a contractual basis they shall be provided by professionally qualified personnel.

**22 VAC 42-11-280. Job descriptions.**

A. There shall be a written job description for each position that, at a minimum, includes the:

1. Job title;

2. Duties and responsibilities of the incumbent;

3. Job title of the immediate supervisor; and

4. Minimum education, experience, knowledge, skills, and abilities required for entry-level performance of the job.

B. A copy of the job description shall be given to each person assigned to a position at the time of employment or assignment.

**22 VAC 42-11-290. Written personnel policies and procedures.**

A. The provider shall have and implement provider approved written personnel policies and make its written personnel policies readily accessible to each staff member.

B. The provider shall develop and implement written policies and procedures to assure that persons employed in or designated to assume the responsibilities of each position possess the education, experience, knowledge, skills, and abilities specified in the job description for the position.

**22 VAC 42-11-300. Personnel records.**

A. Separate up-to-date written or automated personnel records shall be maintained for each employee, student/intern, volunteer, and contractual service provider for whom background investigations are required by Virginia statute. Content of personnel records of volunteers and contractual service providers may be limited to documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations.

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## B. The records of each employee shall include:

1. A completed employment application form or other written material providing the individual's name, address, phone number, and social security number or other unique identifier;
2. Educational background and employment history;
3. Written references or notations of oral references;
4. Reports of required health examinations;
5. Annual performance evaluations;
6. Date of employment and separation;
7. Documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations;
8. Documentation of educational degrees and of professional certification or licensure;
9. Documentation of all training required by this regulation and any other training received by individual staff; and
10. A current job description.

C. Personnel records, including separate health records, shall be retained in their entirety for three years after separation from employment, contractual service, student/intern, or volunteer service.

## **22 VAC 42-11-310. Staff development.**

### A. Required initial training:

1. Within seven days following their begin date, each staff member responsible for supervision of children shall receive basic orientation to the facility's behavior intervention policies, procedures and techniques regarding less restrictive interventions, timeout, and physical restraint.
2. Within 14 days following an individual's begin date, or before an individual is alone supervising children, the provider shall implement emergency preparedness and response training that shall include:
  - a. Alerting emergency personnel and sounding alarms;
  - b. Implementing evacuation procedures, including evacuation of residents with special needs (i.e., deaf, blind, nonambulatory);
  - c. Using, maintaining, and operating emergency equipment;
  - d. Accessing emergency information for residents including medical information; and
  - e. Utilizing community support services.
3. Within 14 days following their begin date, new employees, employees transferring from other facilities

operated by the same sponsor, relief staff, volunteers and students/interns shall be given orientation and training regarding:

- a. The objectives of the facility;
- b. Practices of confidentiality;
- c. The decisionmaking plan;
- d. The Standards for Interdepartmental Regulation of Children's Residential Facilities including the prohibited actions as outlined in this regulation; and
- e. Other policies and procedures that are applicable to their positions, duties and responsibilities.

4. Within 30 days following their begin date, all staff working with residents shall be enrolled in a standard first aid class and in a cardiopulmonary resuscitation class facilitated by the American Red Cross or other recognized authority, unless the individual is currently certified in first aid and cardiopulmonary resuscitation.

5. Within 30 days following their begin date, all staff working with residents shall be trained in child abuse and neglect, mandatory reporting, maintaining appropriate professional relationships and interaction among staff and residents, and suicide prevention.

6. Within 30 days following their begin date, all staff shall be trained on the facility's policies and procedures regarding universal precautions.

7. Within 30 days following their begin date, all staff shall be trained on good neighbor policies and community relations.

8. Before they can administer medication, all staff responsible for medication administration shall have successfully completed a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications.

9. All staff shall be trained in any area of quality improvement as identified from the results of the quality improvement plan.

### B. Required annual retraining:

1. All employees, contractors, students/interns, and volunteers shall complete an annual refresher emergency preparedness and response training that shall include:
  - a. Alerting emergency personnel and sounding alarms;
  - b. Implementing evacuation procedures, including evacuation of residents with special needs (i.e., deaf, blind, nonambulatory);
  - c. Using, maintaining, and operating emergency equipment;

d. Accessing emergency information for residents including medical information; and

e. Utilizing community support services.

2. All staff who administer medication shall complete annual refresher medication training.

3. All child care staff shall receive annual retraining on the provider's behavior intervention and timeout policies and procedures.

4. All staff working with residents shall receive annual retraining in child abuse and neglect, mandatory reporting, maintaining appropriate professional relationships and interaction among staff and residents, and suicide prevention.

5. All staff shall receive annual retraining on the provider's policies and procedures regarding universal precautions.

C. Each full-time staff person who works with residents shall complete an additional 15 hours of annual training applicable to their job duties.

D. Facilities shall develop and implement written policies and procedures to ensure that part-time staff receive training applicable to their positions.

E. Training provided will be comprehensive and based on the needs of the population served to ensure that staff have the competencies to perform their jobs.

### **22 VAC 42-11-320. Staff supervision.**

The provider shall develop and implement written policies and procedures regarding the supervision of staff, volunteers and students/interns. These policies and procedures shall include:

1. Type of supervision;

2. Frequency of supervision; and

3. How the supervision will be documented.

### **22 VAC 42-11-330. The applicant.**

A. Each applicant shall show evidence that they have been trained on appropriate siting of children's residential facilities.

B. The applicant shall be interviewed in person by the regulatory authority to determine the qualifications of the owner or operator as set out in this regulation.

C. Should the applicant not be qualified to perform the duties of the chief administrative officer, the applicant shall hire an individual with the qualifications, as set out in this regulation, to perform the duties of the chief administrative officer.

### **22 VAC 42-11-340. Chief administrative officer.**

A. The chief administrative officer shall have the following responsibilities:

1. Responsibility for compliance with the Standards for Interdepartmental Regulation of Children's Residential Facilities and other applicable standards;

2. Responsibility for all personnel;

3. Responsibility for overseeing the facility operation in its entirety, including the approval of the design of the structured program of care and its implementation; and

4. Responsibility for the facility's financial integrity.

B. A chief administrative officer appointed after [ the effective date of these standards ] shall have at least:

1. A master's degree in social work, psychology, counseling, or nursing and two years of full-time paid work experience in a children's residential facility and one year full-time experience in an administrative or supervisory capacity;

2. A baccalaureate degree in social work, psychology, counseling, or nursing and three years full-time paid work experience with children, at least two of which were in a children's residential facility and one year of administrative or supervisory experience;

3. A master's in education and two years of full-time paid work experience in a children's residential facility and one year full-time experience in an administrative or supervisory capacity or baccalaureate degree in education and three years full-time paid work experience with children, at least two of which were in a children's residential facility and one year of administrative or supervisory experience may be accepted for a chief administrative officer of a program whose lead regulatory agency is the Department of Education; or

4. A baccalaureate degree and seven years of full-time paid work experience with children at least four of which shall be in a children's residential facility and two years of administrative or supervisory experience.

C. Any applicant for the chief administrative officer position shall submit the following to demonstrate compliance with the qualifications required by this regulation for the chief administrative officer:

1. Official transcripts from the accredited college or university of attendance within 30 days of hire; and

2. Documentation of prior relevant experience.

### **22 VAC 42-11-350. Program director.**

A. The facility's program shall be directed by one or more qualified persons.

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B. Persons directing programs shall be responsible for the development and implementation of the programs and services offered by the facility, including overseeing assessments, service planning, staff scheduling, and supervision.

C. Persons directing programs of a facility licensed or certified to care for 13 or more residents shall be full time, qualified staff members.

D. A person appointed after [ the effective date of these standards ] to direct programs shall have at least:

1. A master's degree in social work, psychology, counseling, or nursing and two years of full-time paid work experience with children, one of which needs to be in a children's residential facility and one year of administrative or supervisory experience;

2. A baccalaureate degree in social work, psychology, counseling or nursing and three years full-time paid experience working with children, one of which must be in a children's residential facility and one year of administrative or supervisory experience;

3. A license or certificate issued by the Commonwealth of Virginia as a drug or alcoholism counselor/worker if the facility's purpose is to treat drug abuse or alcoholism;

4. A baccalaureate degree and five years of full-time paid experience working with children at least three of which must be in a children's residential facility and one year of full-time supervisory or administrative experience; or

5. A master's degree in education and two years of full-time paid work experience with children, one of which needs to be in a children's residential facility and one year of administrative or supervisory experience or a baccalaureate degree in education with an endorsement in at least one area of disability served by the program and three years full-time paid experience working with children, one of which must be in a children's residential facility and one year of administrative or supervisory experience may be accepted for a program director of a program whose lead regulatory agency is the Department of Education.

E. Any applicant for the program director position shall submit the following to demonstrate compliance with the qualifications required by this regulation for the program director:

1. Official transcripts from the accredited college or university of attendance within 30 days of hire; and

2. Documentation of prior relevant experience.

## **22 VAC 42-11-360. Case manager.**

A. Case managers shall have the responsibility for:

1. Coordination of all services offered to each resident; and

2. Provision of case management services as required in 22 VAC 42-11-760 A.

B. Case managers shall have:

1. A master's degree in social work, psychology, or counseling;

2. A baccalaureate degree in social work or psychology with documented field work experience and must be supervised by the program director or other staff employed by the provider with the same qualifications as required by 22 VAC 42-11-350 D; or

3. A baccalaureate degree and three years of full-time paid experience working with children at least one of which shall be in a children's residential facility.

## **22 VAC 42-11-370. Child care supervisor.**

A. Child care supervisors shall have responsibility for the:

1. Development of the daily living program within each child care unit; and

2. Orientation, training and supervision of direct care workers.

B. Child care supervisors shall have:

1. A baccalaureate degree in social work or psychology and two years of full-time paid experience working with children one year of which must have been in a residential facility for children;

2. A high school diploma or a General Education Development Certificate (G.E.D.) and a minimum of five years full-time paid experience working with children with at least two years in a residential facility for children; or

3. A combination of education and experience working with children as approved by the lead regulatory authority.

## **22 VAC 42-11-380. Child care staff.**

A. The child care worker shall have responsibility for guidance and supervision of the children to whom he is assigned including:

1. Overseeing physical care;

2. Development of acceptable habits and attitudes;

3. Management of resident behavior; and

4. Helping to meet the goals and objectives of any required service plan.

B. A child care worker and a relief child care worker shall:

1. Have a baccalaureate degree in human services;

2. Have an associates degree and three months experience working with children; or

3. Be a high school graduate or have a General Education Development Certificate (G.E.D.) and have six months of experience working with children.

C. Child care staff with a high school diploma or G.E.D. with no experience working with children may not work alone, but may be employed as long as they are working directly with the child care supervisor, chief administrative officer, program director, or case manager.

D. An individual hired, promoted, demoted, or transferred to a child care worker's position after the effective date of these standards shall be at least 21 years old.

E. The provider shall not be dependent on temporary contract workers to provide child care.

### **22 VAC 42-11-390. Relief staff.**

Qualified relief staff shall be employed as necessary to meet the needs of the programs and services offered and to maintain a structured program of care in accordance with 22 VAC 42-11-780.

### **22 VAC 42-11-400. Volunteers and students/interns.**

A. A facility that uses volunteers or students/interns shall develop and implement written policies and procedures governing their selection and use.

B. The facility shall not be dependent upon use of volunteers or students/interns to provide basic services.

C. Responsibilities of volunteers and students/interns shall be clearly defined in writing.

D. Volunteers and students/interns shall have qualifications appropriate to the services they render.

### **22 VAC 42-11-410. Support functions.**

A. Child care workers and other staff responsible for child care may assume the duties of nonchild care personnel only when these duties do not interfere with their child care responsibilities.

B. Residents shall not be solely responsible for support functions, including but not necessarily limited to, food service, maintenance of building and grounds, and housekeeping.

### **22 VAC 42-11-420. Buildings, inspections and building plans.**

A. All buildings and building related equipment shall be inspected and approved by the local building official. Approval shall be documented by a certificate of occupancy.

B. The facility shall document at the time of its original application evidence of consultation with state or local fire prevention authorities.

C. The facility shall document annually after the initial application that buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code (13 VAC 5-51).

D. At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by state or local health authorities, whose inspection and approval shall include:

1. General sanitation;
2. The sewage disposal system;
3. The water supply; and
4. Food service operations.

E. The buildings and physical environment shall provide adequate space and shall be of a design that is suitable to house the programs and services provided and meet specialized needs of the residents.

F. Building plans and specifications for new construction, change in use of existing buildings, and any structural modifications or additions to existing buildings shall be submitted to and approved by the lead regulatory agency and by other appropriate regulatory authorities.

G. Swimming pools shall be inspected annually by the state or local health authorities or by a swimming pool business.

### **22 VAC 42-11-430. Heating systems, ventilation and cooling systems.**

A. Heat shall be evenly distributed in all rooms occupied by the residents such that a temperature no less than 68°F is maintained, unless otherwise mandated by state or federal authorities.

B. Natural or mechanical ventilation to the outside shall be provided in all rooms used by residents.

C. Air conditioning or mechanical ventilating systems, such as electric fans, shall be provided in all rooms occupied by residents when the temperature in those rooms exceeds 80°F.

### **22 VAC 42-11-440. Lighting.**

A. Artificial lighting shall be by electricity.

B. All areas within buildings shall be lighted for safety and shall be sufficient for the activities being performed.

C. Lighting in halls shall be adequate and shall be continuous at night.

D. Operable flashlights or battery-powered lanterns shall be available for each staff member on the premises between dusk and dawn to use in emergencies.

E. Outside entrances and parking areas shall be lighted for protection against injuries and intruders.

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## 22 VAC 42-11-450. Plumbing.

A. Plumbing shall be maintained in good operational condition.

B. An adequate supply of hot and cold running water shall be available at all times.

C. Precautions shall be taken to prevent scalding from running water. Water temperatures should be maintained at 100°F – 120°F.

## 22 VAC 42-11-460. Toilet facilities.

A. There shall be at least one toilet, one hand basin, and one shower or bathtub in each living unit.

B. There shall be at least one bathroom equipped with a bathtub in each facility.

C. There shall be at least one toilet, one hand basin, and one shower or tub for every eight residents for facilities licensed before July 1, 1981, and have made no structural changes or constructed any buildings.

D. There shall be one toilet, one hand basin, and one shower or tub for every four residents in any building constructed or structurally modified after July 1, 1981, except secure custody facilities. Facilities licensed after [ the effective date of these standards ] must comply with the one-to-four ratio.

E. The maximum number of staff members on duty in the living unit shall be counted in determining the required number of toilets and hand basins when a separate bathroom is not provided for staff.

F. There shall be at least one mirror securely fastened to the wall at a height appropriate for use in each room where hand basins are located except in security rooms in hospitals and secure custody facilities.

## 22 VAC 42-11-470. Personal necessities.

A. An adequate supply of personal necessities shall be available to the residents at all times for purposes of personal hygiene and grooming.

B. Clean, individual washcloths and towels shall be in good repair and available once each week and more often if needed.

C. When residents are incontinent or not toilet trained:

1. Provision shall be made for sponging, diapering or other similar care on a nonabsorbent changing surface that shall be cleaned with warm soapy water after each use.

2. A covered diaper pail, or its equivalent, with leak proof disposable liners shall be available. If both cloth and disposable diapers are used there shall be a diaper pail for each.

3. Adapter seats and toilet chairs shall be cleaned immediately after each use with appropriate cleaning materials.

4. Staff shall thoroughly wash their hands with warm soapy water immediately after assisting a child or themselves with toileting.

5. Appropriate privacy, confidentiality and dignity shall be maintained for residents during toileting and diapering.

## 22 VAC 42-11-480. Sleeping areas.

A. When residents are four years of age or older, boys and girls shall have separate sleeping areas.

B. No more than four children may share a bedroom or sleeping area except as provided by other applicable state regulations governing juvenile correctional centers.

C. Children who use wheelchairs, crutches, canes, or other mechanical devices for assistance in walking shall be provided with a planned, personalized means of effective egress for use in emergencies.

D. Beds shall be at least three feet apart at the head, foot, and sides and double-decker beds shall be at least five feet apart at the head, foot, and sides.

E. Sleeping quarters in facilities licensed by DSS prior to July 1, 1981, and facilities established, constructed or structurally modified after July 1, 1981, except for primitive campsites, shall have:

1. At least 80 square feet of floor area in a bedroom accommodating one person;

2. At least 60 square feet of floor area per person in rooms accommodating two or more persons; and

3. Ceilings with a primary height at least 7-1/2 feet in height exclusive of protrusions, duct work, or dormers.

F. Each child shall have a separate, clean, comfortable bed equipped with a clean mattress, clean pillow, clean blankets, clean bed linens, and, if needed, a clean waterproof mattress cover.

G. Bed linens shall be changed at least every seven days and more often if needed.

H. Mattresses shall be fire retardant as evidenced by documentation from the manufacturer except in buildings equipped with an automated sprinkler system as required by the Virginia Uniform Statewide Building Code.

I. Cribs shall be provided for residents under two years of age.

J. Each resident shall be assigned drawer space and closet space, or their equivalent, which is accessible to the sleeping area for storage of clothing and personal belongings except in secure custody facilities.

K. The sleeping areas' environment shall be conducive to sleep and rest.

**22 VAC 42-11-490. Smoking prohibition.**

Smoking shall be prohibited in living areas and in areas where residents participate in programs.

**22 VAC 42-11-500. Residents' privacy.**

A. When bathrooms are not designated for individual use, except in secure custody facilities:

1. Each toilet shall be enclosed for privacy, and
2. Bathtubs and showers shall provide visual privacy for bathing by use of enclosures, curtains or other appropriate means.

B. Windows in bathrooms, sleeping areas, and dressing areas shall provide for privacy.

C. Every sleeping area shall have a door that may be closed for privacy or quiet and this door shall be readily opened in case of fire or other emergency. In secure custody facilities, the door may be equipped with an observation window.

D. Residents shall be provided privacy from routine sight supervision by staff members of the opposite gender while bathing, dressing, or conducting toileting activities. This section does not apply to medical personnel performing medical procedures, to staff providing assistance to infants, or to staff providing assistance to residents whose physical or mental disabilities dictate the need for assistance with these activities as justified in the resident's record.

E. Video and audio monitoring shall be permitted only in common hallways and common areas. All such monitoring shall have the approval of the regulatory authority and if licensed by DMHMRSAS, the approval of the Office of Human Rights. DJJ-certified facilities shall obtain the approval of the regulatory authority before any video or audio monitoring is permitted. Video and audio monitoring is prohibited in bathrooms, dressing areas, and bedrooms.

**22 VAC 42-11-510. Living rooms and indoor recreation space.**

A. Each living unit, except for secure custody, shall have a living room, or other area for informal use, for relaxation and entertainment. The furnishings shall provide a comfortable, home like environment that is appropriate to the ages of the residents.

B. All facilities shall have indoor recreation space that contains indoor recreation materials appropriate to the ages and interests of the residents.

C. Facilities licensed or certified to care for 13 or more residents shall have recreation space distinct from the living room.

**22 VAC 42-11-520. Study space.**

A. Facilities serving a school-age population shall provide study space. Study space may be assigned in areas used interchangeably for other purposes.

B. Study space shall be well lighted, quiet, and equipped with tables or desks and chairs.

**22 VAC 42-11-530. Kitchen and dining areas.**

A. Meals shall be served in areas equipped with sturdy tables and benches or chairs that are size and age appropriate for the residents.

B. Adequate kitchen facilities and equipment shall be provided for preparation and serving of meals.

C. Walk-in refrigerators, freezers, and other enclosures shall be equipped to permit emergency exits.

**22 VAC 42-11-540. Laundry areas.**

Appropriate space and equipment in good repair shall be provided if laundry is done at the facility.

**22 VAC 42-11-550. Storage.**

Space shall be provided for safe storage of items such as first-aid equipment, household supplies, recreational equipment, luggage, out-of-season clothing, and other materials.

**22 VAC 42-11-560. Staff quarters.**

A. A separate, private bedroom shall be provided for staff and their families when a staff member is on duty for 24 consecutive hours or more.

B. A separate private bathroom shall be provided for staff and their families when there are more than four persons in the living unit and the staff person is on duty for 24 consecutive hours or more.

C. Staff and members of their families shall not share bedrooms with residents.

**22 VAC 42-11-570. Office space.**

Space shall be provided for administrative activities including, as appropriate to the program, confidential conversations and provision for storage of records and materials.

**22 VAC 42-11-580. Buildings and grounds.**

A. The facility's grounds shall be safe, properly maintained, and free of clutter and rubbish. The grounds include, but are not limited to, all areas where residents, staff, and visitors may reasonably be expected to have access, including roads, pavements, parking lots, open areas, stairways, railings, and potentially hazardous or dangerous areas.

B. The interior and exterior of all buildings shall be safe, properly maintained, clean and in good working order. This

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includes, but is not limited to, required locks, mechanical devices, indoor and outdoor equipment, and furnishings.

C. Outdoor recreation space shall be available and appropriately equipped for the residents' use.

## **22 VAC 42-11-590. Equipment and furnishings.**

A. All furnishings and equipment shall be safe, clean, and suitable to the ages and number of residents.

B. There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which children sleep or participate in programs.

## **22 VAC 42-11-600. Housekeeping and maintenance.**

A. All buildings shall be well ventilated and free of stale, musty, or foul odors.

B. Adequate provision shall be made for the collection and legal disposal of garbage and waste materials.

C. Buildings shall be kept free of flies, roaches, rats, and other vermin.

D. A sanitizing agent shall be used in the laundering of bed, bath, table, and kitchen linens.

## **22 VAC 42-11-610. Farm and domestic animals.**

A. Horses and other animals maintained on the premises shall be quartered at a reasonable distance from sleeping, living, eating and food preparation areas, as well as a safe distance from water supplies.

B. Animals maintained on the premises shall be tested, inoculated and licensed as required by law.

C. The premises shall be kept free of stray domestic animals.

D. Pets shall be provided with clean quarters and adequate food and water.

## **22 VAC 42-11-620. Acceptance of children.**

Children shall be accepted only by court order or by written placement agreement with legal guardians. This requirement does not apply to temporary care facilities when self-admission is made according to Virginia law.

## **22 VAC 42-11-630. Admission procedures.**

A. The facility shall have written criteria for admission that shall include:

1. A description of the population to be served;
2. A description of the types of services offered;
3. Intake and admission procedures;
4. Exclusion criteria to define those behaviors or problems that the facility does not have the staff with experience or training to manage; and

5. Description of how educational services will be provided to the population being served.

B. The facility shall accept and serve only those children whose needs are compatible with the services provided through the facility unless a child's admission is ordered by a court of competent jurisdiction.

C. Acceptance of a child as eligible for respite care by a facility approved to provide residential respite care is considered admission to the facility. Each individual period of respite care is not considered a separate admission.

D. Each facility shall provide documentation showing proof of contractual agreements or staff expertise to provide educational services, counseling services, psychological services, medical services, or any other services needed to serve the residents in accordance with the facility's program description as defined by the facility's criteria of admission.

## **22 VAC 42-11-640. Maintenance of residents' records.**

A. A separate written or automated case record shall be maintained for each resident. In addition, all correspondence and documents received by the facility relating to the care of that resident should be maintained as part of the case record. A separate health record may be kept on each resident.

B. Each case record and health record shall be kept up to date and in a uniform manner.

C. The provider shall develop and implement written policies and procedures for management of all records, written and automated, that shall describe confidentiality, accessibility, security, and retention of records pertaining to residents, including:

1. Access, duplication, dissemination, and acquiring of information only to persons legally authorized according to federal and state laws;
2. Facilities using automated records shall address procedures that include:
  - a. How records are protected from unauthorized access;
  - b. How records are protected from unauthorized Internet access;
  - c. How records are protected from loss;
  - d. How records are protected from unauthorized alteration; and
  - e. How records are backed up;
3. Security measures to protect records from loss, unauthorized alteration, inadvertent or unauthorized access, disclosure of information and transportation of records between service sites;
4. Designation of person responsible for records management; and

5. Disposition of records in the event the facility ceases to operate.

D. The policy shall specify what information is available to the resident.

E. Active and closed records shall be kept in areas that are accessible to authorized staff and protected from unauthorized access, fire, and flood.

1. When not in use written records shall be stored in a metal file cabinet or other metal compartment.

2. Facility staff shall assure the confidentiality of the residents' records by placing them in a locked cabinet or drawer or in a locked room when the staff member is not present.

F. Each resident's written case and health records shall be stored separately subsequent to the resident's discharge according to applicable statutes and regulations.

G. Written and automated records shall be retained in their entirety for a minimum of three years after the date of discharge unless otherwise specified by state or federal requirements.

H. The face sheet shall be retained permanently unless otherwise specified by state or federal requirements.

## **22 VAC 42-11-650. Interstate Compact on the Placement of Children.**

A. Documentation of the prior approval of the administrator of the Virginia Interstate Compact on the Placement of Children, Virginia Department of Social Services, shall be retained in the record of each resident admitted from outside Virginia. The requirements of this section shall not apply to a facility providing documentation that the administrator of the Virginia Interstate Compact has determined the facility is statutorily exempt from the compact's provisions.

B. Documentation that the provider has sent copies of all serious incident reports regarding any child placed through the Interstate Compact to the administrator of the Virginia Interstate Compact on the Placement of Children shall be kept in the resident's record.

C. No later than five days after a resident has been transferred to another facility operated by the same sponsor, the resident's record shall contain documentation that the administrator of the Virginia Interstate Compact on the Placement of Children was notified in writing of the resident's transfer.

D. No later than 10 days after discharge the resident's record shall contain documentation that the administrator of the Virginia Interstate Compact on the Placement of Children was notified in writing of the discharge.

E. The provider shall not discharge or send out-of-state youth in the custody of out-of-state social services agencies and courts to reside with a parent, relative, or other individual who lives in Virginia without the approval of the administrator of the Virginia Interstate Compact on the Placement of Children.

## **22 VAC 42-11-660. Participation of residents in human research.**

The provider shall:

1. Implement a written policy stating that residents will not be used as subjects of human research; or

2. Document approval, as required by the regulatory authorities, for each research project using residents as subjects of human research.

## **22 VAC 42-11-670. Emergency and self-admissions.**

Providers accepting emergency or self-admissions shall:

1. Develop and implement written policies and procedures governing such admissions that shall include procedures to make and document prompt efforts to obtain (i) a written placement agreement signed by the legal guardian or (ii) the order of a court of competent jurisdiction;

2. Place in each resident's record the order of a court of competent jurisdiction, a written request for care, or documentation of an oral request for care; and justification of why the resident is to be admitted on an emergency basis; and

3. Clearly document in written assessment information gathered for the emergency admission that the individual meets the facility's criteria for admission.

## **22 VAC 42-11-680. Application for admission.**

A. Admission shall be based on evaluation of an application for admission. The requirements of this section do not apply to court-ordered placements or transfer of a resident between residential facilities located in Virginia and operated by the same sponsor.

B. Providers shall develop, and fully complete prior to acceptance for care, an application for admission that is designed to compile information necessary to determine:

1. The educational needs of the prospective resident;

2. The mental health, emotional, and psychological needs of the prospective resident;

3. The physical health needs, including the immunization needs, of the prospective resident;

4. The protection needs of the prospective resident;

5. The suitability of the prospective resident's admission;

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6. The behavior support needs of the prospective resident; and

7. Information necessary to develop a service plan and a behavior support plan.

C. The resident's record shall contain a completed application for admission at the time of a routine admission or within 30 days after an emergency admission.

D. Each facility shall develop and implement written policies and procedures to assess each prospective resident as part of the application process to ensure that:

1. The needs of the prospective resident can be addressed by the facility's services;

2. The facility's staff are trained to meet the prospective resident's needs; and

3. The admission of the prospective resident would not pose any significant risk to (i) the prospective resident or (ii) the facility's residents or staff.

## **22 VAC 42-11-690. Written placement agreement.**

A. The facility, except a facility that accepts admission only upon receipt of the order of a court of competent jurisdiction, shall develop a written placement agreement that:

1. Authorizes the resident's placement;

2. Addresses acquisition of and consent for any medical treatment needed by the resident;

3. Addresses the rights and responsibilities of each party involved;

4. Addresses financial responsibility for the placement;

5. Addresses visitation with the resident; and

6. Addresses the education plan for the resident and the responsibilities of all parties.

B. Each resident's record shall contain, prior to a routine admission, a completed placement agreement signed by a facility representative and the legal guardian or placing agency, except as permitted for temporary emergency shelters pursuant to § 63.2-1817 of the Code of Virginia.

C. The record of each person admitted based on a court order shall contain a copy of the court order.

## **22 VAC 42-11-700. Face sheet.**

A. At the time of admission, each resident's record shall include a completed face sheet that contains (i) the resident's full name, last known residence, birth date, birthplace, gender, race, social security number or other unique identifier, religious preference, and admission date; and (ii) names, addresses, and telephone numbers of the resident's legal guardians, placing agency, and emergency contacts.

B. Information shall be updated when changes occur.

C. The face sheet for pregnant teens shall also include the expected date of delivery and the name of the hospital to provide delivery services to the resident.

D. The face sheet of residents who are transferred to facilities operated by the same sponsor shall indicate the address and dates of placement and transfer at each location.

E. At the time of discharge the following information shall be added to the face sheet:

1. Date of discharge;

2. Reason for discharge;

3. Names and addresses of persons to whom the resident was discharged; and

4. Forwarding address of the resident, if known.

## **22 VAC 42-11-710. Initial objectives and strategies.**

Within three days following admission, individualized, measurable objectives and strategies for the first 30 days shall be developed, distributed to affected staff and the resident, and placed in the resident's record. The objectives and strategies shall be based on the reasons for admitting the resident. The requirements of this section do not apply to secure detention facilities, except when a juvenile is confined in postdispositional detention.

## **22 VAC 42-11-720. Service plan/quarterly reports.**

A. An individualized service plan shall be developed and placed in the resident's record within 30 days following admission and implemented immediately thereafter.

B. Individualized service plans shall describe in measurable terms the:

1. Strengths and needs of the resident;

2. Resident's current level of functioning;

3. Goals, objectives and strategies established for the resident;

4. Projected family involvement;

5. Projected date for accomplishing each objective; and

6. Status of the projected discharge plan and estimated length of stay except that this requirement shall not apply to a facility that discharges only upon receipt of the order of a court of competent jurisdiction.

C. The initial service plan shall be reviewed within 60 days of the initial plan and within each 90-day period thereafter and revised as necessary.

D. The provider shall develop and implement written policies and procedures to document progress of the resident towards meeting goals and objectives of the service plan that shall include the:

1. Format;
2. Frequency; and
3. Person responsible.

E. There shall be a documented quarterly review of each resident's progress 60 days following the initial service plan and within each 90-day period thereafter and shall report the:

1. Resident's progress toward meeting the plan's objectives;
2. Family's involvement;
3. Continuing needs of the resident;
4. Resident's progress towards discharge; and
5. Status of discharge planning.

F. Each plan and quarterly progress report shall include the date it was developed and the signature of the person who developed it.

G. Staff responsible for daily implementation of the resident's individualized service plan shall be able to describe the resident's behavior in terms of the objectives in the plan.

H. There shall be documentation showing the involvement of the following parties unless clearly inappropriate, in developing and updating the individualized service plan and in developing the quarterly progress report:

1. The resident;
2. The resident's family, legal guardian, or legally authorized representative;
3. The placing agency; and
4. Facility staff.

I. The initial individualized service plan, each update, and all quarterly progress reports shall be distributed to the resident; the resident's family, legal guardian, or legally authorized representative; the placing agency; and appropriate facility staff if allowed by federal guidelines and using all procedures as required by federal guidelines.

J. The requirements of this section do not apply to secure detention facilities except when a juvenile is confined in postdispositional detention.

**22 VAC 42-11-730. Resident transfer between residential facilities located in Virginia and operated by the same sponsor.**

A. Except when transfer is ordered by a court of competent jurisdiction, the receiving provider shall document at the time of transfer:

1. Preparation through sharing information with the resident, the family and the placing agency about the

facility, the staff, the population served, activities and criteria for admission;

2. Notification to the family, if appropriate; the resident, the placement agency and the legal guardian;

3. Receipt from the sending facility of a written summary of the resident's progress while at the facility, justification for the transfer, and the resident's current strengths and needs; and

4. Receipt of the resident's record.

B. The sending facility shall retain a copy of the face sheet and a written summary of the child's progress while at the facility and shall document the date of transfer and the name of the facility to which the resident has been transferred.

**22 VAC 42-11-740. Discharge.**

A. The provider shall have written criteria for discharge that shall include:

1. Criteria for a resident's completing the program that are consistent with the facility's programs and services;
2. Conditions under which a resident may be discharged before completing the program; and
3. Procedures for assisting placing agencies in placing the residents should the facility cease operation.

B. The provider's criteria for discharge shall be accessible to prospective residents, legal guardians, and placing agencies.

C. The record of each resident discharged upon receipt of the order of a court of competent jurisdiction shall contain a copy of the court order.

D. Residents shall be discharged only to the legal guardian or legally authorized representative.

E. A facility approved to provide residential respite care shall discharge a resident when the legal guardian no longer intends to use the facility's services.

F. Information concerning current medications, need for continuing therapeutic interventions, educational status, and other items important to the resident's continuing care shall be provided to the legal guardian or legally authorized representative, as appropriate.

G. Unless discharge is ordered by a court of competent jurisdiction, prior to the planned discharge date, each resident's record shall contain:

1. Documentation that discharge has been planned and discussed with the parent, legal guardian, child-placing agency, and resident; and
2. A written discharge plan.

H. Discharge summaries.

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1. No later than 30 days after discharge, a comprehensive discharge summary shall be placed in the resident's record and sent to the persons or agency that made the placement. The discharge summary shall review:

- a. Services provided to the resident;
- b. The resident's progress toward meeting service plan objectives;
- c. The resident's continuing needs and recommendations, if any, for further services and care;
- d. Reasons for discharge and names of persons to whom resident was discharged;
- e. Dates of admission and discharge; and
- f. Date the discharge summary was prepared and the signature of the person preparing it.

2. In lieu of a comprehensive discharge summary, the record of each resident discharged upon receipt of the order of a court of competent jurisdiction shall contain a copy of the court order.

## **22 VAC 42-11-750. Placement of residents outside the facility.**

A resident shall not be placed outside the facility prior to the facility's obtaining a child-placing agency license from the Department of Social Services, except as permitted by statute or by order of a court of competent jurisdiction.

## **22 VAC 42-11-760. Case management services.**

A. The program of the facility, except a secure detention facility in which juveniles are not confined with a suspended commitment to the Department of Juvenile Justice, shall be designed to provide case management services that address:

1. Helping the resident and the parents or legal guardian to understand the effects on the resident of separation from the family and the effect of group living;
2. Assisting the resident and the family to maintain their relationships and prepare for the resident's future care;
3. Utilizing appropriate community resources to provide services and maintain contacts with such resources;
4. Helping the resident strengthen his capacity to function productively in interpersonal relationships;
5. Conferring with the child care staff to help them understand the resident's needs in order to promote adjustment to group living; and
6. Working with the resident and with the family or any placing agency that may be involved in planning for the resident's future and in preparing the resident for the return home or to another family, for independent living, or for other residential care.

B. The provision of case management services shall be documented in each resident's record.

## **22 VAC 42-11-770. Therapy.**

Therapy, if provided, shall be provided by an individual (i) licensed as a therapist by the Department of Health Professions or (ii) who is licensure eligible and working under the supervision of a licensed therapist, unless exempted from these requirements under the Code of Virginia.

## **22 VAC 42-11-780. Structured program of care.**

A. There shall be evidence of a structured program of care designed to:

1. Meet the residents' physical and emotional needs;
2. Provide protection, guidance, and supervision; and
3. Meet the objectives of any required service plan.

B. There shall be evidence of a structured daily routine designed to ensure the delivery of program services.

C. A daily communication log shall be maintained to inform staff of significant happenings or problems experienced by residents.

D. Health and dental complaints and injuries shall be recorded and shall include the (i) resident's name, complaint, and affected area and (ii) time of the complaint.

E. The identity of the individual making each entry in the daily activity log shall be recorded.

F. Routines shall be planned to ensure that each resident receives the amount of sleep and rest appropriate for his age and physical condition.

G. Staff shall promote good personal hygiene of residents by monitoring and supervising hygiene practices each day and by providing instruction when needed.

H. The structured daily routine shall comply with any facility and locally imposed curfews.

## **22 VAC 42-11-790. Health care procedures.**

A. The provider shall have and implement written procedures for promptly:

1. Providing or arranging for the provision of medical and dental services for health problems identified at admission;
2. Providing or arranging for the provision of routine ongoing and follow-up medical and dental services after admission;
3. Providing emergency services for each resident as provided by statute or by the agreement with the resident's legal guardian;
4. Providing emergency services for any resident experiencing or showing signs of suicidal or homicidal

thoughts, symptoms of mood or thought disorders, or other mental health problems; and

5. Ensuring that the required information in subsection B of this section is accessible and up to date.

B. The following written information concerning each resident shall be readily accessible to staff who may have to respond to a medical or dental emergency:

1. Name, address, and telephone number of the physician and dentist to be notified;

2. Name, address, and telephone number of a relative or other person to be notified;

3. Medical insurance company name and policy number or Medicaid number;

4. Information concerning:

a. Use of medication;

b. All allergies, including medication allergies;

c. Substance abuse and use; and

d. Significant past and present medical problems.

5. Written permission for emergency medical care, dental care, and obtaining immunizations or a procedure and contacts for obtaining consent; and

Subdivisions 3 and 5 of this subsection do not apply to secure detention facilities except when a resident is confined in postdispositional detention.

C. Facilities approved to provide respite care shall update the information required by subsection B of this section at the time of each stay at the facility.

## **22 VAC 42-11-800. Medical examinations and treatment.**

A. Each child accepted for care shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the facility or no later than seven days following admission, except (i) the report of an examination within the preceding 12 months shall be acceptable if a child transfers from one residential facility licensed or certified by a state agency to another, (ii) a physical examination shall be conducted within 30 days following an emergency admission if a report of physical examination is not available, and (iii) this requirement does not apply if a child is admitted to a secure detention facility or to a temporary care facility.

B. At the time of placement, except for secure detention and emergency placements, each resident shall have had a screening assessment for tuberculosis as evidenced by the completion of a screening form containing, at a minimum, the elements found on the current screening form published by the Virginia Department of Health. The screening assessment can be no older than 30 days. Secure detention and

emergency placements shall have completed the screening assessment on each resident within five days of placement.

C. A screening assessment for tuberculosis shall be completed annually on each resident as evidenced by the completion of a form containing, at a minimum, the elements of the screening form published by the Virginia Department of Health.

D. Each resident's health record shall include written documentation of (i) the initial physical examination, (ii) an annual physical examination by or under the direction of a licensed physician including any recommendation for follow-up care, and (iii) documentation of the provision of follow-up medical care recommended by the physician or as indicated by the needs of the resident.

E. Each physical examination report shall include:

1. Information necessary to determine the health and immunization needs of the resident, including:

a. Immunizations administered at the time of the exam;

b. Vision exam;

c. Hearing exam;

d. General physical condition, including documentation of apparent freedom from communicable disease including tuberculosis;

e. Allergies, chronic conditions, and handicaps, if any;

f. Nutritional requirements, including special diets, if any;

g. Restrictions on physical activities, if any; and

h. Recommendations for further treatment, immunizations, and other examinations indicated;

2. Date of the physical examination; and

3. Signature of a licensed physician, the physician's designee, or an official of a local health department.

F. A child with a communicable disease shall not be admitted unless a licensed physician certifies that:

1. The facility is capable of providing care to the child without jeopardizing residents and staff; and

2. The facility is aware of the required treatment for the child and the procedures to protect residents and staff.

The requirements of this subsection shall not apply to temporary shelters and secure detention facilities.

G. Each resident's health record shall include written documentation of (i) an annual examination by a licensed dentist and (ii) documentation of follow-up dental care recommended by the dentist or as indicated by the needs of the resident. This requirement does not apply to secure

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detention facilities, temporary care facilities, and respite care facilities.

H. Each resident's health record shall include notations of health and dental complaints and injuries and shall summarize symptoms and treatment given.

I. Each resident's health record shall include, or document the facility's efforts to obtain, treatment summaries of ongoing psychiatric or other mental health treatment and reports, if applicable. This subsection does not apply to secure detention facilities except when a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice.

J. The provider shall develop and implement written policies and procedures that include use of universal precautions and addresses communicable and contagious medical conditions. These policies and procedures shall be approved by a medical professional.

K. A well-stocked first-aid kit shall be maintained and readily accessible for minor injuries and medical emergencies.

## **22 VAC 42-11-810. Medication.**

A. All medication shall be securely locked and properly labeled.

B. All staff responsible for medication administration shall have successfully completed a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications before they can administer medication.

C. Staff authorized to administer medication shall be informed of any known side effects of the medication and the symptoms of the effects.

D. A program of medication, including over-the-counter medication, shall be initiated for a resident only when prescribed in writing by a person authorized by law to prescribe medication.

E. Medication prescribed by a person authorized by law shall be administered as prescribed.

F. A medication administration record shall be maintained of all medicines received by each resident and shall include:

1. Date the medication was prescribed;
2. Drug name;
3. Schedule for administration;
4. Strength;
5. Route;
6. Actual time administered;
7. Identity of the individual who administered the medication; and

8. Dates the medication was discontinued or changed.

G. In the event of a medication error or an adverse drug reaction, first aid shall be administered if indicated. Staff shall promptly contact a poison control center, pharmacist, nurse, or physician and shall take actions as directed. If the situation is not addressed in standing orders, the attending physician shall be notified as soon as possible and the actions taken by staff shall be documented.

H. Medication refusals shall be documented including action taken by staff. The prescribing professional shall be contacted unless the refusal is addressed in standing orders.

I. The provider shall develop and implement written policies and procedures for documenting medication errors, reviewing medication errors and reactions and making any necessary improvements, the disposal of medication, the storage of controlled substances, and the distribution of medication off campus. The policy and procedures must be approved by a health care professional. The provider shall keep documentation of this approval.

J. The telephone number of a regional poison control center and other emergency numbers shall be posted on or next to each nonpay telephone that has access to an outside line in each building in which children sleep or participate in programs.

K. Syringes and other medical implements used for injecting or cutting skin shall be locked.

## **22 VAC 42-11-820. Nutrition.**

A. Each resident shall be provided a daily diet that (i) consists of at least three nutritionally balanced meals and an evening snack, (ii) includes an adequate variety and quantity of food for the age of the resident, and (iii) meets minimum nutritional requirements and the U.S. Dietary Guidelines.

B. Menus of actual meals served shall be kept on file for at least six months.

C. Special diets shall be provided when prescribed by a physician and the established religious dietary practices of the resident shall be observed.

D. Staff who eat in the presence of the residents shall be served the same meals as the residents unless a special diet has been prescribed by a physician for the staff or residents or the staff or residents are observing established religious dietary practices.

E. There shall not be more than 15 hours between the evening meal and breakfast the following day.

F. Providers shall assure that food is available to residents who wish to eat breakfast before the 15 hours have expired.

G. Providers shall receive approval from their regulatory authority if they wish to extend the time between meals on weekends and holidays. There shall never be more than 17

hours between the evening meal and breakfast the following day on weekends and holidays.

**22 VAC 42-11-830. Staff supervision of residents.**

A. No member of the child care staff shall be on duty more than six consecutive days without a rest day, except in an emergency.

B. Child care staff shall have an average of at least two rest days per week in any four-week period. Rest days shall be in addition to vacation time and holidays.

C. Child care staff other than live-in staff shall not be on duty more than 16 consecutive hours, except in an emergency.

D. There shall be at least one trained child care worker, on duty and actively supervising residents at all times that one or more residents are present.

E. Whenever children are being supervised by staff there shall be at least one staff person present with a current basic certificate in standard first aid and a current certificate in cardiopulmonary resuscitation issued by the American Red Cross or other recognized authority.

**F. Supervision policies.**

1. The provider shall develop and implement written policies and procedures that address staff supervision of children including contingency plans for resident illnesses, emergencies, off-campus activities, and resident preferences. These policies and procedures shall be based on the:

- a. Needs of the population served;
- b. Types of services offered;
- c. Qualifications of staff on duty; and
- d. Number of residents served.

2. At all times the ratio of staff to residents shall be at least one staff to eight residents for facilities during the hours residents are awake, except when the lead regulatory agency has approved or required a supervision plan with a different ratio based on the needs of the population served.

3. Providers requesting a ratio that allows a higher number of residents to be supervised by one staff person than was approved or required shall submit a justification to the lead regulatory agency that shall include:

- a. Why resident care will not be adversely affected; and
- b. How residents' needs will be met on an individual as well as group basis.

4. Written policies and procedures governing supervision of residents and any justifications for a ratio deviation that allows a higher number of residents to be supervised by one staff than was approved or required, shall be reviewed

and approved by the regulatory authority prior to implementation.

5. The supervision policies or a summary of the policies shall be provided, upon request, to the placing agency or legal guardian prior to placement.

6. The Board of Juvenile Justice shall determine the supervision ratios for facilities regulated by the Department of Juvenile Justice.

**22 VAC 42-11-840. Emergency telephone numbers.**

A. There shall be an emergency telephone number where a staff person may be immediately contacted 24 hours a day.

B. Residents who are away from the facility and the adults responsible for their care during the absence shall be furnished with the emergency phone number.

**22 VAC 42-11-850. Searches.**

A. Strip searches and body cavity searches are prohibited except:

- 1. As permitted by other applicable state regulations; or
- 2. As ordered by a court of competent jurisdiction.

B. A provider that does not conduct pat downs shall have a written policy prohibiting them.

C. A provider that conducts pat downs shall develop and implement written policies and procedures governing them that shall provide that:

- 1. Pat downs shall be limited to instances where they are necessary to prohibit contraband;
- 2. Pat downs shall be conducted by personnel of the same gender as the resident being searched;
- 3. Pat downs shall be conducted only by personnel who are specifically authorized to conduct searches by the written policies and procedures; and
- 4. Pat downs shall be conducted in such a way as to protect the subject's dignity and in the presence of one or more witnesses.

**22 VAC 42-11-860. Behavior support.**

A. Within 30 days of admission, the provider shall develop and implement a written behavior support plan that allows the resident to self-manage his own behaviors. Each individualized plan shall include:

- 1. Identification of positive and problem behavior;
- 2. Identification of triggers for behaviors;
- 3. Identification of successful intervention strategies for problem behavior;
- 4. Techniques for managing anger and anxiety; and

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5. Identification of interventions that may escalate inappropriate behaviors.

B. Individualized behavior support plans shall be developed in consultation with the:

1. Resident;
2. Legal guardian;
3. Resident's parents, if applicable;
4. Program director;
5. Placing agency staff; and
6. Other applicable individuals.

C. Prior to working alone with an assigned resident each staff member shall demonstrate knowledge and understanding of that resident's behavior support plan.

## **22 VAC 42-11-870. Timeout.**

A. The provider shall develop and implement written policies and procedures governing the conditions under which a resident may be placed in timeout and the maximum period of timeout. The conditions and maximum period of timeout shall be based on the resident's chronological and developmental level.

B. The area in which a resident is placed shall not be locked nor the door secured in a manner that prevents the resident from opening it, except that this subsection does not apply to secure custody facilities.

C. A resident in timeout shall be able to communicate with staff.

D. Staff shall check on the resident in the timeout area at least every 15 minutes and more often depending on the nature of the resident's disability, condition, and behavior.

E. Use of timeout and staff checks on the residents shall be documented.

## **22 VAC 42-11-880. Prohibitions.**

The following actions are prohibited:

1. Deprivation of drinking water or food necessary to meet a resident's daily nutritional needs, except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;
2. Limitation on contacts and visits with the resident's attorney, a probation officer, regulators, or placing agency representative;
3. Bans on contacts and visits with family or legal guardians, except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;

4. Delay or withholding of incoming or outgoing mail, except as permitted by other applicable state and federal regulations or by order of a court of competent jurisdiction;

5. Any action that is humiliating, degrading, or abusive;

6. Corporal punishment;

7. Subjection to unsanitary living conditions;

8. Deprivation of opportunities for bathing or access to toilet facilities, except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;

9. Deprivation of health care;

10. Deprivation of appropriate services and treatment;

11. Application of aversive stimuli, except as permitted pursuant to other applicable state regulations;

12. Administration of laxatives, enemas, or emetics, except as ordered by a licensed physician or poison control center for a legitimate medical purpose and documented in the resident's record;

13. Deprivation of opportunities for sleep or rest, except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record; and

14. Limitation on contacts and visits with advocates employed by the Department of Mental Health, Mental Retardation and Substance Abuse Services or the Virginia Office of Protection and Advocacy.

## **22 VAC 42-11-890. Pharmacological or mechanical restraints.**

A. Use of mechanical restraints is prohibited except, as permitted by other applicable state regulations or as ordered by a court of competent jurisdiction.

B. Use of pharmacological restraints is prohibited.

## **22 VAC 42-11-900. Behavioral interventions.**

A. The provider shall develop and implement written policies and procedures for behavioral interventions and for documenting and monitoring the management of resident behavior. Rules of conduct shall be included in the written policies and procedures. These policies and procedures shall:

1. Define and list techniques that are used and available for use in the order of their relative degree of restrictiveness;
2. Specify the staff members who may authorize the use of each technique; and
3. Specify the processes for implementing such policies and procedures

B. Written information concerning the policies and procedures of the provider's behavioral support and intervention programs shall be provided prior to admission to

prospective residents, legal guardians, and placing agencies. For court-ordered and emergency admissions, this information shall be provided to:

1. Residents within 12 hours following admission;
2. Placing agencies within 72 hours following the resident's admission; and
3. Legal guardians within 72 hours following the resident's admission, except that this requirement does not apply:

a. To secure detention facilities except when a juvenile is confined in postdispositional;

b. When a facility is providing temporary care of 30 days or less while conducting a diagnostic evaluation to identify the most appropriate long-term placement for a child who has been committed to the Department of Juvenile Justice; and

c. When a state mental hospital is evaluating a child's treatment needs as provided by the Code of Virginia.

C. When substantive revisions are made to policies and procedures governing management of resident behavior, written information concerning the revisions shall be provided to:

1. Residents prior to implementation; and
2. Legal guardians and placing agencies prior to implementation except that this requirement does not apply:

a. To secure detention facilities;

b. When a facility is providing temporary care of 30 days or less while conducting a diagnostic evaluation to identify the most appropriate long-term placement for a child who has been committed to the Department of Juvenile Justice; and

c. When a state mental hospital is evaluating a child's treatment needs as provided by the Code of Virginia.

D. The provider shall develop and implement written policies and procedures governing use of physical restraint that shall include:

1. The staff position who will write the report and timeframe;
2. The staff position who will review the report and timeframe; and
3. Methods to be followed should physical restraint, less intrusive interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the resident's behavior.

E. All physical restraints shall be reviewed and evaluated to plan for continued staff development for performance improvement.

F. Use of physical restraint shall be limited to that which is minimally necessary to protect the resident or others.

G. Trained staff members may physically restrain a resident only after less restrictive interventions have failed or when failure to restrain would result in harm to the resident or others.

H. Only trained staff members may manage resident behavior.

I. Each application of physical restraint shall be fully documented in the resident's record including:

1. Date;

2. Time;

3. Staff involved;

4. Justification for the restraint;

5. Less restrictive interventions that were unsuccessfully attempted prior to using physical restraint;

6. Duration;

7. Description of method or methods of physical restraint techniques used;

8. Signature of the person completing the report and date; and

9. Reviewer's signature and date.

J. Providers shall ensure that restraint may only be implemented, monitored, and discontinued by staff who have been trained in the proper and safe use of restraint, including hands-on techniques, if applicable, by an individual experienced in training staff in the management of behavior for the population served.

K. The provider shall review the facility's behavior intervention techniques and policies and procedures at least annually to determine appropriateness for the population served.

L. Anytime children are present staff must be present who have completed all trainings in behavior intervention.

## **22 VAC 42-11-910. Seclusion.**

Seclusion is allowed only as permitted by other applicable state regulations.

## **22 VAC 42-11-920. Education.**

A. Each resident of compulsory school attendance age shall be enrolled, as provided in the Code of Virginia, in an appropriate educational program within five school business

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days. Documentation of the enrollment process shall be kept in the resident's record.

B. The provider shall ensure that educational guidance and counseling in selecting courses is provided for each resident and shall ensure that education is an integral part of the resident's total program.

C. Providers operating educational programs for children with disabilities shall operate those programs in compliance with applicable state and federal statutes and regulations.

D. When a child with disabilities has been placed in a residential facility without the knowledge of school division personnel in the resident's home locality, the facility shall contact the division superintendent in that locality in order to effect compliance with applicable state and federal requirements relative to the education of children with disabilities. Documentation regarding the contact with the resident's home school locality shall be kept in the resident's record.

E. A provider that has an academic or vocational program that is not certified or approved by the Department of Education shall document that teachers meet the qualifications to teach the same subjects in the public schools.

F. Each provider shall develop and implement written policies and procedures to ensure that each resident has adequate study time.

## **22 VAC 42-11-930. Religion.**

A. The provider shall have and implement written policies regarding opportunities for residents to participate in religious activities.

B. The provider's policies on religious participation shall be available to residents and any individual or agency considering placement of a child in the facility.

C. Residents shall not be coerced to participate in religious activities.

## **22 VAC 42-11-940. Recreation.**

A. The provider shall have a written description of its recreation program that describes activities that are consistent with the facility's total program and with the ages, developmental levels, interests, and needs of the residents that includes:

1. Opportunities for individual and group activities;
2. Free time for residents to pursue personal interests that shall be in addition to a formal recreation program except this subdivision does not apply to secure custody facilities;
3. Use of available community recreational resources and facilities except this subdivision does not apply to secure custody facilities;

4. Scheduling of activities so that they do not conflict with meals, religious services, educational programs or other regular events; and

5. Regularly scheduled indoor and outdoor recreational activities that are structured to develop skills and attitudes.

B. The provider shall develop and implement written policies and procedures to ensure the safety of residents participating in recreational activities that include:

1. How activities will be directed and supervised by individuals knowledgeable in the safeguards required for the activities;

2. How residents are assessed for suitability for an activity and the supervision provided; and

3. How safeguards for water-related activities will be provided including ensuring that a certified life guard supervises all swimming activities.

C. For all overnight recreational trips away from the facility the provider shall document trip planning to include:

1. A supervision plan for the entire duration of the activity including awake and sleeping hours;

2. A plan for safekeeping and distribution of medication;

3. An overall emergency, safety, and communication plan for the activity including emergency numbers of facility administration;

4. Staff training and experience requirements for each activity;

5. Resident preparation for each activity;

6. A plan to ensure that all necessary equipment for the activity is in good repair and appropriate for the activity;

7. A trip schedule giving addresses and phone numbers of locations to be visited and how the location was chosen/evaluated;

8. A plan to evaluate residents' physical health throughout the activity and to ensure that the activity is conducted within the boundaries of the resident's capabilities, dignity, and respect for self-determination;

9. A plan to ensure that a certified life guard supervises all swimming activities in which residents participate; and

10. Documentation of any variations from trip plans and reason and reason for the variation.

D. All overnight out-of-state or out-of-country recreational trips require written permission from each resident's legal guardian. Documentation of the written permission shall be kept in the resident's record.

**22 VAC 42-11-950. Community relationships.**

A. Opportunities shall be provided for the residents to participate in activities and to utilize resources in the community, except this section does not apply to secure custody facilities.

B. The provider shall develop and implement written policies and procedures for evaluating persons or organizations in the community who wish to associate with residents on the premises or take residents off the premises. The procedures shall cover how the facility will determine if participation in such community activities or programs would be in the residents' best interest.

C. Each facility shall have a staff community liaison who shall be responsible for facilitating cooperative relationships with neighbors, the school system, local law enforcement, local government officials, and the community at large.

D. Each provider shall develop and implement written policies and procedures for promoting positive relationships with the neighbors that shall be approved by the regulatory authority.

**22 VAC 42-11-960. Clothing.**

A. Provision shall be made for each resident to have an adequate supply of clean, comfortable, and well-fitting clothes and shoes for indoor and outdoor wear.

B. Clothes and shoes shall be similar in style to those generally worn by children of the same age in the community who are engaged in similar activities, except this requirement does not apply to secure custody facilities.

C. Residents shall have the opportunity to participate in the selection of their clothing, except this requirement does not apply to secure custody facilities.

D. Residents shall be allowed to take personal clothing when leaving the facility.

**22 VAC 42-11-970. Allowances and spending money.**

A. The provider shall provide opportunities appropriate to the ages and developmental levels of the residents for learning the value and use of money, except this requirement does not apply to secure detention facilities.

B. There shall be a written policy regarding allowances that shall be made available to legal guardians at the time of admission, except that this requirement does not apply to secure detention facilities.

C. The provider shall develop and implement written policies for safekeeping and for recordkeeping of any money that belongs to residents.

D. A resident's funds, including any allowance or earnings, shall be used for the resident's benefit.

**22 VAC 42-11-980. Work and employment.**

A. Assignment of chores, that are paid or unpaid work assignments, shall be in accordance with the age, health, ability, and service plan of the resident.

B. Chores shall not interfere with school programs, study periods, meals, or sleep.

C. Work assignments or employment outside the facility, including reasonable rates of pay, shall be approved by the program director with the knowledge and consent of the legal guardian, except this requirement does not apply to secure detention facilities.

D. In both work assignments and employment, the program director shall evaluate the appropriateness of the work and the fairness of the pay.

**22 VAC 42-11-990. Visitation at the facility and to the resident's home.**

A. The provider shall have and implement written visitation policies and procedures that allow reasonable visiting privileges and flexible visiting hours, except as permitted by other applicable state regulations.

B. Copies of the written visitation policies and procedures shall be made available to the parents, when appropriate, legal guardians, the resident, and other interested persons important to the resident no later than the time of admission except that when parents or legal guardians do not participate in the admission process, visitation policies and procedures shall be mailed to them within 24 hours after admission.

C. In secure detention, except when a juvenile is confined in postdispositional detention, and temporary care facilities, written visitation policies and procedures shall be provided upon request to parents, legal guardians, residents, and other interested persons important to the residents.

**22 VAC 42-11-1000. Resident visitation at the homes of staff.**

If a provider permits staff to take residents to the staff's home, the facility must receive written permission of the resident's legal guardian or placing agency before the visit occurs. The written permission shall be kept in the resident's record.

**22 VAC 42-11-1010. Vehicles and power equipment.**

A. Transportation provided for or used by children shall comply with local, state, and federal laws relating to:

1. Vehicle safety and maintenance;
2. Licensure of vehicles;
3. Licensure of drivers; and

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4. Child passenger safety, including requiring children to wear appropriate seat belts or restraints for the vehicle in which they are being transported.

B. There shall be written safety rules that shall include taking head counts at each stop, which are appropriate to the population served, for transportation of children.

C. The provider shall develop and implement written safety rules for use and maintenance of vehicles and power equipment.

## **22 VAC 42-11-1020. Reports to court.**

When the provider has received legal custody of a child pursuant to the Code of Virginia, copies of any foster care plans submitted to the court shall be placed in the resident's record.

## **22 VAC 42-11-1030. Serious incident reports.**

A. Any serious incident, accident or injury to the resident; any overnight absence from the facility without permission; any runaway; and any other unexplained absence shall be reported within 24 hours: (i) to the placing agency, (ii) to either the parent or legal guardian, or both as appropriate; and (iii) noted in the resident's record.

B. The provider shall document the following:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name of the person who made the report to the placing agency and to either the parent or legal guardian; and
6. The name of the person to whom the report was made.

C. The provider shall notify the regulatory authority within 24 hours of any serious illness or injury, any death of a resident, and all other situations as required by the regulatory authority. Such reports shall include:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name of the person who made the report to the placing agency and to either the parent or legal guardian; and
6. The name of the person to whom the report was made.

## **22 VAC 42-11-1040. Suspected child abuse or neglect.**

A. Written policies and procedures related to child abuse and neglect shall be distributed to all staff members. These shall include procedures for:

1. Handling accusations against staff; and
2. Promptly referring, consistent with requirements of the Code of Virginia, suspected cases of child abuse and neglect to the local child protective services unit and for cooperating with the unit during any investigation.

B. Any case of suspected child abuse or neglect shall be reported to the local child protective services unit as required by the Code of Virginia.

C. Any case of suspected child abuse or neglect occurring at the facility, on a facility-sponsored event or excursion, or involving facility staff shall be reported immediately (i) to the regulatory authority and placing agency and (ii) to either the resident's parent or legal guardian, or both, as appropriate.

D. When a case of suspected child abuse or neglect is reported to child protective services, the resident's record shall include:

1. The date and time the suspected abuse or neglect occurred;
2. A description of the suspected abuse or neglect;
3. Action taken as a result of the suspected abuse or neglect; and
4. The name of the person to whom the report was made at the local child protective services unit.

## **22 VAC 42-11-1050. Grievance procedures.**

A. The provider shall develop and implement written policies and procedures governing the handling of grievances by residents. If not addressed by other applicable standards, the policies and procedures shall:

1. Be written in clear and simple language;
2. Be communicated to the residents in an age or developmentally appropriate manner;
3. Be posted in an area easily accessible to residents and their parents and legal guardians;
4. Ensure that any grievance shall be investigated by an objective employee who is not the subject of the grievance; and
5. Require continuous monitoring by the provider of any grievance to assure there is no retaliation or threat of retaliation against the child.

B. All documentation regarding grievances shall be kept on file at the facility for three years unless other regulations require a longer retention period.

## **22 VAC 42-11-1060. Emergency and evacuation procedures.**

A. The provider shall develop a written emergency preparedness and response plan for all locations. The plan shall address:

1. Documentation of contact with the local emergency coordinator to determine local disaster risks and communitywide plans to address different disasters and emergency situations;

2. Analysis of the provider's capabilities and potential hazards, including natural disasters, severe weather, fire, flooding, work place violence or terrorism, missing persons, severe injuries, or other emergencies that would disrupt the normal course of service delivery;

3. Written emergency management policies outlining specific responsibilities for provision of administrative direction and management of response activities, coordination of logistics during the emergency, communications, life safety of employees, contractors, students, volunteers, visitors and residents, property protection, community outreach, and recovery and restoration;

4. Written emergency response procedures for assessing the situation; protecting residents, employees, contractors, students, volunteers, visitors, equipment and vital records; and restoring services. Emergency procedures shall address:

a. Communicating with employees, contractors and community responders;

b. Warning and notification of residents;

c. Providing emergency access to secure areas and opening locked doors;

d. Conducting evacuations to emergency shelters or alternative sites and accounting for all residents;

e. Relocating residents, if necessary;

f. Notifying family members and legal guardians;

g. Alerting emergency personnel and sounding alarms; and

h. Locating and shutting off utilities when necessary;

5. Supporting documents that would be needed in an emergency, including emergency call lists, building and site maps necessary to shut off utilities, designated escape routes, and list of major resources such as local emergency shelters; and

6. Schedule for testing the implementation of the plan and conducting emergency preparedness drills.

B. The provider shall develop emergency preparedness and response training for all employees, contractors, students, and volunteers that shall include responsibilities for:

1. Alerting emergency personnel and sounding alarms;

2. Implementing evacuation procedures, including evacuation of residents with special needs (i.e., deaf, blind, nonambulatory);

3. Using, maintaining, and operating emergency equipment;

4. Accessing emergency information for residents including medical information; and

5. Utilizing community support services.

C. The provider shall document the review of the emergency preparedness plan annually and make necessary revisions. Such revisions shall be communicated to employees, contractors, students, and volunteers and incorporated into training for employees, contractors, students and volunteers and orientation of residents to services.

D. In the event of a disaster, fire, emergency or any other condition that may jeopardize the health, safety and welfare of residents, the provider shall take appropriate action to protect the health, safety and welfare of the residents and take appropriate action to remedy the conditions as soon as possible.

E. Employees, contractors, students, and volunteers shall be knowledgeable in and prepared to implement the emergency preparedness plan in the event of an emergency.

F. In the event of a disaster, fire, emergency, or any other condition that may jeopardize the health, safety and welfare of residents, the provider should first respond and stabilize the disaster/emergency. After the disaster/emergency is stabilized, the provider shall report the disaster/emergency to the parent or guardian and the placing agency as soon as possible of the conditions at the facility and report the disaster/emergency to the lead regulatory authority as soon as possible, but no later than 72 hours after the incident occurs.

G. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations where they can easily be seen by staff and residents.

H. The procedures and responsibilities reflected in the emergency procedures shall be communicated to all residents within seven days following admission or a substantive change in the procedures.

I. At least one evacuation drill (the simulation of the facility's emergency procedures) shall be conducted each month in each building occupied by residents.

J. Evacuation drills shall include, at a minimum:

1. Sounding of emergency alarms;

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2. Practice in evacuating buildings;
3. Practice in alerting emergency authorities;
4. Simulated use of emergency equipment; and
5. Practice in securing resident emergency information.

K. During any three consecutive calendar months, at least one evacuation drill shall be conducted during each shift.

L. A record shall be maintained for each evacuation drill and shall include the following:

1. Buildings in which the drill was conducted;
2. Date and time of drill;
3. Amount of time to evacuate the buildings;
4. Specific problems encountered;
5. Staff tasks completed including:
  - a. Head count, and
  - b. Practice in notifying emergency authorities;
6. A summary; and
7. The name of the staff members responsible for conducting and documenting the drill and preparing the record.

M. The record for each evacuation drill shall be retained for three years after the drill.

N. The facility shall assign one staff member who shall ensure that all requirements regarding the emergency preparedness and response plan and the evacuation drill program are met.

## **22 VAC 42-11-1070. Independent living programs.**

A. Each independent living program must demonstrate that a structured program using materials and curriculum, approved by the regulatory authority, is being used to teach independent living skills. The curriculum must include information regarding each of the following areas:

1. Money management and consumer awareness;
2. Food management;
3. Personal appearance;
4. Social skills;
5. Health/sexuality;
6. Housekeeping;
7. Transportation;
8. Educational planning/career planning;
9. Job-seeking skills;
10. Job maintenance skills;

11. Emergency and safety skills;
12. Knowledge of community resources;
13. Interpersonal skills/social relationships;
14. Legal skills;
15. Leisure activities; and
16. Housing.

B. Within 14 days of placement the provider must complete an assessment, including strengths and needs, of the resident's life skills using an independent living assessment tool approved by the regulatory agency. The assessment must cover the following areas:

1. Money management and consumer awareness;
2. Food management;
3. Personal appearance;
4. Social skills;
5. Health/sexuality;
6. Housekeeping;
7. Transportation;
8. Educational planning/career planning;
9. Job-seeking skills;
10. Job maintenance skills;
11. Emergency and safety skills;
12. Knowledge of community resources;
13. Interpersonal skills/social relationships;
14. Legal skills;
15. Leisure activities; and
16. Housing.

C. The resident's individualized service plan shall include, in addition to the requirements found in 22 VAC 42-11-630, goals, objectives, and strategies addressing each of the following areas, as applicable:

1. Money management and consumer awareness;
2. Food management;
3. Personal appearance;
4. Social skills;
5. Health/sexuality;
6. Housekeeping;
7. Transportation;
8. Educational planning/career planning;

- 9. Job-seeking skills;
- 10. Job maintenance skills;
- 11. Emergency and safety skills;
- 12. Knowledge of community resources;
- 13. Interpersonal skills/social relationships;
- 14. Legal skills;
- 15. Leisure activities; and
- 16. Housing.

D. Each independent living program shall develop and implement policies and procedures to train all direct care staff within 14 days of employment on the content of the independent living curriculum, the use of the independent living materials, the application of the assessment tool, and the documentation methods used. Documentation of the orientation will be kept in the employee's staff record.

E. If residents age 18 years or older are to share in the responsibility for their own medication with the provider, the independent living program shall develop and implement written policies and procedures that include:

- 1. Training for the resident in self administration and recognition of side effects;
- 2. Method for storage and safekeeping of medication;
- 3. Method for obtaining approval for the resident to self administer medication from a person authorized by law to prescribe medication; and
- 4. Method for documenting the administration of medication.

F. Each independent living program shall develop and implement written policies and procedures that ensure that each resident is receiving adequate nutrition as required in 22 VAC 42-11-820 A, B and C.

### **22 VAC 42-11- 1080. Mother/baby programs.**

A. Each provider shall develop and implement written policies and procedures to orient direct care staff within 14 days of hire regarding the following:

- 1. Responsibilities of mothers regarding the child;
- 2. Child development including age-appropriate behavior for each stage of development;
- 3. Appropriate behavioral interventions for infants and toddlers;
- 4. Basic infant and toddler care including but not limited to nutritional needs, feeding procedures, bathing techniques; and
- 5. Safety issues for infants and toddlers.

B. Each direct care worker shall have certification in infant CPR and first aid prior to working alone with infants or toddlers.

C. A placement agreement shall be signed by the legal guardian for each adolescent mother and a separate placement agreement shall be signed for each child at the time of admission.

D. In addition to the requirements of 22 VAC 42-11-680 B, the application for admission for the adolescent's child must include:

- 1. The placement history of the child;
- 2. The developmental milestones of the child; and
- 3. The nutritional needs of the child.

E. In addition to the requirements of 22 VAC 42-11-700, the face sheet for adolescent's child shall also include:

- 1. Type of delivery;
- 2. Weight and length at birth;
- 3. Any medications or allergies; and
- 4. Name and address, if known, of the biological father.

F. A combined service plan following the requirements of 22 VAC 42-11-720 must be written for the adolescent mother and her child within 30 days of the admission of the adolescent's child.

G. There shall be a combined documented review of the adolescent mother's and her child's progress following the requirements of the quarterly report 60 days following the first combined service plan and within each 90-day period thereafter.

H. The developmental milestones of the adolescent's child must be documented in each quarterly progress report.

I. The record of each child 18 months or younger shall include the child's feeding schedule and directions for feeding. This information shall be posted in the kitchen.

J. The provider shall develop and implement written policies and procedures for tracking:

- 1. What a child 18 months or younger is eating;
- 2. How much a child 18 months or younger is eating; and
- 3. The response to newly introduced foods of the child 18 months or younger.

K. The provider shall develop and implement written policies and procedures to record all diaper changes.

L. The provider shall monitor that all infants are held and spoken to and placed in a position to observe activities when they are awake.

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M. Bottle-fed infants who cannot hold their own bottles shall be held when fed. Bottles shall not be propped.

N. The provider shall monitor that all children of adolescent mothers have access to age-appropriate toys and are provided opportunity for visual and sound stimulation.

O. The provider shall ensure that when an adolescent mother is in school or is working, her child is appropriately cared for, either in a licensed child day program or at the facility.

P. A daily activity log must be kept for each child of the adolescent mother showing what activities the child actually participated in during the day. The daily log must show that children have the opportunity to participate in sensory, language, manipulative, building, large muscle, and learning activities.

Q. The provider shall develop and implement written policies and procedures regarding health care of the adolescent's child including:

1. Obtaining health care;
2. Ensuring follow-up care is provided;
3. Ensuring adolescent mothers administer to their children only prescription and nonprescription medication authorized by a health care professional licensed to prescribe medication; and
4. Medication administration.

R. The provider shall develop and implement written policies and procedures to ensure that all toys and equipment to be used by children are sturdy, are of safe construction, are nontoxic and free of hazards, and meet industry safety standards.

S. The facility shall develop and implement written policies and procedures for inspecting toys and equipment on a regular basis for cleanliness and safety.

T. Cribs shall be placed where objects outside the crib such as cords from the blinds or curtains are not within reach of infants or toddlers.

U. Pillows and filled comforters shall not be used by children under two years of age.

V. Infant walkers shall not be used.

W. Adolescent mothers and their babies may share a bedroom as allowed by 22 VAC 42-11-480 E, but shall not share a room with other adolescents or their children.

X. Pregnant adolescents may share a room as allowed by 22 VAC 42-11-480.

Y. Providers shall develop and implement written policies and procedures to protect infants, toddlers, and young children from dangers in their environment. The policies and

procedures must include but not be limited to protection from:

1. Electrocutation;
2. Falling down steps or ramps or gaining access to balconies, porches or elevated areas;
3. Poisons, including poisonous plants; and
4. Drowning.

## **22 VAC 42-11-1090. Campsite programs or adventure activities.**

A. All wilderness campsite programs and providers that take residents on wilderness/adventure activities shall develop and implement policies and procedures that include:

1. Staff training and experience requirements for each activity;
2. Resident training and experience requirements for each activity;
3. Specific staff-to-resident ratio and supervision plan appropriate for each activity; including sleeping arrangements and supervision during night time hours;
4. Plans to evaluate and document each participant's physical health throughout the activity;
5. Preparation and planning needed for each activity and time frames;
6. Arrangement, maintenance, and inspection of activity areas;
7. A plan to ensure that any equipment and gear that is to be used in connection with a specified wilderness/adventure activity is appropriate to the activity, certified if required, in good repair, in operable condition, and age and body size appropriate;
8. Plans to ensure that all ropes and paraphernalia used in connection with rope rock climbing, rappelling, high and low ropes courses or other adventure activities in which ropes are used are approved annually by an appropriate certifying organization, and have been inspected by staff responsible for supervising the adventure activity before engaging residents in the activity;
9. Plans to ensure that all participants are appropriately equipped, clothed, and wearing safety gear, such as a helmet, goggles, safety belt, life jacket or a flotation device, that is appropriate to the adventure activity in which the resident is engaged;
10. Plans for food and water supplies and management of these resources;
11. Plans for the safekeeping and distribution of medication;

12. Guidelines to ensure that participation is conducted within the boundaries of the resident's capabilities, dignity and respect for self-determination;

13. Overall emergency, safety, and communication plans for each activity including rescue procedures, frequency of drills, resident accountability, prompt evacuation, and notification of outside emergency services; and

14. Review of trip plans by the trip coordinator.

B. All wilderness campsite programs and providers that take residents on wilderness/adventure activities must designate one staff person to be the trip coordinator who will be responsible for all facility wilderness or adventure trips.

1. This person must have experience in and knowledge regarding wilderness activities and be trained in wilderness first aid. The individual must also have at least one year experience at the facility and be familiar with the facility procedures, staff, and residents.

2. Documentation regarding this knowledge and experience shall be found in the individual's staff record.

3. The trip coordinator will review all trip plans and procedures and will ensure that staff and residents meet the requirements as outlined in the facility's policy regarding each wilderness/adventure activity to take place during the trip.

4. The trip coordinator will review all trip plans and procedures and will ensure that staff and residents meet the requirements as outlined in the facility's policy regarding each wilderness/adventure activity to take place during the trip.

C. The trip coordinator shall conduct a posttrip debriefing within 72 hours of the group's return to base to evaluate individual and group goals as well as the trip as a whole.

D. The trip coordinator will be responsible for writing a summary of the debriefing session and shall be responsible for ensuring that procedures and policies are updated to reflect improvements needed.

E. A trip folder will be developed for each wilderness/adventure activity conducted away from the facility and shall include:

1. Medical release forms including pertinent medical information on the trip participants;

2. Phone numbers for administrative staff and emergency personnel;

3. Daily trip logs;

4. Incident reports;

5. Swimming proficiency list if trip is near water;

6. Daily logs;

7. Maps of area covered by the trip; and

8. Daily plans.

F. Initial physical forms used by wilderness campsite programs and providers that take residents on wilderness or adventure activities shall include:

1. A statement notifying the doctor of the types of activities the resident will be participating in; and

2. A statement signed by the doctor stating the individual's health does not prevent him from participating in the described activities.

G. First aid kits used by wilderness campsite programs and providers that take residents on adventure activities shall be activity appropriate and shall be accessible at all times.

H. Direct care workers hired by wilderness campsite programs and providers that take residents on wilderness/adventure activities shall be trained in a wilderness first aid course.

I. The provider shall ensure that before engaging in any aquatic activity, each resident shall be classified by the trip coordinator or his designee according to swimming ability in one of two classifications: swimmer and nonswimmer. This shall be documented in the resident's record and in the trip folder.

J. The provider shall ensure that lifesaving equipment is provided for all aquatic activities and is placed so that it is immediately available in case of an emergency. At a minimum, the equipment shall include:

1. A whistle or other audible signal device; and

2. A lifesaving throwing device.

K. A separate bed, bunk or cot shall be made available for each person.

L. A mattress cover shall be provided for each mattress.

M. Sleeping areas shall be protected by screening or other means to prevent admittance of flies and mosquitoes.

N. Bedding shall be clean, dry, sanitary, and in good repair.

O. Bedding shall be adequate to ensure protection and comfort in cold weather.

P. Sleeping bags, if used, shall be fiberfill and rated for 0°F.

Q. Linens shall be changed as often as required for cleanliness and sanitation but not less frequently than once a week.

R. Each resident shall be provided with an adequate supply of clean clothing that is suitable for outdoor living and is appropriate to the geographic location and season.

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S. Sturdy, water-resistant, outdoor footwear shall be provided for each resident.

T. Each resident shall have adequate personal storage area.

U. Fire extinguishers of a 2A 10BC rating shall be maintained so that it is never necessary to travel more than 75 feet to a fire extinguisher from combustion-type heating devices, campfires, or other source of combustion.

V. Artificial lighting shall be provided in a safe manner.

W. All areas of the campsite shall be lighted for safety when occupied by residents.

X. Staff of the same sex may share a sleeping area with the residents.

Y. A telephone or other means of communication is required at each area where residents sleep or participate in programs.

NOTICE: The forms used in administering 22 VAC 42-11, Standards for Interdepartmental Regulation of Children's Residential Facilities, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Office of Interdepartmental Regulation, Department of Social Services, 7 North 8th Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

## FORMS

Initial Application for a Virginia State License/Certificate to Operate a Children's Residential Facility, 032-05-5535 (eff. 3/07).

Renewal Application for a Virginia State License/Certificate to Operate a Children's Residential Facility 032-05-5545 (eff. 3/07).

Renewal Application for a Facility Holding a Conditional License/Certificate 032-05-588 (eff. 3/07).

V.A.R. Doc. No. R04-80; Filed May 9, 2007, 11:17 a.m.



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# GENERAL NOTICES/ERRATA

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## STATE CORPORATION COMMISSION

### Bureau of Insurance

Administrative Letter 2007-3

TO: All Companies Licensed to Write Accident and Sickness Insurance in Virginia

RE: Chapter 200 of Title 14 of the Virginia Administrative Code, Rules Governing Long-Term Care Insurance, Long-Term Care Partnership Program

The State Corporation Commission recently adopted revisions to the Rules Governing Long-Term Care Insurance, 14 VAC 5-200-10 et seq., (the Rules). The Rules were revised primarily to address requirements necessary to establish a Public-Private Long-Term Care Partnership Program (Partnership Program), between the Commonwealth of Virginia and private insurance companies. The revisions to the Rules will become effective September 1, 2007, concurrent with the implementation date of the Partnership Program in Virginia. The purpose of this letter is to provide general guidance to companies that are considering offering Long-Term Care Partnership policies (Partnership Policies), in Virginia. This letter focuses only on two processes related to the sale of Partnership Policies in Virginia – agent training and Partnership Product qualification. Insurers are expected and required to review the revised Rules in their entirety to ensure that they are compliant with all the requirements in the Rules, including those that may not necessarily relate directly to the Partnership Program.

#### I. Agent Training

Licensed agents may not sell a Partnership Policy in Virginia unless and until they have received the requisite eight (8) hours of initial training addressed in the Rules at 14 VAC 5-200-205 E. Thereafter, agents must receive at least four (4) hours of ongoing training every twenty-four (24) months. All training must be approved by the Insurance Continuing Education (CE) Board and must, at a minimum, consist of the specific topics identified in the Rules. Insurers will be responsible for ensuring that their agents are appropriately trained, for maintaining documentation of such training, and for producing training records upon request by the Bureau. Agents who meet all Partnership training requirements will be considered to be "qualified" to sell Partnership policies. Insurers are cautioned to take steps to prevent the sale of Partnership policies by agents who have not met these qualification requirements.

#### Initial Training

- An agent must satisfactorily complete a course consisting of at least two (2) hours, covering the topics identified in 14 VAC 5-200-205 E 3 (a). The course must be designated as CE for Long-Term Care Partnership in Virginia.

- To facilitate a transition toward sales of Partnership Policies, recent relevant training may be used to satisfy all or part of the remaining six (6) hours of the initial training requirements, subject to the following:

Any agent who completes the Partnership-specific course covering the topics identified in 14 VAC 5-200-205 E 3 (a) prior to January 1, 2008 may receive credit for up to six (6) hours of CE approved training covering the topics identified in 14 VAC 5-200-205 E 3 (b through f), and completed between January 1, 2005 and September 1, 2007.

Any agent who completes the Partnership-specific course covering the topics identified in 14 VAC 5-200-205 E 3 (a) on or after January 1, 2008 may receive credit for up to six (6) hours of CE approved training covering the topics identified in 14 VAC 5-200-205 E 3 (b through f), and completed on or after January 1, 2007.

All previous training must be designated as CE for long-term care.

Training received in another state will be recognized to complete the requirements relating to the topics identified in 14 VAC 5-200-205 E 3 (b through f) as long as the training is CE approved and identified as CE for long-term care.

#### Ongoing Training

- The four (4) hours of ongoing training must, at a minimum, consist of two (2) hours relating to the topics identified in 14 VAC 5-200-205 E 3 (a), and two (2) hours relating to the topics identified in 14 VAC 5-200-205 E 3 (b through f).

#### II. Product Qualification

Partnership policies issued or issued for delivery in Virginia must be approved by the Commission in accordance with § 38.2-316 of the Code of Virginia, and all applicable statutes and rules. Policies submitted for approval as Partnership Policies must also be accompanied by a Partnership Certification Form in the format prescribed in Form 200-C of the Rules.

Insurers seeking approval to use a previously approved long-term care policy form as a Partnership Policy must submit a copy of the previously approved policy form appropriately book-marked to demonstrate compliance with all items identified in the accompanying Partnership Certification Form, along with the approval date of the policy.

To facilitate the product approval process during the transitional period prior to September 1, 2007, the Bureau will accept and review submissions of Partnership Policies prior to that date and will notify insurers of the outcome of its review immediately upon conclusion. However, actual

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approval dates of qualified Partnership policies will not precede September 1, 2007 and the sales or issuances of Partnership Policies may not occur prior to September 1, 2007 under any circumstances.

Questions concerning agent training may be addressed to: Preston Winn, Supervisor, Agents Licensing, Bureau of Insurance, Agent Regulation and Administration Division, P.O. Box 1157, Richmond, VA 23218, telephone (804) 786-9521.

Questions concerning Partnership Product qualification may be addressed to: Mary Ann Mason, Senior Insurance Market Examiner, Bureau of Insurance, Life and Health Division, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9348.

/s/ Alfred W. Gross  
Commissioner of Insurance

### DEPARTMENT OF ENVIRONMENTAL QUALITY

#### Study to Restore Water Quality in the Tidal Potomac River

Announcement of the fifth Technical Advisory Committee Meeting for the total maximum daily load (TMDL) study to restore water quality in the tidal Potomac River, including selected tributaries to the tidal Potomac River in Maryland, Washington, D.C. and Virginia, which are impaired by the pollutant polychlorinated biphenyl (PCB).

Purpose of notice: The Virginia Department of Environmental Quality, Washington D.C. Department of the Environment, Maryland Department of the Environment, and Interstate Commission for the Potomac River Basin announce the fifth Technical Advisory Committee (TAC) meeting to update members of the TAC and other interested stakeholders on the progress of the TMDL study.

Technical advisory committee meeting: Metropolitan Washington Council of Governments, 777 North Capitol Street, NE, First Floor Training Center, Washington, D.C. 20002-4239, Thursday, May 31, 2007, 10 a.m. to noon (due to limited parking, COG strongly urges guests to use METRO.)

Meeting description: This is the fifth Technical Advisory Committee meeting for the Potomac PCB Project. The TMDL study addresses elevated levels of polychlorinated biphenyls (PCBs) in the Potomac River estuary.

Description of study: Virginia, Maryland, and Washington D.C. agencies are working to understand the nature of the PCB contamination in the tidal waters of the Potomac River. This study aims to identify the sources of PCBs into the estuary, understand the fate and transport of the pollutants, and determine the reductions in PCB loadings needed to achieve compliance with water quality standards and fish

consumption goals. These load reductions are known as total maximum daily loads, or TMDLs. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, PCB levels have to be reduced to the TMDL amount.

Contact for additional information: Mark Richards, Virginia Department of Environmental Quality, 629 East Main Street, Richmond, VA 23240, telephone (804) 698-4392, FAX (804) 698-4116, or email marichards@deq.virginia.gov.

#### Study to Restore Water Quality in Part of the Tidal Freshwater Rappahannock River

Announcement of a total maximum daily load (TMDL) study to restore water quality in part of the tidal freshwater Rappahannock River that is contaminated with bacteria.

Purpose of notice: The Virginia Department of Environmental Quality (DEQ) and the Virginia Department of Conservation and Recreation (DCR) announce the first Technical Advisory Committee (TAC) meeting to introduce the Tidal Freshwater Rappahannock River TMDL study.

Technical advisory committee meeting: Tuesday, June 5, 2007, 10 a.m. - 12 Noon, Jepson Alumni Center, Minor Board Room, Fredericksburg Campus of Mary Washington University.

Meeting description: This technical advisory committee meeting is the first meeting to introduce this project to the public. The purpose of the TAC will be to provide technical input and insight for the project, and to assist with stakeholder and public participation.

Description of study: Virginia agencies are working to identify sources of bacteria contamination in a 3.8 square mile segment of the tidal freshwater Rappahannock River. The impaired river segment is located in portions of Caroline, King George, Spotsylvania, and Stafford counties, and the City of Fredericksburg. Below is a description of the impaired portion of the Rappahannock River that will be addressed in this TMDL study.

Stream Name	Locality	Impairment	Area (mi <sup>2</sup> )	Upstream Limit	Downstream Limit
Rappahannock River	Fredericksburg Caroline King George Spotsylvania Stafford	Bacteria	3.8	Fall Line at the Route 1 Bridge in Fredericksburg	Confluence with Mill Creek, below the Route 301 Bridge

During the study, DEQ will develop a total maximum daily load, or a TMDL, for the impaired river segment. A TMDL is the total amount of a pollutant a water body can receive and still meet water quality standards. To restore water quality,

contamination levels have to be reduced to the TMDL allocated amount.

Contact for additional information: Katie Conaway, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3804, or email [mkconaway@deq.virginia.gov](mailto:mkconaway@deq.virginia.gov).

## STATE LOTTERY DEPARTMENT

### Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on April 27, 2007, and May 7, 2007. The orders may be viewed at the State Lottery Department, 900 E. Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

Final Rules for Game Operation:

#### Director's Order Number Sixteen (07)

Virginia's Instant Game Lottery 737; "Tropical Island" (effective 4/24/07)

#### Director's Order Number Seventeen (07)

Virginia's Instant Game Lottery 781; "Fun In The Sun" (effective 4/24/07)

#### Director's Order Number Eighteen (07)

Virginia's Instant Game Lottery 738; "Hit \$200,000" (effective 4/24/07)

#### Director's Order Number Nineteen (07)

Virginia's Instant Game Lottery 782; "10X The Money" (effective 4/24/07)

#### Director's Order Number Twenty (07)

Virginia's Tenth Online Game Lottery; "Win For Life" (effective 5/2/07)

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Notice of Intent to Amend the Virginia State Plan for Medical Assistance

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance to provide for changes to the Methods and Standards for Establishing Payment Rates-Inpatient Hospital Services, the Methods and Standards for Establishing Payment Rates-Other Types of Care, and the Methods and Standards for Establishing Payment Rates-Long Term Care. The changes

contained in this public notice are occurring in response to language in the 2007 Appropriation Act. The Appropriation Act directs DMAS to (i) set the adjustment factor for inpatient psychiatric services performed by acute care Type 2 hospitals to 0.8400 with an equivalent change to the Type 1 hospital adjustment factor and (ii) permanently remove freestanding psychiatric hospitals from hospital rebasing (\$3.2 million, Fiscal Year 08). The Appropriation Act directs DMAS to eliminate the rural wage index category used to adjust the labor portion of the statewide operating rates for hospitals (\$1.2 million, Fiscal Year 08). The Appropriation Act directs DMAS to provide a 10% increase to pediatric physician services and a five percent increase to all other physician services excluding obstetrics/ gynecology (OB/GYN) and to create separate categories for preventive and nonpreventive pediatric services (\$27.1 million, Fiscal Year 08). The Appropriation Act directs DMAS to provide for up to 750 square feet per bed in determining the construction cost limit for children's ICF/MR facilities of 50 beds or more (\$311,000, Fiscal Year 08). The above changes would be effective July 1, 2007. This change is being made pursuant to the department's authority under Title XIX of the Social Security Act.

This notice is intended to satisfy the requirements of 42 CFR 447.205 and of § 1902(a)(13) of the Social Security Act, 42 USC 1396a(a)(13). A copy of this notice is available for public review from William Lessard, Director, Provider Reimbursement Division, Department of Medical Assistance Services, 600 Broad Street, Suite 1300, Richmond, VA 23219, and this notice is available for public review on the Regulatory Town Hall ([www.townhall.com](http://www.townhall.com)). Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to Mr. Lessard and such comments are available for review at the same address.

## JOINT BOARDS OF NURSING AND MEDICINE

### Notice of Periodic Review of Regulations

The Virginia Boards of Nursing and Medicine are conducting a periodic review of their current regulations governing nurse practitioners and are requesting comment on the following current regulations:

18 VAC 90-30, Regulations Governing the Licensure of Nurse Practitioners

18 VAC 90-40, Regulations for Prescriptive Authority for Nurse Practitioners

The boards will consider whether the existing regulations are essential to protect the health, safety and welfare of the public in providing assurance that licensed practitioners are competent to practice. Alternatives to the current regulations or suggestions for clarification of the regulation will also be received and considered.

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Comment begins May 28, 2007, and ends on June 27, 2007. If any member of the public would like to comment on these regulations, please send comments by the close of the comment period to Elaine J. Yeatts, Senior Policy Analyst, Department of Health Professions, 6603 West Broad Street, Richmond, VA 23230, email [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov) or FAX (804) 662-9114.

Regulations may be viewed online at [www.dhp.virginia.gov](http://www.dhp.virginia.gov) or copies will be sent upon request.

### DEPARTMENT OF TRANSPORTATION

#### FY 2008-2013 Six-Year Improvement Program

The Commonwealth Transportation Board (CTB) invites your comments about essential rail, public transportation, commuter service, bicycle, pedestrian, and highway projects in the Fiscal Year 2008-2013 Six-Year Improvement Program (SYIP) to be approved by the CTB in June. Comments will also be received regarding proposed allocations for the Federal Transportation Enhancement Program.

All projects in the SYIP that are eligible for federal funding will be included in the Statewide Transportation Improvement Program, which documents how Virginia will obligate its share of federal funds. You can review the working draft "FY 2008-2013 SYIP" on [VirginiaDOT.org](http://VirginiaDOT.org) and at VDOT District and Residency Offices on or after May 16.

If you cannot attend a hearing, you may send your comments to: Public Information Office, Department of Rail and Public Transportation, 1313 East Main Street, Suite 300, Richmond, VA 23218-0590, [drptpr@drpt.virginia.gov](mailto:drptpr@drpt.virginia.gov) or to Programming Director, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, or [six-yearprogram@vdot.virginia.gov](mailto:six-yearprogram@vdot.virginia.gov) through June 5, 2007. Public hearings for local/secondary/municipality-maintained roads are held in other forums.

### DEPARTMENT OF SOCIAL SERVICES

#### Periodic Review of Regulations

Pursuant to Executive Order Number 36 (2006), the Department of Social Services is currently reviewing 22 VAC 40-670, Degree Requirements for Social Work/Social Work Supervisor Classification Series, to determine if it should be terminated, amended, or retained in current form. The review will be guided by the principles listed in Executive Order Number 36 (2006) 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 alternative to the regulation, specific and measurable

goals that the regulation is intended to achieve, and whether the regulation is clearly written and easily understandable.

Written comments may be submitted until June 18, 2007, in care of Harold Hobson, HR Manager II, Division of Human Resource Management, 7 North Eighth Street, Richmond, VA 23219, by facsimile to (804) 726-7027, or email to [harold.hobson@dss.virginia.gov](mailto:harold.hobson@dss.virginia.gov).

### VIRGINIA CODE COMMISSION

#### Notice to State Agencies

**Mailing Address:** Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219.

#### 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  
RESPONSE TO PETITION FOR RULEMAKING-RR13  
FAST-TRACK RULEMAKING ACTION-RR14

### ERRATA

#### DEPARTMENT OF MINES, MINERALS AND ENERGY

**Title of Regulation:** 4 VAC 25-130. Coal Surface Mining Reclamation Regulations.

**Publication:** 23:16 VA.R. 2592-2595 April 16, 2007.

**Correction to Final Regulation:**

Page 2592, Title of Regulation, change to "(amending 4 VAC 25-130-785.25, 4 VAC 25-130-816.116 and 4 VAC 25-130-817.116)"

VA.R. Doc. No. R07-182

**DEPARTMENT OF TRANSPORTATION**

Title of Regulation: **24 VAC 30-155. Traffic Impact Analysis Regulations.**

Publication: 23:18 VA.R. 2915-2930 April 16, 2007.

Correction to Final Regulation:

Page 2914, Title of Regulation, change to "**(adding 24 VAC 30-155-10 through [ ~~24 VAC 30-155-90~~ 24 VAC 30-155-100 ])**".

VA.R. Doc. No. R06-343

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# CALENDAR OF EVENTS

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## Symbol Key

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

♿ Location accessible to persons with disabilities

☎ Teletype (TTY)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at [www.virginia.gov](http://www.virginia.gov) 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 website's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

## EXECUTIVE

### BOARD OF ACCOUNTANCY

**June 27, 2007 - 10 a.m.** -- Open Meeting

Richmond Marriott West, 4240 Dominion Boulevard, Franklin Room, Glen Allen, Virginia.♿ (Interpreter for the deaf provided upon request)

A general business meeting including consideration of regulatory issues as may be presented on the agenda. A portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 West Broad St., Suite 378, Richmond, VA 23230-4923, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY☎, email [boa@boa.virginia.gov](mailto:boa@boa.virginia.gov).

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Virginia Aquaculture Advisory Board

**June 6, 2007 - 9:30 a.m.** -- Open Meeting

Virginia Institute of Marine Science, Eastern Shore Laboratory, Wachapreague, Virginia.♿

A meeting to discuss issues related to Virginia aquaculture. For directions, call the main office of the lab at (757) 787-5816. 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 T. Robins Buck 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, Oliver Hill Bldg., 102 Governor St., 2nd Floor, Richmond, VA 23219, telephone (804) 371-6094, FAX (804) 371-2945, email [robins.buck@vdacs.virginia.gov](mailto:robins.buck@vdacs.virginia.gov).

#### Virginia Horse Industry Board

**June 20, 2007 - 10 a.m.** -- Open Meeting

Department of Forestry, 900 Natural Resources Drive, 2nd Floor, Meeting Room, Charlottesville, Virginia.♿

A meeting to (i) review the minutes from the last meeting and the budget to date, and (ii) discuss and plan marketing and promotional projects for the coming fiscal year. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Andrea Heid at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Andrea Heid, Equine Marketing Specialist/Program Manager, Department of Agriculture and Consumer Services, Oliver Hill Bldg., 102 Governor St., Room 318, 3rd Floor, Richmond, VA 23219, telephone (804) 786-5842, FAX (804) 371-7786, email [andrea.heid@vdacs.virginia.gov](mailto:andrea.heid@vdacs.virginia.gov).

## Virginia Wine Board

† **June 13, 2007 - 11 a.m.** -- Open Meeting  
Virginia Department of Forestry, 900 Natural Resources Drive, Charlottesville, Virginia. 

A meeting to (i) approve the minutes of the last meeting held on March 20, 2007; (ii) review the board's financial statement; and (iii) 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 David Robishaw at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** David Robishaw, Secretary, Department of Agriculture and Consumer Services, 900 Natural Resources Dr., Suite 300, Charlottesville, VA 22903, telephone (434) 984-0573, FAX (434) 984-4156, email david.robishaw@vdacs.virginia.gov.

## STATE AIR POLLUTION CONTROL BOARD

† **June 6, 2007 - 7 p.m.** -- Public Hearing  
Lee County Courthouse, Room 208, Jonesville, Virginia. 

A public hearing on a permit to construct a hot mix asphalt plant in Lee County. The public comment period began on May 6, 2007, and ends on June 6, 2007.

**Contact:** Cliff Musick, Department of Environmental Quality, 355 Deadmore St., Abingdon, VA 21212, telephone (276) 676-4833, FAX (276) 676-4899, email ecmusick@deq.virginia.gov.

**June 18, 2007 - 9 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, First Floor Conference Room, Richmond, Virginia. 

The board is suspending the effective date of certain provisions of its regulation entitled: Regulation for Emissions Trading, specifically the provisions concerning nonattainment area requirements (9 VAC 5-140-1061, 9 VAC 5-140-1062, 9 VAC 5-140-2061, 9 VAC 5-140-2062, 9 VAC 5-140-3061, and 9 VAC 5-140-3062) and seeking comment on the changes made to these provisions from publication of the proposed regulation to publication of the final regulation. (See the full notice in the Regulations section of this Register.)

**Contact:** Mary E. Major, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, FAX (804) 698-4510, email memajor@deq.virginia.gov.

## ALCOHOLIC BEVERAGE CONTROL BOARD

**June 4, 2007 - 9 a.m.** -- Open Meeting  
**June 18, 2007 - 9 a.m.** -- Open Meeting  
**July 2, 2007 - 9 a.m.** -- Open Meeting  
**July 16, 2007 - 9 a.m.** -- Open Meeting  
**August 6, 2007 - 9 a.m.** -- Open Meeting  
† **August 20, 2007 - 9 a.m.** -- Open Meeting  
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. 

An executive staff meeting to receive and discuss reports and activities from staff members and to discuss other matters as necessary.

**Contact:** W. Curtis Coleburn, III, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY , email curtis.coleburn@abc.virginia.gov.

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

**June 14, 2007 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A regular meeting to discuss board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email apelscidla@dpor.virginia.gov.

**July 26, 2007 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting of the Architects Section to conduct board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified

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## Calendar of Events

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Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email [apelscidla@dpor.virginia.gov](mailto:apelscidla@dpor.virginia.gov).

**August 9, 2007 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Professional Engineers Section to conduct board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email [apelscidla@dpor.virginia.gov](mailto:apelscidla@dpor.virginia.gov).

**August 14, 2007 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, 5th Floor, Virginia. 

A meeting of the Landscape Architects Section to conduct board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email [apelscidla@dpor.virginia.gov](mailto:apelscidla@dpor.virginia.gov).

† **August 16, 2007 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Land Surveyors Section to conduct board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email [apelscidla@dpor.virginia.gov](mailto:apelscidla@dpor.virginia.gov).

† **August 21, 2007 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Interior Designers Section to conduct board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or email [apelscidla@dpor.virginia.gov](mailto:apelscidla@dpor.virginia.gov).

### ART AND ARCHITECTURAL REVIEW BOARD

**June 1, 2007 - 10 a.m.** -- Open Meeting

**July 6, 2007 - 10 a.m.** -- Open Meeting

**August 3, 2007 - 10 a.m.** -- Open Meeting

Science Museum of Virginia, 2500 West Broad Street, Forum Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A monthly meeting to review projects submitted by state agencies. Art and Architectural Review Board submittal forms and submittal instructions can be downloaded by visiting the DGS Forms Center at [www.dgs.virginia.gov](http://www.dgs.virginia.gov). Request form #DGS-30-905 or submittal instructions #DGS-30-906. The deadline for submitting project datasheets and other required information is two weeks prior to the meeting date.

**Contact:** Brian H. Ohlinger, Chairman, Art and Architectural Review Board, 700 W. Grace St., Suite 2200, Richmond, VA 23284, telephone (804) 827-9647, FAX (804) 827-1288 or email [bjohlinger@vcu.edu](mailto:bjohlinger@vcu.edu).

### VIRGINIA COMMISSION FOR THE ARTS

**June 14, 2007 - 8 a.m.** -- Open Meeting

Museum of the Shenandoah Valley, Winchester, Virginia.  (Interpreter for the deaf provided upon request)

**June 15, 2007 - 8 a.m.** -- Open Meeting

Shenandoah University, Board Room, Winchester, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly meeting of the commissioners to review and approve the recommendations of the 07-08 grant panels.

**Contact:** Peggy Baggett, Executive Director, Virginia Commission for the Arts, 223 Governor St., Richmond, VA 23219, telephone (804) 225-3132, FAX (804) 225-4327,

(804) 225-3132/TTY , email  
peggy.baggett@arts.virginia.gov.

## VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

† **August 15, 2007 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** David E. Dick, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, (804) 367-9753/TTY , email alhi@dpor.virginia.gov.

## AUCTIONEERS BOARD

**July 12, 2007 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** Marian H. Brooks, Regulatory Board Administrator, Auctioneers Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-0795, (804) 367-9753/TTY , email auctioneers@dpor.virginia.gov.

## BOARD FOR BARBERS AND COSMETOLOGY

**August 6, 2007 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A meeting to discuss general business matters including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive

services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , email barbercosmo@dpor.virginia.gov.

## BOARD FOR THE BLIND AND VISION IMPAIRED

### Statewide Rehabilitation Council

**June 9, 2007 - 10 a.m.** -- Open Meeting  
Department for the Blind and Vision Impaired, 397 Azalea Avenue, Rooms 1 and 2, Richmond, Virginia. 

A quarterly meeting to advise the Department for the Blind and Vision Impaired on matters related to vocational rehabilitation services for the blind and visually impaired of the Commonwealth.

**Contact:** Susan D. Payne, VR Program Director, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 373-3184, FAX (804) 371-3390, toll-free (800) 622-2155, (804) 371-3140/TTY , email susan.payne@dbvi.virginia.gov.

## BOARD FOR BRANCH PILOTS

**July 26, 2007 - 8:30 a.m.** -- Open Meeting  
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. 

A meeting of the Examination Administrators to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. All meetings are subject to cancellation. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , email branchpilots@dpor.virginia.gov.

**July 27, 2007 - 9:30 a.m.** -- Open Meeting  
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. 

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. All meetings are subject to cancellation. Any person desiring to attend the

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# Calendar of Events

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meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, email [branchpilots@dpor.virginia.gov](mailto:branchpilots@dpor.virginia.gov).

## CEMETERY BOARD

**June 6, 2007 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿

A meeting to discuss board business.

**Contact:** Christine Martine, Executive Director, Cemetery Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, email [cemetery@dpor.virginia.gov](mailto:cemetery@dpor.virginia.gov).

## CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

**June 18, 2007 - 10 a.m.** -- Open Meeting  
Location to be announced.

A regular business meeting to review local programs.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email [david.dowling@dcr.virginia.gov](mailto:david.dowling@dcr.virginia.gov).

**August 14, 2007 - 10 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, 17th Floor Conference Room, Richmond, Virginia.

A regular meeting of the Northern Area Review Committee to review local programs.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email [david.dowling@dcr.virginia.gov](mailto:david.dowling@dcr.virginia.gov).

**August 14, 2007 - 2 p.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, 17th Floor Conference Room, Richmond, Virginia.

A regular meeting of the Southern Area Review Committee to review local programs.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone

(804) 786-2291, FAX (804) 786-6141, email [david.dowling@dcr.virginia.gov](mailto:david.dowling@dcr.virginia.gov).

## STATE BOARD FOR COMMUNITY COLLEGES

**July 18, 2007 - 1:30 p.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, 15th Floor, Room 315, Godwin-Hamel Board Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The Budget and Finance Committee and the Academic, Student Affairs and Workforce Development Committee will meet at 1:30 p.m. The Audit Committee will meet at 3 p.m. and the Facilities Committee will meet with the Personnel Committee at 3:30 p.m.

**Contact:** Jeffrey J. Kraus, Assistant Vice Chancellor for Public Relations, State Board for Community Colleges, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY ☎

**July 19, 2007 - 9 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, 15th Floor, Room 315, Godwin-Hamel Board Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the full board. Public comment may be received upon written notification at least five working days prior to the meeting.

**Contact:** D. Susan Hayden, Director of Public Affairs, Virginia Community College System, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY ☎

## COMPENSATION BOARD

**June 20, 2007 - 11 a.m.** -- Open Meeting  
Compensation Board, 102 Governor Street, Lower Level, Room LL22, Richmond, Virginia. ♿

A monthly board meeting.

**Contact:** Cindy Waddell, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 225-3308, FAX (804) 371-0235, email [cindy.waddell@scb.virginia.gov](mailto:cindy.waddell@scb.virginia.gov).

## DEPARTMENT OF CONSERVATION AND RECREATION

**June 13, 2007 - 10 a.m.** -- Open Meeting  
Location to be announced.

A business meeting of the Virginia Land Conservation Foundation.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone

(804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

**June 14, 2007 - 9 a.m.** -- Open Meeting

The Science Museum of Virginia, 2500 West Broad Street, RF & P Room, Richmond, Virginia.

A Technical Advisory Committee Meeting to assist the department in considering revisions to the Virginia Soil and Water Conservation Board's Virginia Stormwater Management Program (VSMP) Permit Regulations.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

**June 21, 2007 - Noon** -- Open Meeting

**July 19, 2007 - Noon** -- Open Meeting

**† August 16, 2007 - Noon** -- Open Meeting

Richmond City Hall, 900 East Broad Street, 5th Floor, Planning Commission Conference Room, Richmond, Virginia.

A regular meeting of the Falls of the James Scenic River Advisory Committee to discuss river issues.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

## Virginia Land Conservation Foundation

**† June 13, 2007 - 10 a.m.** -- Open Meeting

Science Museum of Virginia, 2500 West Broad Street, Richmond, Virginia.

A regular business meeting.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

## Virginia Soil and Water Conservation Board

**July 19, 2007 - 9:30 a.m.** -- Open Meeting

Location to be announced.

A regular board meeting.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, email david.dowling@dcr.virginia.gov.

## BOARD FOR CONTRACTORS

**June 4, 2007 - 4 p.m.** -- Open Meeting

**† August 28, 2007 - 1 p.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A quarterly meeting of the Board for Contractors Committee. The meeting starts at the conclusion of the Board for Contractors regular meeting.

**Contact:** Kevin Hoeft, Regulatory Boards Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , email contractors@dpor.virginia.gov.

**June 5, 2007 - 9 a.m.** -- Open Meeting

**July 24, 2007 - 9 a.m.** -- Open Meeting

**† August 28, 2007 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A meeting to address policy and procedural issues and review and render decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , email contractors@dpor.virginia.gov.

**† June 5, 2007 - 2 p.m.** -- Open Meeting

**June 7, 2007 - 9 a.m.** -- Open Meeting

**June 12, 2007 - 9 a.m.** -- Open Meeting

**† June 19, 2007 - 9 a.m.** -- Open Meeting

**† June 21, 2007 - 9 a.m.** -- Open Meeting

**June 26, 2007 - 9 a.m.** -- Open Meeting

**† July 10, 2007 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

An informal fact-finding conference.

**Contact:** Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , email contractors@dpor.virginia.gov.

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# Calendar of Events

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## BOARD OF CORRECTIONAL EDUCATION

† **June 22, 2007 - 10 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, 7th Floor,  
Richmond, Virginia.  (Interpreter for the deaf provided upon  
request)

A meeting to discuss general business.

**Contact:** Patty Ennis, Board Clerk, Board of Correctional  
Education, 101 N. 14th St., 7th Floor, Richmond, VA 23219,  
telephone (804) 225-3314, FAX (804) 786-7642, (804) 371-  
8647/TTY , email patricia.ennis@dce.virginia.gov.

## BOARD OF CORRECTIONS

**July 17, 2007 - 10 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, 3rd Floor  
Board Room, Richmond, Virginia. 

A meeting of the Liaison Committee to discuss correctional  
matters of interest to the board.

**Contact:** Barbara Woodhouse, Administrative Staff  
Assistant, Department of Corrections, 6900 Atmore Dr.,  
Richmond, VA 23225, telephone (804) 674-3124, FAX (804)  
674-3236, email barbara.woodhouse@vadoc.virginia.gov.

**July 17, 2007 - 11 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, 3rd Floor  
Board Room, Richmond, Virginia. 

A meeting of the Correctional Services/Policy and  
Regulations Committee to discuss correctional services and  
policy/regulation matters to be considered by the board.

**Contact:** Barbara Woodhouse, Administrative Staff  
Assistant, Department of Corrections, 6900 Atmore Dr.,  
Richmond, VA 23225, telephone (804) 674-3124, FAX (804)  
674-3236, email barbara.woodhouse@vadoc.virginia.gov.

**July 18, 2007 - 9:30 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, 3rd Floor,  
Room 3054, Richmond, Virginia. 

A meeting of the Administration Committee to discuss  
administrative matters to be considered by the board.

**Contact:** Barbara Woodhouse, Administrative Staff  
Assistant, Department of Corrections, 6900 Atmore Dr.,  
Richmond, VA 23225, telephone (804) 674-3124, FAX (804)  
674-3236, email barbara.woodhouse@vadoc.virginia.gov.

**July 18, 2007 - 10 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, 3rd Floor  
Board Room, Richmond, Virginia. 

A regular meeting of the full board to review and discuss  
all matters considered by board committees that require  
presentation to and action by the board.

**Contact:** Barbara Woodhouse, Administrative Staff  
Assistant, Department of Corrections, 6900 Atmore Dr.,  
Richmond, VA 23225, telephone (804) 674-3124, FAX (804)  
674-3236, email barbara.woodhouse@vadoc.virginia.gov.

## BOARD OF COUNSELING

† **June 1, 2007 - 11 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Richmond, Virginia. 

A meeting to determine if any laws or regulations  
governing the practice of professional counseling in  
Virginia have been violated.

**Contact:** Evelyn B. Brown, Executive Director, Board of  
Counseling, Alcoa Bldg., 6603 W. Broad St., 5th Floor,  
Richmond, VA 23230-1712, telephone (804) 662-9912, FAX  
(804) 662-9943, (804) 662-7197/TTY , email  
evelyn.brown@dhp.virginia.gov.

## CRIMINAL JUSTICE SERVICES BOARD

**June 14, 2007 - 11 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House  
Room D, Richmond, Virginia. 

A meeting to conduct general business.

**Contact:** Leon D. Baker, Jr., Division Director, Criminal  
Justice Services Board, 8th Street Office Bldg., 805 E. Broad  
St., 10th Floor, Richmond, VA 23219, telephone (804) 225-  
4086, FAX (804) 786-0588, email  
leon.baker@dcjs.virginia.gov.

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† **September 13, 2007 - 9 a.m.** -- Public Hearing  
General Assembly Building, 9th and Broad Streets, House  
Room D, Richmond, Virginia. 

† **July 27, 2007** - Public comments may be submitted until  
this date.

Notice is hereby given in accordance with § 2.2-4007 of the  
Code of Virginia that the Criminal Justice Services Board  
intends to amend regulations entitled **6 VAC 20-80, Rules  
Relating to Certification of Criminal Justice  
Instructors**. The purpose of the proposed action is to  
enhance the effectiveness of criminal justice instructors.

Statutory Authority: § 9.1-10 of the Code of Virginia.

**Contact:** Judith Kirkendall, Regulatory Coordinator,  
Department of Criminal Justice Services, 202 N. 9th St., 10th  
Floor, Richmond, VA 23219, telephone (804) 786-8003,  
FAX (804) 786-0410 or email  
judith.kirkendall@dcjs.virginia.gov.

## BOARD OF DENTISTRY

**June 7, 2007 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

Formal hearings. There will not be a public comment period.

**Contact:** Sandra Reen, Executive Director, Board of Dentistry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , email [sandra.reen@dhp.virginia.gov](mailto:sandra.reen@dhp.virginia.gov).

**June 8, 2007 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting to discuss board business. There will be a 15-minute public comment period at the beginning of the meeting.

**Contact:** Sandra Reen, Executive Director, Board of Dentistry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , email [sandra.reen@dhp.virginia.gov](mailto:sandra.reen@dhp.virginia.gov).

**June 22, 2007 - 9 a.m.** -- Open Meeting

† **August 17, 2007 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

Informal conferences of Special Conference Committee B. There will not be a public comment period.

**Contact:** Sandra Reen, Executive Director, Board of Dentistry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , email [sandra.reen@dhp.virginia.gov](mailto:sandra.reen@dhp.virginia.gov).

**June 29, 2007 - 9 a.m.** -- Open Meeting

**August 3, 2007 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

Informal conferences of Special Conference Committee C. There will not be a public comment period.

**Contact:** Sandra Reen, Executive Director, Board of Dentistry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , email [sandra.reen@dhp.virginia.gov](mailto:sandra.reen@dhp.virginia.gov).

**July 13, 2007 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Special Conference Committee A to hold informal conferences. There will not be a public comment period.

**Contact:** Sandra Reen, Executive Director, Board of Dentistry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , email [sandra.reen@dhp.virginia.gov](mailto:sandra.reen@dhp.virginia.gov).

## DESIGN BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

**June 21, 2007 - 11 a.m.** -- Open Meeting

**July 19, 2007 - 11 a.m.** -- Open Meeting

† **August 16, 2007 - 11 a.m.** -- Open Meeting

Department of General Services, 202 North Ninth Street, Room 412, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A monthly meeting to review requests submitted by localities to use the design build or construction management type contracts. Contact the Division of Engineering and Buildings to confirm this meeting. Board rules and regulations can be obtained on-line at [www.dgs.virginia.gov](http://www.dgs.virginia.gov) under DGS Forms, Form #DGS-30-904.

**Contact:** Kristy H. Martin, Administrative Assistant, Division of Engineering and Buildings, Department of General Services, 202 N. Ninth St., Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY , email [rhonda.bishton@dgs.virginia.gov](mailto:rhonda.bishton@dgs.virginia.gov).

## VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

† **June 14, 2007 - 9 a.m.** -- Open Meeting

Marriott Waterside, 235 East Main Street, Norfolk, Virginia.

A meeting of the Board of Directors to discuss issues pertaining to the Virginia Economic Development Partnership.

**Contact:** Kimberly M. Ellett, Senior Executive Assistant, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218, telephone (804) 545-5610, FAX (804) 545-5611, email [kellett@yesvirginia.org](mailto:kellett@yesvirginia.org).

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# Calendar of Events

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## BOARD OF EDUCATION

† **May 30, 2007 - 9 a.m.** -- Open Meeting

**June 28, 2007 - 9 a.m.** -- Open Meeting

**July 25, 2007 - 9 a.m.** -- Open Meeting

James Monroe Building, 101 North 14th Street, 22nd Floor,  
Jefferson Conference Room, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

A regular business meeting of the board. Public comment will be received. The agenda and the supporting materials will be posted on the Friday prior to the meeting on [http://www.doe.virginia.gov/VDOE/VA\\_Board/bd-sched.html](http://www.doe.virginia.gov/VDOE/VA_Board/bd-sched.html).

**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, email [margaret.roberts@doe.virginia.gov](mailto:margaret.roberts@doe.virginia.gov).

**July 18, 2007 - 9 a.m.** -- Open Meeting

**July 19, 2007 - 9 a.m.** -- Open Meeting

**July 20, 2007 - 9 a.m.** -- Open Meeting

Comfort Inn Conference Center, 3200 West Broad Street, Richmond, Virginia.

A meeting of the State Special Education Advisory Committee. For more information on times and agendas go to <http://www.doe.virginia.gov/VDOE/Instruction/Sped/sseac.html> or call the Department of Education Special Education and Student Services office at 804-225-3252 or (TTY) 800-422-1098.

**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, email [margaret.roberts@doe.virginia.gov](mailto:margaret.roberts@doe.virginia.gov).

† **May 31, 2007 - 9 a.m.** -- Open Meeting

James Monroe Building, 101 North 14th Street, 22nd Floor,  
Jefferson Conference Room, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

**August 2, 2007 - 11:30 a.m.** -- Open Meeting

Patrick Henry Building, 1111 East Broad Street, Richmond, Virginia.

An annual planning session of the board. This is a work session and public comment will not be received.

**Contact:** Dr. Margaret N. Roberts, Office of Policy and Communications, 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, email [margaret.roberts@doe.virginia.gov](mailto:margaret.roberts@doe.virginia.gov).

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

† **July 9, 2007 - 6:30 p.m.** -- Public Hearing

First Campbell Square Building, 210 1st Street, Roanoke, Virginia. 

† **July 10, 2007 - 6:30 p.m.** -- Public Hearing

Tuckahoe Area Library, 1901 Starling Drive, Richmond, Virginia. 

† **July 11, 2007 - 6:30 p.m.** -- Public Hearing

Department of Social Services, Virginia Beach Regional Office, Pembroke IV, 291 Independence Boulevard, 3rd Floor, Virginia Beach, Virginia. 

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services intends to repeal regulations entitled **22 VAC 42-10, Standards for Interdepartmental Regulation of Children's Residential Facilities**; and adopt regulations entitled **22 VAC 42-11, Standards for Interdepartmental Regulation of Children's Residential Facilities**. The purpose of the proposed action is to repeal the existing regulation 22 VAC 42-10, and promulgate a new regulation, 22 VAC 42-11. These standards will protect vulnerable children who are separated from their families and reside in children's residential facilities, and assure that an acceptable level of care and education are provided. The new regulation will (i) comply with federal regulation, (ii) ensure that services provided to residents are appropriate for their needs, (iii) bring the requirements in line with the current industry practices, (iv) clarify frequently misinterpreted standards, and (v) delete unnecessary requirements.

Statutory Authority: §§ 16.1-309.9, 22.1-321, 22.1-323, 22.1-323.2, 37.2-407, 37.2-408, 63.2-203, 63.2-217, 63.2-1701, 63.2-1703, 63.2-1737, 66-10 and 66-24 of the Code of Virginia.

Public comments may be submitted until July 27, 2007.

**Contact:** Charlene Vincent, Coordinator, Office of Interdepartmental Regulation, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7097, FAX (804) 726-7095 or email [charlene.vincent@dss.virginia.gov](mailto:charlene.vincent@dss.virginia.gov).

## SECRETARY OF EDUCATION

**June 20, 2007 - 10 a.m.** -- Open Meeting

**July 18, 2007 - 10 a.m.** -- Open Meeting

† **August 15, 2007 - 10 a.m.** -- Open Meeting

Capital One West Creek Campus, 1500 Capital One Drive, Richmond, Virginia.

A meeting of the Start Strong Pre-K Task Force.

**Contact:** Kendall Tyree, Special Assistant to the Secretary of Education, 1111 E. Broad St., Richmond, VA 23219, telephone (804) 692-2550, email kendall.tyree@governor.virginia.gov.

## DEPARTMENT OF ENVIRONMENTAL QUALITY

† **May 30, 2007 - 7 p.m.** -- Public Hearing  
Clover Hill Library, 6701 Deer Run Drive, Meeting Room, Midlothian, Virginia. 

A public hearing on a permit amendment to expand the Taylor Road CDD Landfill in Chesterfield County. The public comment period began on April 30, 2007, and ends on June 14, 2007.

**Contact:** Don Brunson, Department of Environmental Quality, 629 E. Main St., P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4239, email dhbrunson@deq.virginia.gov.

† **May 31, 2007 - 10 a.m.** -- Open Meeting  
Metropolitan Washington Council of Governments, 777 North Capitol Street, NE, First Floor Training Center, Washington, DC. 

The fifth meeting of the advisory committee meeting on the Potomac PCB Project. The public notice appears in the General Notices section of the Virginia Register of Regulations on May 28, 2007.

**Contact:** Mark Richards, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4392, FAX (804) 698-4116, email marichards@deq.virginia.gov.

† **June 5, 2007 - 10 a.m.** -- Open Meeting  
Mary Washington University, Jepson Alumni Center, Minor Board Room, Fredericksburg, Virginia. 

The first meeting of the Technical Advisory Committee assisting in the development of a bacteria TMDL for the tidal freshwater Rappahannock River located in portions of Caroline, King George, Spotsylvania and Stafford counties and the City of Fredericksburg. The public notice appears in the General Notices section of the Virginia Register of Regulations on May 28, 2007.

**Contact:** Katie Conaway, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3804, email mkconaway@deq.virginia.gov.

† **June 5, 2007 - 7 p.m.** -- Public Hearing  
Smith Gap Landfill, 8484 Bradshaw Road, Roanoke, Virginia. 

A public hearing on a permit amendment for the Smith Gap Regional Landfill in Roanoke. The permit amendment will

incorporate design modifications for Phases V through IX. The public comment period is May 5 through June 20. An informal questions and answer period will begin at 6 p.m.

**Contact:** Jenny Poland, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6890, FAX (540) 562-6725, email jlpoland@deq.virginia.gov.

**June 14, 2007 - 11 a.m.** -- Open Meeting  
Hampton Roads Planning District, 723 Woodlake Drive, Chesapeake, Virginia. 

A regular meeting of the Virginia Recycling Markets Development Council.

**Contact:** Thomas J. Smith, PE, Prince William County Public Works, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA, telephone (703) 792-6252, email tsmith@pwcgov.org.

**July 19, 2007 - 3 p.m.** -- Open Meeting  
Tappahannock USDA Service Center, 772 Richmond Beach Road, Meeting Room, Tappahannock, Virginia. 

A meeting on the advisory committee assisting in the development of a bacteria TMDL for Hoskins Creek and its tributaries in Essex County. The public notice appears in the Virginia Register of Regulations on April 30, 2007.

**Contact:** Chris French, Department of Environmental Quality, 4949-A Cox Rd., Glen Allen, VA 23060, telephone (804) 527-5124, FAX (804) 527-5106, email rcfrench@deq.virginia.gov.

## VIRGINIA FIRE SERVICES BOARD

**May 30, 2007 - 1 p.m.** -- Open Meeting  
VDFP Headquarters, 1005 Technology Park Drive, Glen Allen, Virginia. 

A fire prevention and control document work session.

**Contact:** Brook Pittinger, Virginia Fire Services Board, 1005 Technology Park Dr., Glen Allen, VA 23059-4500, telephone (804) 371-0220, email brook.pittinger@vdfp.virginia.gov.

**May 31, 2007 - 8 a.m.** -- Open Meeting  
VDFP Headquarters, 1005 Technology Park Drive, Glen Allen, Virginia. 

A strategic plan work session.

**Contact:** Brook Pittinger, Virginia Fire Services Board, 1005 Technology Park Dr., Glen Allen, VA 23059-4500, telephone (804) 371-0220, email brook.pittinger@vdfp.virginia.gov.

**May 31, 2007 - 10 a.m.** -- Canceled  
VDFP Headquarters, 1005 Technology Park Drive, Glen Allen, Virginia. 

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# Calendar of Events

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† **August 16, 2007 - 10 a.m.** -- Open Meeting  
Convention Center, Hampton, Virginia. 

An Executive Committee meeting.

**Contact:** Brook Pittinger, Virginia Fire Services Board, 1005 Technology Park Dr., Glen Allen, VA 23059-4500, telephone (804) 371-0220, email brook.pittinger@vdfp.virginia.gov.

**June 1, 2007 - 10 a.m.** -- Open Meeting  
Department of Forestry, 900 Natural Resources Drive, Charlottesville, Virginia. 

Meetings of the following committees:

- 10 a.m. - Education and Training
- 1 p.m. - Fire Prevention and Control
- 3 p.m. - Administration, Policy and Finance

**Contact:** Brook Pittinger, Department of Fire Services, 1005 Technology Park Dr., Glen Allen, VA 23059, telephone (804) 371-0220, email brook.pittinger@vdfp.virginia.gov.

**June 2, 2007 - 8:30 a.m.** -- Open Meeting

† **August 18, 2007 - 10 a.m.** -- Open Meeting  
Department of Forestry, 900 Natural Resources Drive, Charlottesville, Virginia. 

A full board meeting.

**Contact:** Brook Pittinger, Virginia Fire Services Board, 1005 Technology Park Dr., Glen Allen, VA 23059, telephone (804) 371-0220, email brook.pittinger@vdfp.virginia.gov.

† **August 17, 2007 - 10 a.m.** -- Open Meeting  
Convention Center, Hampton, Virginia. 

Meetings of the following committees:

- 10 a.m. - Education and Training
- 2 p.m. - Fire Prevention and Control
- 3 p.m. - Administration, Policy and Finance

**Contact:** Brook Pittinger, Department of Fire Services, 1005 Technology Park Dr., Glen Allen, VA 23059, telephone (804) 371-0220, email brook.pittinger@vdfp.virginia.gov.

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**June 5, 2007 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting to discuss board business as it relates to the practice of the Funeral Directors and Embalmers Board.

**Contact:** Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , email elizabeth.young@dhp.virginia.gov.

**June 5, 2007 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A formal hearing to receive and act upon evidence that may indicate violations of certain laws and regulations governing the practice of funeral services.

**Contact:** Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Building, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , email elizabeth.young@dhp.virginia.gov.

**June 28, 2007 - 9 a.m.** -- Open Meeting

† **July 31, 2007 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Special Conference Committee to review and discuss discipline cases.

**Contact:** Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Building, 6603 West Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , email elizabeth.young@dhp.virginia.gov.

## BOARD OF GAME AND INLAND FISHERIES

† **June 5, 2007 - 9 a.m.** -- Open Meeting  
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Board of Game and Inland Fisheries will meet, receive committee reports, and review and approve Fiscal Year 2007-2008 operating and capital budgets for the Department of Game and Inland Fisheries. The board also intends to accept public comments on nonagenda items and on preliminary recommendations for regulation changes as part of its 2007 Periodic Regulation Review and Amendment Process. Further board action on regulations is not anticipated at the June 5 meeting. At the July 17, 2007, board meeting, staff will make proposal-stage recommendations and the board intends to propose regulation amendments; the board intends to address the proposals for possible adoption as final regulations or regulation amendments at its October 16, 2007, meeting. The board may also discuss general and administrative issues, and hold a closed session at some time during the meeting.

**Contact:** Beth Drewery, Board Secretary, Board of Game and Inland Fisheries, 4016 West Broad St., Richmond, VA 23230, telephone (804) 367-9149, FAX (804) 367-2311, email beth.drewery@dgif.virginia.gov.

## CHARITABLE GAMING BOARD

**June 5, 2007 - 10 a.m.** -- Canceled  
Science Museum of Virginia, 2500 West Broad Street, RF and P Forum Room, Richmond, Virginia.

The regular board meeting is canceled.

**Contact:** Harry M. Durham, Interim Director, Charitable Gaming Board, 101 N. 14th St., 17th Floor, James Monroe Building, Richmond, VA 23219, telephone (804)786-2444, FAX (804) 786-1079, or email [harry.durham@dcg.virginia.gov](mailto:harry.durham@dcg.virginia.gov).

## BOARD FOR GEOLOGY

**July 11, 2007- 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A general business meeting to include consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** David E. Dick, Executive Director, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, (804) 367-9753/TTY , email [geology@dpor.virginia.gov](mailto:geology@dpor.virginia.gov).

## GOVERNOR'S HEALTHCARE REFORM COMMISSION

**† May 31, 2007 - 4 p.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, Room 7B, Richmond, Virginia. 

A teleconference meeting of the Long-Term Care Workgroup.

**Contact:** Heidi Dix, Assistant Secretary of Health and Human Resources, Office of Governor, 1111 E. Broad St, 4th Floor, Richmond, VA 23219, telephone (804) 692-2577, email [heidi.dix@governor.virginia.gov](mailto:heidi.dix@governor.virginia.gov).

**June 12, 2007 - 1 p.m.** -- Open Meeting  
James Madison University, 1301 Carrier Drive, Festival Conference and Student Center, Harrisonburg, Virginia.

A regular meeting. In person registration to speak will begin at 5:30 p.m. For directions call 703-993-1000 or visit [www.gmu.edu/fairfax](http://www.gmu.edu/fairfax).

**Contact:** Heidi Dix, Assistant Secretary of Health and Human Resources, Office of Governor, 1111 E. Broad St.,

Richmond, VA 23219, telephone (804) 786-7765, email [heidi.dix@governor.virginia.gov](mailto:heidi.dix@governor.virginia.gov)

**June 12, 2007 - 5:30 p.m.** -- Public Hearing  
James Madison University, 1301 Carrier Drive, Festival Conference and Student Center, Harrisonburg, Virginia. 

The public is welcome to attend and make comments (three minutes max) on the Health Reform Commission. In person registration to speak will begin at 5:30 p.m. For directions call 540-568-2593 or visit [www.jmu.edu/festival](http://www.jmu.edu/festival).

**Contact:** Heidi Dix, Assistant Secretary of Health and Human Resources, Office of Governor, 1111 E. Broad St., Richmond, VA 23219, telephone (804) 786-7765, email [heidi.dix@governor.virginia.gov](mailto:heidi.dix@governor.virginia.gov).

## STATE BOARD OF HEALTH

**May 29, 2007 - 7 p.m.** -- Public Hearing  
Henrico Health Department, 8600 Dixon Powers Drive, Demonstration Kitchen, Richmond, Virginia.

**June 12, 2007 - 7 p.m.** -- Public Hearing  
Virginia Beach Health Department, 4452 Corporation Lane, Large Conference Room, Virginia Beach, Virginia.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to amend regulations entitled **12 VAC 5-421, Food Regulations**. The purpose of the proposed action is to conform the existing regulations to the 2003 supplement of the 2001 federal Food and Drug Administration Food Code.

Statutory Authority: §§ 35.1-11 and 35.1-14 of the Code of Virginia.

Public comments may be submitted until June 15, 2007.

**Contact:** Gary Hagy, Director, Food and General Environmental Services, Department of Health, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-7455, FAX (804) 864-7475 or email [gary.hagy@vdh.virginia.gov](mailto:gary.hagy@vdh.virginia.gov).

## DEPARTMENT OF HEALTH

**June 12, 2007 - 9 a.m.** -- Open Meeting  
Department of Health, 109 Governor Street, 5th Floor Conference Room, Richmond, Virginia.

A meeting of the Authorized Onsite Soil Evaluator Regulations Advisory Committee to make recommendations to the commissioner regarding AOSE/PE policies and programs. The meeting will also be scheduled in remote locations via video conference.

**Contact:** Dwayne Roadcap, Program Manager, Department of Health, 109 Governor St., Richmond, VA 23219,

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## Calendar of Events

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telephone (804) 864-7462, FAX (804) 864-7476, email dwayne.roadcap@vdh.virginia.gov.

**August 10, 2007 - 10 a.m.** -- Open Meeting  
Children's Hospital, 2924 Brook Road, Richmond, Virginia. 

A meeting of the Virginia Early Hearing Detection and Intervention Program Advisory Committee to assist the Department of Health in the implementation of the Virginia Early Hearing Detection and Intervention Program.

**Contact:** Pat Dewey, M.Ed, Program Manager, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7713, email pat.dewey@vdh.virginia.gov.

### State Emergency Medical Services Advisory Board

**† August 16, 2007 - 1 p.m.** -- Open Meeting  
Richmond Marriott West, 4240 Dominion Boulevard, Glen Allen, Virginia. 

A meeting of the Financial Assistance Review Committee (FARC). FARC is responsible for recommending to the Commissioner of Health monetary awards as stipulated in the Code of Virginia. The quarterly meeting is to discuss upcoming grant cycle and initiatives, problems with past grants and Rescue Squad Assistance Fund (RSAF) finances.

**Contact:** Amanda Davis, Grants Administrator, Department of Health, 109 Governor St., Suite UB-55, Richmond, VA 23219, telephone (804) 864-7600, FAX (804) 864-7580, toll-free (800) 523-6019, email amanda.davis@vdh.virginia.gov.

**† August 17, 2007 - 9 a.m.** -- Open Meeting  
Richmond Marriott West, 4240 Dominion Boulevard, Glen Allen, Virginia. 

A quarterly meeting of the Communications Committee to review and recommend policies on EMS communications and coordinate the development and implementation of communications and associated technology that support EMS operations at the local, regional and state level.

**Contact:** Ken Crumpler, Communications Coordinator, Department of Health, 109 Governor St., Suite UB-55, Richmond, VA 23219, telephone (804) 864-7600, FAX (804) 864-7580, toll-free (800) 523-6019, email ken.crumpler@vdh.virginia.gov.

**† August 17, 2007 - 1 p.m.** -- Open Meeting  
Richmond Marriott West, 4240 Dominion Boulevard, Glen Allen, Virginia. 

A quarterly meeting to provide advice and counsel regarding methods and procedures for planning, developing and maintaining a statewide emergency medical services (EMS) system to OEMS and the State Board of Health.

**Contact:** Gary R. Brown, Director, Department of Health, 109 Governor St., Suite UB-55, Richmond, VA 23219, telephone (804) 864-7600, FAX (804) 864-7580, toll-free (800) 523-6019, email gary.brown@vdh.virginia.gov.

### Sewage Handling and Disposal Appeals Review Board

**June 27, 2007 - 10 a.m.** -- Open Meeting  
**August 8, 2007 - 10 a.m.** -- Open Meeting  
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

A meeting to hear all administrative appeals of denials of onsite sewage disposal system permits and appeals of refusals of indemnification requests filed pursuant to § 32.1-164.1:01 and render its decision on any such appeal, which decision shall be the final administrative decision.

**Contact:** Donna Tiller, Executive Secretary, Department of Health, 109 Governor St. Richmond, VA 23219, telephone (804) 864-7470, FAX (804) 864-7476, email donna.tiller@vdh.virginia.gov.

### BOARD FOR HEARING AID SPECIALISTS

**July 11, 2007 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A general business meeting including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Person desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** William H. Ferguson, II, Executive Director, Board for Hearing Aid Specialists, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , email hearingaidspec@dpor.virginia.gov.

### STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

**July 10, 2007 - 11:30 a.m.** -- Open Meeting  
Norfolk State University, Norfolk, Virginia. 

Council meeting times are approximate and subject to change. Committee meetings will begin in the morning. Agenda materials will be available on the website approximately one week prior to the meeting at www.schev.edu. A public comment period will be allocated on the meeting agenda. To be scheduled, those

interested in making public comment should contact the person listed below no later than 5 p.m. three business days prior to the meeting date. At the time of the request, the speaker's name, address and topic must be provided. Each speaker will be given up to three minutes to address SCHEV. Speakers are asked to submit a written copy of their remarks at the time of comment.

**Contact:** Lee Ann Rung, State Council of Higher Education for Virginia, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2602, FAX (804) 371-7911, email leeanrung@schev.edu.

## DEPARTMENT OF HISTORIC RESOURCES

### Board of Historic Resources and State Review Board

**June 6, 2007 - 10 a.m.** -- Open Meeting  
Halsey Lecture Hall at Virginia Historical Society, 428 North Boulevard, Richmond, Virginia. 

The State Review Board will consider nominations for recommendation to the Director of the Department of Historic Resources for listing in the National Register of Historic Places, as well as considering and commenting on the Preliminary Information Forms. The Historic Resources Board will consider nominations for listing in the Virginia Landmarks Register. They will also consider Virginia Highway Marker texts and Historic Preservation Easements.

**Contact:** Jean McRae, National and State Register Program Coordinator, Department of Historic Resources, 2801 Kensington Ave., Richmond, VA 23221, telephone (804) 367-2323, FAX (804) 367-2391, (804) 367-2386/TTY , email jean.mcrae@dhr.virginia.gov.

## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

**June 25, 2007 - 10 a.m.** -- Open Meeting  
The Jackson Center, 501 North 2nd Street, 1st Floor Boardroom, Richmond, Virginia. 

A regular business meeting.

**Contact:** Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7000, FAX (804) 371-7090, (804) 371-7089/TTY , email steve.calhoun@dhcd.virginia.gov.

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

### State Building Code Technical Review Board

**June 15, 2007 - 10 a.m.** -- Open Meeting  
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

A meeting to hear appeals concerning the application of the department's building and fire regulations and consider recommendations for future repeal or amendments to the regulations to be forwarded to the Board of Housing and Community Development.

**Contact:** Vernon W. Hodge, Secretary, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7150.

## VIRGINIA COUNCIL ON HUMAN RESOURCES

**July 19, 2007 - 9:30 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, PDS #4, Richmond, Virginia.

A quarterly meeting.

**Contact:** Barbara Tanner, Executive Assistant, Department of Human Resource Management, James Monroe Bldg., 101 N. 14th St., 13th Floor, Richmond, VA 23219, telephone (804) 225-2237, FAX (804) 371-7401, email barbara.tanner@dhrm.virginia.gov.

## STATE BOARD OF JUVENILE JUSTICE

**June 13, 2007 - 10 a.m.** -- Open Meeting  
Northwestern Regional Juvenile Detention Center, 145 Fort Collier Road, Winchester, Virginia.

The Secure Services Committee and Nonsecure Services Committee meet at 9 a.m. to receive certification audit reports of several residential and nonresidential programs. The full board meets at 10 a.m. to take action on the certification reports and hear other such business as comes before the board. The board will receive public comment at each of its regular meetings. In order to allow the board sufficient time for its other business, the total time allotted to public comment will be limited to 30 minutes at the beginning of the meeting with additional time allotted at the end of the meeting for individuals who have not had a chance to be heard. Speakers will be limited to 10 minutes each with shorter time frames provided at the Chairman's discretion to accommodate large numbers of speakers. Those wishing to speak to the board are strongly encouraged to contact Deborah Hayes at 804-371-0704 three or more business days prior to the meeting. Persons not registered prior to the day of the board meeting will speak after those who have preregistered. Normally,

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## Calendar of Events

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speakers will be scheduled in the order that their requests are received. Where issues involving a variety of views are presented before the board, the board reserves the right to allocate the time available so as to insure that the board hears from different points of view on any particular issue. Groups wishing to address a single subject are urged to designate a spokesperson. Speakers are urged to confine their comments to topics relevant to the board's purview. In order to make the limited time available most effective, speakers are urged to provide multiple written copies of their comments or other material amplifying their views. Please provide at least 15 written copies if you are able to do so.

**Contact:** Deborah C. Hayes, Administrative Assistant, Department of Juvenile Justice, 700 Centre, 700 E. Franklin St., 4th Floor, Richmond, VA 23219, telephone (804) 371-0704, FAX (804) 371-0725.

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

† **July 9, 2007 - 6:30 p.m.** -- Public Hearing  
First Campbell Square Building, 210 1st Street, Roanoke, Virginia. 

† **July 10, 2007 - 6:30 p.m.** -- Public Hearing  
Tuckahoe Area Library, 1901 Starling Drive, Richmond, Virginia. 

† **July 11, 2007 - 6:30 p.m.** -- Public Hearing  
Department of Social Services, Virginia Beach Regional Office, Pembroke IV, 291 Independence Boulevard, 3rd Floor, Virginia Beach, Virginia. 

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services intends to repeal regulations entitled **22 VAC 42-10, Standards for Interdepartmental Regulation of Children's Residential Facilities**; and adopt regulations entitled **22 VAC 42-11, Standards for Interdepartmental Regulation of Children's Residential Facilities**. The purpose of the proposed action is to repeal the existing regulation 22 VAC 42-10, and promulgate a new regulation, 22 VAC 42-11. These standards will protect vulnerable children who are separated from their families and reside in children's residential facilities, and assure that an acceptable level of care and education are provided. The new regulation will (i) comply with federal regulation, (ii) ensure that services provided to residents are appropriate for their needs, (iii) bring the requirements in line with the current industry practices, (iv) clarify frequently misinterpreted standards, and (v) delete unnecessary requirements.

Statutory Authority: §§ 16.1-309.9, 22.1-321, 22.1-323, 22.1-323.2, 37.2-407, 37.2-408, 63.2-203, 63.2-217, 63.2-1701, 63.2-1703, 63.2-1737, 66-10 and 66-24 of the Code of Virginia.

Public comments may be submitted until July 27, 2007.

**Contact:** Charlene Vincent, Coordinator, Office of Interdepartmental Regulation, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7097, FAX (804) 726-7095 or email [charlene.vincent@dss.virginia.gov](mailto:charlene.vincent@dss.virginia.gov).

### **DEPARTMENT OF LABOR AND INDUSTRY**

#### **Virginia Apprenticeship Council**

**June 21, 2007 - 10 a.m.** -- Open Meeting  
Location to be announced.

A general business meeting of the Virginia Apprenticeship Council.

**Contact:** Beverley Donati, 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 , email [bgd@doli.virginia.gov](mailto:bgd@doli.virginia.gov).

#### **Safety and Health Codes Board**

**June 26, 2007 - 10 a.m.** -- Open Meeting  
State Corporation Commission, 1300 East Main Street, Courtroom A, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to conduct general business.

**Contact:** Regina P. Cobb, Agency Management Analyst Senior, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-0610, FAX (804) 786-8418, (804) 786-2376/TTY , email [rlc@doli.virginia.gov](mailto:rlc@doli.virginia.gov).

### **STATE LIBRARY BOARD**

**June 11, 2007 - 10:30 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 Library Board.

**Contact:** Jean H. Taylor, Executive Secretary Senior, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-8000, telephone (804) 692-3525, FAX (804) 692-3594, (804) 692-3976/TTY , email [jtaylor@lva.lib.va.us](mailto:jtaylor@lva.lib.va.us).

## BOARD OF LONG-TERM CARE ADMINISTRATORS

**July 10, 2007 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Richmond, Virginia. 

A meeting to discuss board matters.

**Contact:** Lisa Russell Hahn, Executive Director, Board of Long-Term Care Administrators, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9930, FAX (804) 662-9943, (804) 662-7197/TTY , email [lisa.hahn@dhp.virginia.gov](mailto:lisa.hahn@dhp.virginia.gov).

## LONGWOOD UNIVERSITY

**† June 14, 2007 - 8:30 a.m.** -- Open Meeting  
Kingsmill Resort, 1010 Kingsmill Road, Williamsburg,  
Virginia. 

A meeting to conduct regular business of the Board of Visitors.

**Contact:** Jeanne S. Hayden, Longwood University, Office of the President, 201 High St., Farmville, VA 23909, telephone (434) 395-2004.

**† June 15, 2007 - 8:30 a.m.** -- Open Meeting  
Kingsmill Resort, 1010 Kingsmill Road, Williamsburg,  
Virginia. 

A retreat for the Board of Visitors.

**Contact:** Jeanne S. Hayden, Longwood University, Office of the President, 201 High St., Farmville, VA 23909, telephone (434) 395-2004.

## MARINE RESOURCES COMMISSION

**June 26, 2007 - 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:** Jane McCroskey, Commission Secretary, Marine Resources Commission, 2600 Washington Ave., 3rd Floor, Newport News, VA 23607, telephone (757) 247-2215, FAX (757) 247-8101, toll-free (800) 541-4646, (757) 247-2292/TTY , email [jane.mccroskey@mrc.virginia.gov](mailto:jane.mccroskey@mrc.virginia.gov).

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**May 30, 2007 - 10 a.m.** -- Open Meeting  
Augusta County Government Center, 18 Government Center Lane, Government Meeting Room, Verona, Virginia. 

**June 1, 2007 - 9 a.m.** -- Open Meeting  
Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, Virginia. 

A meeting of the Medicaid case managers to discuss VA Cooperative Extension's Nutrition and Educational Program and Early, Periodic Screening, Diagnostic and Treatment Program.

**Contact:** Queen Green, Case Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 692-0720, FAX (804) 786-5799, (800) 343-0634/TTY , email [queen.green@dmas.virginia.gov](mailto:queen.green@dmas.virginia.gov).

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**June 15, 2007** - 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 30-10, State Plan Under Title XIX of the Social Security Act Medical Assistance Program; General Provisions.**

**12 VAC 30-50, Amount, Duration, and Scope of Medical and Remedial Care Services.**

**12 VAC 30-120, Waivered Services (Program of All-Inclusive Care for the Elderly (PACE))**

The purpose of the proposed action is to implement a new community-based capitated program of all inclusive care for elderly (PACE) Medicaid recipients.

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

**Contact:** William Butler, Project Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8886, VAX (804) 786-1680 or email [william.butler@dmas.virginia.gov](mailto:william.butler@dmas.virginia.gov).

**June 20, 2007 - 1 p.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Board Room, Richmond, Virginia. 

A meeting of the Medicaid Transportation Advisory Committee to discuss Medicaid transportation issues.

**Contact:** Bob Knox, Transportation Supervisor, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854, FAX (804) 786-6035, (800) 343-0634/TTY , email [robert.knox@dmas.virginia.gov](mailto:robert.knox@dmas.virginia.gov).

**August 2, 2007 - 2 p.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor Board Room, Richmond, Virginia. 

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## Calendar of Events

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A meeting of the Drug Utilization Review Committee to discuss issues related to this committee.

**Contact:** Rachel Cain, Pharmacist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-0428, (800) 343-0634/TTY ☎, email rachel.cain@dmas.virginia.gov.

### BOARD OF MEDICINE

**May 30, 2007 - 9:15 a.m.** -- Open Meeting

**July 11, 2007 - 9:15 a.m.** -- Open Meeting

Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia. ♿

† **July 19, 2007 - 9:30 a.m.** -- Open Meeting

Holiday Inn, 3315 Ordway Drive, Roanoke, Virginia. ♿

† **July 25, 2007 - 8:45 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

† **July 31, 2007 - 9:15 a.m.** -- Open Meeting

Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia.

† **August 23, 2007 - 9 a.m.** -- Open Meeting

Wytheville Meeting Center, 333 Community Boulevard, Wytheville, Virginia. ♿

A special conference committee will convene informal conferences to inquire into allegations that certain practitioners of medicine or other healing arts may have violated certain laws and regulations governing the practice of medicine. Further, the committee may review cases with board staff for case disposition, including consideration of consent orders for settlement. The committee will meet in open and closed sessions pursuant to the Code of Virginia. Public comment will not be received.

**Contact:** Renee S. Dixon, Discipline Case Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-7009, FAX (804) 662-9517, (804) 662-7197/TTY ☎, email renee.dixon@dhp.virginia.gov.

**June 21, 2007 - 1:30 p.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ♿

A meeting of the Credentials Committee to consider applicants for licensure and other matters of the board. Public comment on agenda items will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, email william.harp@dhp.virginia.gov.

**June 21, 2007 - 7:30 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ♿

A meeting of the Nominating Committee to develop a slate of officers to serve July 2007 to July 2008.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, email william.harp@dhp.virginia.gov.

**June 21, 2007 - 8:30 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ♿

A meeting of the full board to consider regulatory and disciplinary matters as may be presented on the agenda. Public comment on agenda items will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, email william.harp@dhp.virginia.gov.

**August 10, 2007 - 8:30 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ♿

A meeting of the Executive Committee to consider regulatory and disciplinary matters as may be presented on the agenda. Public comment on agenda items will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, email william.harp@dhp.virginia.gov.

### Advisory Board on Acupuncture

**June 6, 2007 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ♿

A meeting to consider issues related to the regulations of acupuncture. Public comments on agenda items will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, email william.harp@dhp.virginia.gov.

## Advisory Board on Athletic Training

**June 7, 2007 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia. 

A meeting to consider issues related to the regulations of athletic training. Public comment on agenda items will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , email [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## Advisory Board on Midwifery

**June 8, 2007 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia. 

A meeting to consider issues related to the regulations of midwifery. Public comment on agenda items will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , email [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## Advisory Board on Occupational Therapy

**June 5, 2007 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia. 

A meeting to consider issues related to the regulations of occupational therapy. Public comment on agenda items will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , email [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## Advisory Board on Physician Assistants

**June 7, 2007 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia. 

A meeting to consider issues related to the regulations of physician assistants. Public comment on agenda items will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor,

Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , email [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## Advisory Board on Radiologic Technology

**June 6, 2007 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia. 

A meeting to consider issues related to the regulations of radiologic technologists and radiologic technologists-limited. Public comment on agenda items will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , email [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## Advisory Board on Respiratory Care

**June 5, 2007 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia. 

A meeting to consider issues related to the regulations of respiratory care. Public comment on agenda items will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , email [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

**June 20, 2007 - 10 a.m.** -- Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Mental Health Planning Council serves as the primary, ongoing forum for articulating and building consensus among consumers, families and other advocates, state agencies, and mental health providers and planners around needed values, priorities, and goals that will ensure a system of services and supports of the highest quality for children and adults. Agenda topics will include, but not be limited to, reviewing Federal Block Grant Application, making recommendations to the Director of Mental Health, the Commissioner and the State Board of the Department of Mental Health, Mental Retardation and Substance Abuse Services, and the Governor of the Commonwealth of

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## Calendar of Events

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Virginia and monitoring and evaluating the implementation of the state's Mental Health Plan.

**Contact:** Jo-Amrah S. McElroy, Mental Health Planner, Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Mental Health, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-2316, FAX (804) 371-2316.

### Virginia Interagency Coordinating Council

† **June 13, 2007 - 9:30 a.m.** -- Open Meeting  
Hanover Area Department of Social Services, 12304 South Washington Highway, Ashland, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly meeting to advise and assist the Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency for Part C (of IDEA), early intervention for infants and toddlers with disabilities and their families. Discussion focuses on issues related to implementation of the Part C program.

**Contact:** LaKeishia White, Child and Family Services Office Services Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, Child and Family Services, 9th Floor, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3710, FAX (804) 371-7959.

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† **July 9, 2007 - 6:30 p.m.** -- Public Hearing  
First Campbell Square Building, 210 1st Street, Roanoke, Virginia. 

† **July 10, 2007 - 6:30 p.m.** -- Public Hearing  
Tuckahoe Area Library, 1901 Starling Drive, Richmond, Virginia. 

† **July 11, 2007 - 6:30 p.m.** -- Public Hearing  
Department of Social Services, Virginia Beach Regional Office, Pembroke IV, 291 Independence Boulevard, 3rd Floor, Virginia Beach, Virginia. 

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services intends to repeal regulations entitled **22 VAC 42-10, Standards for Interdepartmental Regulation of Children's Residential Facilities;** and adopt regulations entitled **22 VAC 42-11, Standards for Interdepartmental Regulation of Children's Residential Facilities.** The purpose of the proposed action is to repeal the existing regulation 22 VAC 42-10, and promulgate a new regulation, 22 VAC 42-11. These standards will protect vulnerable children who are separated from their families and reside in children's residential facilities, and assure that an acceptable level of

care and education are provided. The new regulation will (i) comply with federal regulation, (ii) ensure that services provided to residents are appropriate for their needs, (iii) bring the requirements in line with the current industry practices, (iv) clarify frequently misinterpreted standards, and (v) delete unnecessary requirements.

Statutory Authority: §§ 16.1-309.9, 22.1-321, 22.1-323, 22.1-323.2, 37.2-407, 37.2-408, 63.2-203, 63.2-217, 63.2-1701, 63.2-1703, 63.2-1737, 66-10 and 66-24 of the Code of Virginia.

Public comments may be submitted until July 27, 2007.

**Contact:** Charlene Vincent, Coordinator, Office of Interdepartmental Regulation, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7097, FAX (804) 726-7095 or email charlene.vincent@dss.virginia.gov.

### STATE MILK COMMISSION

† **June 7, 2007 - 10 a.m.** -- Public Hearing  
Department of Agriculture and Consumer Services, Oliver Hill Building, 102 Governor Street, Board Room 220, Richmond, Virginia. 

A public hearing to afford all interested parties an opportunity to comment on the proposed change to 2 VAC-15-20-81 A 5. Immediately following the commission hearing, a regular meeting will be held. This is 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 meeting contact at least five working days prior to the meeting date so that suitable arrangements can be made.

**Contact:** Rodney L. Phillips, Administrator, State Milk Commission, Oliver Hill Bldg., 102 Governor St., Room 205, Richmond, VA 23218, telephone (804) 786-2013, FAX (804) 786-3779, email rodney.phillips@vdacs.virginia.gov.

### DEPARTMENT OF MOTOR VEHICLES

#### Motorcycle Advisory Council

† **June 13, 2007 - 8:30 a.m.** -- Open Meeting  
Sheraton Park South Hotel, 9901 Midlothian Turnpike, Richmond, Virginia.

A regular bimonthly meeting. The meeting is held in conjunction with the Annual Conference on Transportation Safety.

**Contact:** Audrey Odum, Legislative Services Manager, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-8140, FAX (804) 367-

6631, toll-free (800) 272-9268, (800) 272-9268/TTY ☎, email [audrey.odum@dmv.virginia.gov](mailto:audrey.odum@dmv.virginia.gov).

## VIRGINIA MUSEUM OF FINE ARTS

**June 14, 2007 - 1 p.m.** -- Open Meeting

Virginia Museum of Fine Arts, Pauley Center 2, 200 North Boulevard, Richmond, Virginia. ♿

A meeting of the Marketing and Branding Committee for staff to update the trustees. Public comment will not be received.

**Contact:** Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220, telephone (804) 340-1503, email [suzanne.broyles@vmfa.museum](mailto:suzanne.broyles@vmfa.museum).

## FOUNDATION FOR VIRGINIA'S NATURAL RESOURCES

**July 11, 2007 - 10 a.m.** -- Open Meeting

Department of Forestry, 900 Natural Resources Drive, Charlottesville, Virginia. ♿ (Interpreter for the deaf provided upon request)

A business meeting of the Board of Trustees.

**Contact:** Brenda Taylor, Administrative Staff Specialist, Foundation for Virginia's Natural Resources, 900 Natural Resources Dr., Charlottesville, VA 22903, telephone (434) 977-6555, FAX (434) 977-7749, email [brenda.taylor@dof.virginia.gov](mailto:brenda.taylor@dof.virginia.gov).

## BOARD OF NURSING

**May 31, 2007 - 9 a.m.** -- Open Meeting

**June 4, 2007 - 9 a.m.** -- Open Meeting

**June 6, 2007 - 9 a.m.** -- Open Meeting

**June 12, 2007 - 9 a.m.** -- Open Meeting

**June 14, 2007 - 9 a.m.** -- Open Meeting

**June 19, 2007 - 9 a.m.** -- Open Meeting

**June 21, 2007 - 9 a.m.** -- Open Meeting

**June 26, 2007 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A Special Conference Committee comprised of two or three members of the Virginia Board of Nursing or agency subordinate will conduct informal conferences with licensees and 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 ☎, email [nursebd@dhp.virginia.gov](mailto:nursebd@dhp.virginia.gov).

**July 16, 2007 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ♿

A panel will conduct informal conferences with licensees and/or certificate holders. A formal hearing may also be held. Public comment will not be received.

**Contact:** Jay P. Douglas, RN, MSM, CSAS, 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

**July 18, 2007 - 9 a.m.** -- Open Meeting

**July 19, 2007 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ♿

A panel of the Board of Nursing will conduct formal hearings with licensees and/or certificate holders. Public comment will not be received.

**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) 662-9949, FAX (804) 662-9512, (804) 662-7197/TTY ☎, email [jay.douglas@dhp.virginia.gov](mailto:jay.douglas@dhp.virginia.gov).

## JOINT BOARDS OF NURSING AND MEDICINE

**June 20, 2007 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A regular meeting.

**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 ☎, email [jay.douglas@dhp.virginia.gov](mailto:jay.douglas@dhp.virginia.gov).

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**July 13, 2007** - 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 Boards of Nursing and Medicine intend to amend regulations entitled **18 VAC 90-30, Regulations Governing the Licensure of Nurse Practitioners**. The purpose of the proposed action is to clarify that one must hold an active license as a registered nurse to be licensed as a nurse practitioner.

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

Public comments may be submitted until July 13, 2007, to 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)

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## Calendar of Events

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662-9512, (804) 662-7197/TTY ☎, email nursebd@dhp.virginia.gov.

**Contact:** Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or email elaine.yeatts@dhp.virginia.gov.

### OLD DOMINION UNIVERSITY

**June 15, 2007 - 1:30 p.m.** -- Open Meeting  
Webb University Center, Old Dominion University, Norfolk, Virginia. ♿

A regular meeting of the Board of Visitors to discuss business of the board and the institution as determined by the rector and the president. Public comment will not be received by the board.

**Contact:** Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Old Dominion University, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, email dmeeks@odu.edu.

### BOARD FOR OPTICIANS

† **August 17, 2007 - 9:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Person desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** William H. Ferguson, II, Executive Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY ☎, email opticians@dpor.virginia.gov.

### VIRGINIA OUTDOORS FOUNDATION

**June 6, 2007 - 1 p.m.** -- Open Meeting  
**June 7, 2007 - 9 a.m.** -- Open Meeting  
Department of Forestry, 900 Natural Resources Drive, 2nd Floor, Board Room, Charlottesville, Virginia. ♿

A meeting for policy and easement consideration. Public comment will be received.

**Contact:** Trisha Cleary, Administrative Assistant, Department of Conservation and Recreation, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2147, FAX (804) 371-4810, email tcleary@vofonline.org.

### VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

**June 6, 2007 - 11 a.m.** -- Open Meeting  
Wyndam Richmond Airport, 4700 South Laburnum Avenue, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Executive Committee.

**Contact:** Sandra Smalls, Executive Assistant, Virginia Board for People with Disabilities, 202 N. 9th Street, 9th Floor, Richmond, VA 23219, telephone (804) 786-9368, FAX (804) 786-1118, toll-free (800) 846-4464, (804) 786-0016/TTY ☎, email sandra.smalls@vbpd.virginia.gov.

**June 7, 2007 - 8:30 a.m.** -- Open Meeting  
Wyndam Richmond Airport, 4700 South Laburnum Avenue, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A quarterly board meeting.

**Contact:** Sandra Smalls, Executive Assistant, Virginia Board for People with Disabilities, 202 N. 9th Street, 9th Floor, Richmond, VA 23219, telephone (804) 786-9368, FAX (804) 786-1118, toll-free (800) 846-4464, (804) 786-0016/TTY ☎, email sandra.smalls@vbpd.virginia.gov.

**June 7, 2007 - 8:30 a.m.** -- Open Meeting  
Wyndam Richmond Airport, 4700 South Laburnum Avenue, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Meetings of the Community Integration, Community Living and Transportation, Education, and Employment committees.

**Contact:** Sandra Smalls, Executive Assistant, Virginia Board for People with Disabilities, 202 N. 9th Street, 9th Floor, Richmond, VA 23219, telephone (804) 786-9368, FAX (804) 786-1118, toll-free (800) 846-4464, (804) 786-0016/TTY ☎, email sandra.smalls@vbpd.virginia.gov.

† **July 17, 2007 - 10 a.m.** -- Open Meeting  
202 North 9th Street, 9th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to conduct new grantee orientation.

**Contact:** Lynne Talley, Grants Administrative Manager, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA, telephone (804) 786-9375, FAX (804) 786-1118, toll-free (800) 846-4464, (804) 786-0016/TTY ☎, email lynne.talley@vbpd.virginia.gov.

### BOARD OF PHARMACY

† **June 20, 2007 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Room 4, Richmond, Virginia. ♿

A meeting of the Special Conference Committee to discuss disciplinary matters. This is a public meeting, however, public comment will not be received.

**Contact:** Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY ☎, email scotti.russell@dhp.virginia.gov.

## BOARD OF PHYSICAL THERAPY

† **August 17, 2007 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

A general business meeting including consideration of regulatory issues as may be presented on the agenda. A portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Lisa R. Hahn, 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 ☎, email lisa.hahn@dhp.virginia.gov.

## POLYGRAPH EXAMINERS ADVISORY BOARD

**July 10, 2007 - 11 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Person desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Kevin Hoeft, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-0674, (804) 367-9753/TTY ☎, email kevin.hoeft@dpor.virginia.gov.

## BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

**June 4, 2007 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A regular board meeting.

**Contact:** Mark N. Courtney, Executive Director, Board for Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, email mark.courtney@dpor.virginia.gov.

## BOARD OF PSYCHOLOGY

**July 10, 2007 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia.

A business meeting to include reports from standing committees and any regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

**Contact:** Evelyn B. Brown, Executive Director, Board of Psychology, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9913, FAX (804) 662-9943, (804) 662-7197/TTY ☎, email evelyn.brown@dhp.virginia.gov.

## VIRGINIA PUBLIC GUARDIANSHIP AND CONSERVATOR ADVISORY BOARD

**June 28, 2007 - 10 a.m.** -- Open Meeting  
Virginia Department for the Aging, 1610 Forest Avenue, Suite 100, Richmond, Virginia. ♿

A meeting of the Executive Committee.

**Contact:** Faye D. Cates, MSSW, Human Services Program Coordinator, Department for the Aging, 1610 Forest Ave., Suite 100, Richmond VA 23229, telephone (804) 662-9310, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY ☎, email faye.cates@vda.virginia.gov.

## REAL ESTATE APPRAISER BOARD

† **August 21, 2007 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Room, Richmond, Virginia. ♿

A meeting to discuss board business.

**Contact:** Christine Martine, Executive Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, email reappraisers@dpor.virginia.gov.

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# Calendar of Events

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## REAL ESTATE BOARD

**July 18, 2007 - 3 p.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 5th Floor, Richmond, Virginia.

A meeting of the Education Committee to discuss education issues.

**Contact:** Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, email reboard@dpor.virginia.gov.

**July 19, 2007 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Richmond, Virginia.

A meeting to discuss board business.

**Contact:** Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, email reboard@dpor.virginia.gov.

## DEPARTMENT OF REHABILITATIVE SERVICES

### Virginia Brain Injury Council

**July 27, 2007 - 1 p.m.** -- Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Conference Rooms, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A quarterly meeting. Materials will be provided in alternate format upon request. Public comment will be received at approximately 1:15 p.m.

**Contact:** Kristie Chamberlain, Policy and Planning Director, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA 23229, telephone (804) 662-7154, FAX (804) 662-7663, toll-free (800) 552-5019, (800) 464-9950/TTY ☎, email Kristie.chamberlain@drs.virginia.gov.

### Commonwealth Neurotrauma Initiative (CNI) Trust Fund Advisory Board

**June 1, 2007 - 10 a.m.** -- Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Conference Room 1, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A quarterly meeting. Materials will be provided in alternate format upon request. Public comments will be received at approximately 10:15 a.m.

**Contact:** Kristie Chamberlain, CNI Trust Fund, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23229, telephone (804) 662-7154, FAX (804)

662-7663, toll-free (800) 552-5019, (800) 464-9950/TTY ☎, email kristie.chamberlain@drs.virginia.gov.

## VIRGINIA RESOURCES AUTHORITY

† **June 6, 2007 - 9 a.m.** -- Open Meeting  
Virginia Resources Authority, 1111 East Main Street, 24th Floor, Boardroom, Richmond, Virginia. ♿

A regular business meeting of the Board of Directors.

**Contact:** Dr. Sheryl D. Bailey, Executive Director, Virginia Resources Authority, 1111 E. Main St., Suite 1920, Richmond, VA 23219, telephone (804) 644-3100, FAX (804) 644-3109, email sdean@virginiareources.org.

## VIRGINIA RESEARCH AND TECHNOLOGY ADVISORY COMMISSION

**June 13, 2007 - 1 p.m.** -- Open Meeting  
Virginia Biotechnology Research Park, Richmond, Virginia.

A quarterly meeting. Public comment will be received at approximately 4 p.m.

**Contact:** Nancy Vorona, VP Research Investment, Center for Innovative Technology, 2214 Rock Hill Rd., Suite 600, Herndon, VA 20170, telephone (703) 689-3043, FAX (703) 464-1720, email nvorona@cit.org.

## STATE BOARD OF SOCIAL SERVICES

† **June 7, 2007 - 9:30 a.m.** -- Open Meeting  
1604 Santa Rosa Road, Charlottesville and Powhatan Rooms, Richmond, Virginia. ♿

A monthly meeting of the State and Local Advisory Team to discuss the Comprehensive Services Act for At Risk Youth and Families (CSA) issues. The purpose of the act is to provide high quality, child centered, family focused, cost effective, community based services to high-risk youth and their families.

**Contact:** Kim McGaughey, Executive Director, Department of Social Services, Office of Comprehensive Services, 1604 Santa Rosa Rd., Richmond, VA 23229, telephone (804) 662-9830, FAX (804) 662-9831, email kim.mcgaughey@dss.virginia.gov.

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

† **July 9, 2007 - 6:30 p.m.** -- Public Hearing  
First Campbell Square Building, 210 1st Street, Roanoke, Virginia. ♿

† **July 10, 2007 - 6:30 p.m.** -- Public Hearing  
Tuckahoe Area Library, 1901 Starling Drive, Richmond, Virginia. ♿

† **July 11, 2007 - 6:30 p.m.** -- Public Hearing  
Department of Social Services, Virginia Beach Regional Office, Pembroke IV, 291 Independence Boulevard, 3rd Floor, Virginia Beach, Virginia. ♿

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services intends to repeal regulations entitled **22 VAC 42-10, Standards for Interdepartmental Regulation of Children's Residential Facilities**; and adopt regulations entitled **22 VAC 42-11, Standards for Interdepartmental Regulation of Children's Residential Facilities**. The purpose of the proposed action is to repeal the existing regulation 22 VAC 42-10, and promulgate a new regulation, 22 VAC 42-11. These standards will protect vulnerable children who are separated from their families and reside in children's residential facilities, and assure that an acceptable level of care and education are provided. The new regulation will (i) comply with federal regulation, (ii) ensure that services provided to residents are appropriate for their needs, (iii) bring the requirements in line with the current industry practices, (iv) clarify frequently misinterpreted standards, and (v) delete unnecessary requirements.

Statutory Authority: §§ 16.1-309.9, 22.1-321, 22.1-323, 22.1-323.2, 37.2-407, 37.2-408, 63.2-203, 63.2-217, 63.2-1701, 63.2-1703, 63.2-1737, 66-10 and 66-24 of the Code of Virginia.

Public comments may be submitted until July 27, 2007.

**Contact:** Charlene Vincent, Coordinator, Office of Interdepartmental Regulation, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7097, FAX (804) 726-7095 or email charlene.vincent@dss.virginia.gov.

## BOARD OF SOCIAL WORK

**July 12, 2007 - 2 p.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Regulatory Committee to review current regulations regarding supervision and standards of practice.

**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 ♿, email evelyn.brown@dhp.virginia.gov.

**July 13, 2007 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A regular business meeting.

**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 ♿, email evelyn.brown@dhp.virginia.gov.

## BOARD FOR SOIL SCIENTISTS AND WETLAND PROFESSIONALS

**July 17, 2007 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board of Professional Soil Scientists and Wetland Professionals, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ♿, email soilscientist@dpor.virginia.gov.

## BOARD OF TOWING AND RECOVERY OPERATORS

† **May 29, 2007 - 9:30 a.m.** -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, 7th Floor, Conference Room 702, Richmond, Virginia. ♿

A meeting to discuss policies related to denial of licensure and issues relating to criminal background checks and fingerprinting.

**Contact:** Benjamin Foster, Executive Director, Board of Towing and Recovery Operators, P.O. Box 2741, Richmond, VA 23269, telephone (804) 367-0226, FAX (804) 367-6631, email benjamin.foster@dmv.virginia.gov.

† **June 5, 2007 - 9:30 a.m.** -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, 7th Floor, Conference Room 702, Richmond, Virginia. ♿

A meeting to conduct general business of the board.

**Contact:** Benjamin Foster, Executive Director, Board of Towing and Recovery Operators, P.O. Box 2741 Richmond, VA 23269, telephone (804) 367-0226, FAX (804) 367-6631, email benjamin.foster@dmv.virginia.gov.

## COMMONWEALTH TRANSPORTATION BOARD

† **May 29, 2007 - 7 p.m.** -- Open Meeting  
Hampton Roads Planning District Regional Building, 723 Woodlake Drive, Chesapeake, Virginia. ♿

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# Calendar of Events

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† **May 31, 2007 - 7 p.m.** -- Open Meeting  
Quality Inn Shenandoah Valley, 162 West Old Cross Road,  
New Market, Virginia. 

The Commonwealth Transportation Board (CTB) invites your comments about essential rail, public transportation, commuter service, bicycle, pedestrian, and highway projects in the Fiscal Year 2008-2013 Six-Year Improvement Program (SYIP) to be approved by the CTB in June. Comments will also be received regarding proposed allocations for the Federal Transportation Enhancement Program. All projects in the SYIP that are eligible for federal funding will be included in the Statewide Transportation Improvement Program, which documents how Virginia will obligate its share of federal funds. You can review the working draft "FY 2008-2013 SYIP" on VirginiaDOT.org and at VDOT District and Residency Offices on or after May 16. There will be five hearings statewide. except where noted, each hearing begins at 7 p.m. Please attend the hearing that is most convenient for you. If you cannot attend a hearing, you may send your comments to: Public Information Office, VA Department of Rail and Public Transportation, 1313 E. Main St., Suite 300, Richmond, VA 23218-0590, drptpr@DRPT.Virginia.gov or to Programming Director, VA Department of Transportation, 1401 East Broad St., Richmond, VA 23219 or Six-YearProgram@VDOT.Virginia.gov through June 5, 2007. Public hearings for local/secondary/municipality-maintained roads are held in other forums.

**Contact:** Donna Purcell Mayes, Assistant Director for Outreach, Va. Department of Transportation, Office of Public Affairs, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2717, email donna.mayes@vdot.virginia.gov.

† **June 20, 2007 - 2 p.m.** -- Open Meeting  
VDOT Fredericksburg District, 87 Deacon Road,  
Auditorium, Fredericksburg, Virginia. 

† **July 18, 2007 - 2 p.m.** -- Open Meeting  
VDOT Central Office, 1221 East Broad Street, Auditorium,  
Richmond, Virginia. 

A work session of the Commonwealth Transportation Board and transportation staff.

**Contact:** Carol A. Mathis, Administrative Staff Assistant, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2701, email carol.mathis@vdot.virginia.gov.

† **June 21, 2007 - 9 a.m.** -- Open Meeting  
VDOT Fredericksburg District, 87 Deacon Road,  
Auditorium, Fredericksburg, Virginia. 

† **July 19, 2007 - 9 a.m.** -- Open Meeting  
VDOT Central Office, 1221 East Broad Street, Auditorium,  
Richmond, Virginia. 

A regularly scheduled meeting to transact CTB business, such as permits, additions/deletions to the highway system, and other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the 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 will be 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:** Carol A. Mathis, Administrative Staff Assistant, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2701, email carol.mathis@vdot.virginia.gov.

## DEPARTMENT OF TRANSPORTATION

### Transportation Accountability Commission

**June 8, 2007 - 9 a.m.** -- Open Meeting  
State Capitol, House Room 1, Richmond, Virginia. 

A meeting of the Performance Standards subcommittee.

**Contact:** Tracey Williams, Department of Transportation, Transportation and Mobility Planning Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 371-8304, FAX (804) 225-4785, email tracey.williams@vdot.virginia.gov.

## TREASURY BOARD

**June 20, 2007 - 9 a.m.** -- Open Meeting

**July 18, 2007 - 9 a.m.** -- Open Meeting

† **August 15, 2007 - 9 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, 3rd Floor,  
Richmond, Virginia.

A regular meeting.

**Contact:** Kathi B. Searce, Secretary to the Board, Treasury Board, James Monroe Bldg., 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-6011, email kathi.searce@trs.virginia.gov.

## DEPARTMENT OF VETERANS SERVICES

### Board of Veterans Services

**July 16, 2007 - 9:30 a.m.** -- Open Meeting  
Location to be determined. 

Contact the board for an agenda.

**Contact:** Rhonda Earman, Special Assistant to the Commissioner, Department of Veterans Services, 900 E.

Main St., Richmond, VA 23219, telephone (804) 786-0286, email rhonda.earman@dvs.virginia.gov.

## VIRGINIA WASTE MANAGEMENT BOARD

**June 11, 2007 - 9:30 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿

A regular board meeting.

**Contact:** Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4378, FAX (804) 698-4346, email cumberland@deq.virginia.gov.

## STATE WATER CONTROL BOARD

**June 27, 2007 - 9:30 a.m.** -- Open Meeting  
**June 28, 2007 - 9:30 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿

A regular meeting.

**Contact:** Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4378, FAX (804) 698-4346, email cumberland@deq.virginia.gov.

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

**June 20, 2007 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Board Street, Richmond, Virginia. ♿

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** David E. Dick, Executive Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475, (804) 367-9753/TTY ☎, email waterwasteoper@dpor.virginia.gov.

## INDEPENDENT

### STATE LOTTERY BOARD

**June 6, 2007 - 9 a.m.** -- Open Meeting  
State Lottery Department, 900 East Main Street, 13th Floor, Richmond, Virginia. ♿

A regular meeting. There will be an opportunity for public comment shortly after the meeting is convened.

**Contact:** Frank S. Ferguson, Director, Legislative and Regulatory Affairs, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7901, FAX (804) 692-7905, email ferguson@valottery.com.

### VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY

**July 24, 2007 - 9 a.m.** -- Open Meeting  
Virginia Office for Protection and Advocacy, Byrd Building, 1910 Byrd Avenue, Suite 5, VOPA Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Board of Directors. Public comment will be received beginning at 9 a.m. Public comment will also be accepted by telephone. If you wish to provide public comment via telephone, you must call Lisa Shehi, Administrative Assistant, at 1-800-552-3962 (Voice/TTY) or via email at lisa.shehi@vopa.virginia.gov no later than July 10, 2007. Ms. Shehi will take your name and phone number and you will be telephoned during the public comment period. For more information on participating in this conference call or to provide public comment via telephone. If interpreter services or accommodations are required, please contact Ms. Shehi no later than July 10, 2007.

**Contact:** Lisa Shehi, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7413, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, email lisa.shehi@vopa.virginia.gov.

### Disability Advisory Council

**June 20, 2007 - 10 a.m.** -- Open Meeting  
1910 Byrd Avenue, Suite 5, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting. Public comment is welcome and will be received shortly after 10 a.m. Public comment will also be accepted by telephone. If you wish to provide public comments via telephone call Tracy Manley, Administrative Assistant at 1-800-552-3962 (Voice/TTY) or via email at tracy.manley@vopa.virginia.gov no later than June 6, 2007. Ms. Manley will take your name and phone number

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## Calendar of Events

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and you will be telephoned during the public comment period. For further information, directions to the meeting, or interpreter services or other accommodations, please contact Ms. Manley no later than June 6, 2007.

**Contact:** Tracy Manley, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, email [tracy.manley@vopa.virginia.gov](mailto:tracy.manley@vopa.virginia.gov).

### VIRGINIA RETIREMENT SYSTEM

**June 19, 2007 - Noon** -- Open Meeting

Location to be determined. ♿

A meeting of the Optional Retirement Plan for Higher Education Advisory Committee. No public comment will be received at the meeting.

**Contact:** Patty Atkins-Smith, Legislative Liaison and Policy Analyst, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3123, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, email [psmith@varetire.org](mailto:psmith@varetire.org).

**June 20, 2007 - 1:30 p.m.** -- Open Meeting

**July 18, 2007 - 1:30 p.m.** -- Open Meeting

Virginia Retirement System Headquarters, 1200 East Main Street, Richmond, Virginia. ♿

A meeting of the Benefits and Actuarial Committee. No public comment will be received at the meeting.

**Contact:** LaShaunda King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3119, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, email [lking@varetire.org](mailto:lking@varetire.org).

**June 20, 2007 - 3 p.m.** -- Open Meeting

**July 19, 2007 - 1 p.m.** -- Open Meeting

Virginia Retirement System Headquarters, 1200 East Main Street, Richmond, Virginia. ♿

The regular meeting of the Board of Trustees will be held at the Virginia Retirement System, 1200 East Main Street, Richmond, VA 23219. No public comment will be received at the meeting.

**Contact:** LaShaunda King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3119, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, email [lking@varetire.org](mailto:lking@varetire.org).

**June 20, 2007 - 3 p.m.** -- Open Meeting

Virginia Retirement System Headquarters, 1200 East Main Street, Richmond, Virginia. ♿

A meeting of the Audit and Compliance Committee. No public comment will be received at the meeting.

**Contact:** LaShaunda King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3119, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, email [lking@varetire.org](mailto:lking@varetire.org).

**June 21, 2007 - 1 p.m.** -- Open Meeting

Virginia Retirement System, 1111 East Main Street, 3rd Floor Conference Room, Richmond, Virginia. ♿

A regular meeting of the Board of Trustees. No public comment will be received at the meeting.

**Contact:** LaShaunda King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3119, FAX (804) 786-1541, (804) 344-3190/TTY ☎, email [lking@varetire.org](mailto:lking@varetire.org).

† **August 15, 2007 - 10 a.m.** -- Open Meeting

Virginia Retirement System Investment Department, 1111 East Main Street, 3rd Floor Conference Room, Richmond, Virginia. ♿

A regular meeting of the Investment Advisory Committee. No public comment will be received at the meeting.

**Contact:** Linda Ritchey, Executive Assistant, Virginia Retirement System, 1111 E. Main St., Richmond, VA 23219, telephone (804) 697-6673, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, email [lritchey@varetire.org](mailto:lritchey@varetire.org).

## LEGISLATIVE

### HOUSE APPROPRIATIONS COMMITTEE

**June 18, 2007 - 9:30 a.m.** - Open Meeting

General Assembly Building, 9th and Broad Streets, 9th Floor, Richmond, Virginia. ♿

A regular meeting.

**Contact:** Barbara L. Teague, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

### COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES

† **June 19, 2007 - 10 a.m.** -- Open Meeting

General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Sarah Stanton, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other accommodations should telephone Senate Committee Operations at (804) 698-7450, (804) 698-7419/TTY, or write to Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, at least seven days prior to the meeting.

**Contact:** Hobie Lehman, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.

## VIRGINIA CODE COMMISSION

**June 20, 2007 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Street, 6th Floor, Speaker's Conference Room, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

A meeting to (i) appoint members to the Administrative Law Advisory Council; (ii) establish a workplan; (iii) review pertinent legislation resulting from the 2007 General Assembly session; (iv) consider a 6.0% price increase request from Thomson West for the Virginia Administrative Code printed sets; and (v) continue with the revision of Title 3.1, Agriculture. Public comment will be received.

**Contact:** Jane Chaffin, Registrar of Regulations, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625, email jchaffin@leg.state.va.us.

**July 25, 2007 - 10 a.m.** -- Open Meeting  
**August 15, 2007 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Street, 6th Floor, Speaker's Conference Room, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

A regular meeting.

**Contact:** Jane Chaffin, Registrar of Regulations, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625, email jchaffin@leg.state.va.us.

## DISABILITY COMMISSION

**† June 5, 2007 - 1 p.m.** - Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting contact Greg O'Halloran, Division of Legislative Services, (804) 786-3591.

**Contact:** Lori L. Maynard, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

## JOINT SUBCOMMITTEE STUDYING OPEN SPACE AND FARMLAND PRESERVATION

**† June 19, 2007 - 1:30 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda contact Mark Vucci, Division of Legislative Services, (804) 786-3591.

**Contact:** Barbara Teague, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

## JOINT SUBCOMMITTEE STUDYING THE COMMONWEALTH'S PROGRAM FOR PRISONER REENTRY TO SOCIETY

**† June 28, 2007 - 1 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda, please contact Sarah Stanton, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other accommodations should telephone Senate Committee Operations at (804) 698-7450, (804) 698-7419/TTY, or write to Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, at least seven days prior to the meeting.

**Contact:** Hobie Lehman, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.

## JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

**June 6, 2007 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Speaker's Conference Room, 6th Floor, Richmond, Virginia. 

A meeting of the Aerospace Advisory Committee.

**Contact:** Patrick Cushing, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

**June 6, 2007 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Speaker's Conference Room, 6th Floor, Richmond, Virginia. 

A meeting of the eCycling and Disposal of Electronic Materials Advisory Committee.

**Contact:** Patrick Cushing, Staff Attorney, Joint Commission on Technology and Science, General

Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

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# Calendar of Events

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**June 7, 2007 - 1 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Speaker's Conference Room, 6th Floor, Richmond, Virginia. 

A meeting of the Nanotechnology Authority Advisory Committee.

**Contact:** Patrick Cushing, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

**† June 19, 2007 - 1 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, 6th Floor, Speaker's Conference Room, Richmond, Virginia. 

A meeting of the Nanotechnology Authority Advisory Committee.

**Contact:** Patrick Cushing, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

**June 20, 2007 - 1 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting of the Open Education Resources Advisory Committee.

**Contact:** Patrick Cushing, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### May 29

- † Towing and Recovery Operators, Board of
- † Transportation Board, Commonwealth

#### May 30

- Education, Board of
- Fire Services Board, Virginia
- Medical Assistance Services, Department of
- Medicine, Board of

#### May 31

- Education, Board of
- † Environmental Quality, Department of
- Fire Services Board, Virginia
- † Governor's Healthcare Reform Commission
- Nursing, Board of
- † Transportation Board, Commonwealth

#### June 1

- Art and Architectural Review Board
- † Counseling, Board of
- Fire Services Board, Virginia

- Medical Assistance Services, Department of
- Rehabilitative Services, Department of
- Commonwealth Neurotrauma Initiative Trust Fund Advisory Board

#### June 2

- Fire Services Board, Virginia

#### June 4

- Alcoholic Beverage Control Board
- Contractors, Board for
- Nursing, Board of
- Professional and Occupational Regulation, Board of

#### June 5

- † Contractors, Board for
- † Disability Commission
- † Environmental Quality, Department of
- Funeral Directors and Embalmers, Board of
- † Game and Inland Fisheries, Board of
- Medicine, Board of
- Advisory Board on Occupational Therapy
- Advisory Board on Respiratory Care
- † Towing and Recovery Operators, Board of

#### June 6

- Agriculture and Consumer Services, Department of
- Virginia Aquaculture Advisory Board
- Cemetery Board
- Historic Resources, Department of
- Board of Historic Resources and State Review Board
- Lottery Board, State
- Medicine, Board of
- Advisory Board on Acupuncture
- Advisory Board on Radiologic Technology
- Nursing, Board of
- Outdoors Foundation, Virginia
- People with Disabilities, Board for
- † Resources Authority, Virginia
- Technology and Science, Joint Commission on

#### June 7

- Contractors, Board for
- Dentistry, Board of
- Medicine, Board of
- Advisory Board on Athletic Training
- Advisory Board on Physicians Assistants
- Outdoors Foundation, Virginia
- People with Disabilities, Board for
- † Social Services, Department of
- Technology and Science, Joint Commission on

#### June 8

- Dentistry, Board of
- Medicine, Board of
- Advisory Board on Midwifery
- Transportation, Department of

#### June 9

- Blind and Vision Impaired, Board for the

#### June 11

- Library Board, State

Waste Management Board, Virginia

## June 12

Contractors, Board for  
Governor's Healthcare Reform Commission  
Health, Department of  
Nursing, Board of

## June 13

† Agriculture and Consumer Services, Department of  
- Virginia Wine Board  
† Conservation and Recreation, Department of  
- Virginia Land Conservation Foundation  
Juvenile Justice, State Board of  
† Mental Health, Mental Retardation and Substance Abuse  
Services, Department of  
- Virginia Interagency Coordinating Council  
† Motor Vehicles, Department of  
- Motorcycle Advisory Council  
Research and Technology Advisory Commission, Virginia

## June 14

Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for  
Arts, Virginia Commission for the  
Conservation and Recreation, Department of  
Criminal Justice Services Board  
† Economic Development Partnership, Virginia  
Environmental Quality, Department of  
† Longwood University  
Museum of Fine Arts, Virginia  
Nursing, Board of

## June 15

Arts, Virginia Commission for the  
Housing and Community Development, Department of  
- State Building Code Technical Review Board  
† Longwood University  
Old Dominion University

## June 18

Air Pollution Control Board, State  
Alcoholic Beverage Control Board  
Appropriations, House  
Chesapeake Bay Local Assistance Board

## June 19

† At-Risk Youth and Families, Comprehensive Services for  
† Contractors, Board for  
Nursing, Board of  
† Open Space and Farmland Preservation, Joint  
Subcommittee Studying  
Retirement System, Virginia  
† Technology and Science, Joint Commission on

## June 20

Agriculture and Consumer Services, Department of  
- Virginia Horse Industry Board  
Code Commission, Virginia  
Compensation Board  
Education, Secretary of

- Start Strong Pre-K Council  
Medical Assistance Services, Department of  
Mental Health, Mental Retardation and Substance Abuse  
Services, Department of  
Nursing and Medicine, Joint Board of  
† Pharmacy, Board of  
Protection and Advocacy, Virginia Office for  
Retirement System, Virginia  
Technology and Science, Joint Commission on  
† Transportation Board, Commonwealth  
Treasury Board  
Waterworks and Wastewater Works Operators, Board for

## June 21

Conservation and Recreation, Department of  
† Contractors, Board for  
Design-Build/Construction Management Review Board  
Labor and Industry, Department of  
- Virginia Apprenticeship Council  
Medicine, Board of  
Nursing, Board of  
Retirement System, Virginia  
† Transportation Board, Commonwealth

## June 22

† Correctional Education, Board of  
Dentistry, Board of

## June 25

Housing and Community Development, Board of

## June 26

Contractors, Board for  
Labor and Industry, Department of  
- Safety and Health Codes Board  
Marine Resources Commission  
Nursing, Board of

## June 27

Accountancy, Board of  
Health, Department of  
- Sewage Handling and Disposal Appeals Review Board  
Water Control Board, State

## June 28

Education, Board of  
Funeral Directors and Embalmers, Board of  
† Prisoner Reentry to Society, Joint Subcommittee to Study  
the Commonwealth's Program for  
Public Guardianship and Conservator Advisory Board,  
Virginia  
Water Control Board, State

## June 29

Dentistry, Board of

## July 2

Alcoholic Beverage Control Board

## July 6

Art and Architectural Review Board

## July 10

† Contractors, Board for  
Higher Education for Virginia, State Council of

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# Calendar of Events

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Long-Term Care Administrators, Board of  
Polygraph Examiners Advisory Board  
Psychology, Board of

## July 11

Geology, Board for  
Hearing Aid Specialists, Board for  
Medicine, Board of  
Natural Resources, Foundation for Virginia's

## July 12

Auctioneers Board  
Social Work, Board of

## July 13

Dentistry, Board of  
Social Work, Board of

## July 16

Alcoholic Beverage Control Board  
Nursing, Board of  
Veterans Services, Department of  
- Board of Veterans Services

## July 17

Corrections, Board of  
† People with Disabilities, Virginia Board for  
Soil Scientists and Wetland Professionals, Board for  
Professional

## July 18

Community Colleges, State Board for  
Corrections, Board of  
Education, Board of  
Education, Secretary of  
- Start Strong Pre-K Council  
Nursing, Board of  
Real Estate Board  
Retirement System, Virginia  
† Transportation Board, Commonwealth  
Treasury Board

## July 19

Community Colleges, State Board for  
Conservation and Recreation, Department of  
- Virginia Soil and Water Conservation Board  
Design-Build/Construction Management Review Board  
Education, Board of  
Environmental Quality, Department of  
Human Resources, Virginia Council on  
† Medicine, Board of  
Nursing, Board of  
Real Estate Board  
Retirement System, Virginia  
† Transportation Board, Commonwealth

## July 20

Education, Board of

## July 24

Contractors, Board for  
Protection and Advocacy, Virginia Office for

## July 25

Code Commission, Virginia

Education, Board of  
† Medicine, Board of

## July 26

Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for  
Branch Pilots, Board for

## July 27

Branch Pilots, Board for  
Rehabilitative Services, Department of  
- Virginia Brain Injury Council

## July 31

† Funeral Directors and Embalmers, Board of  
† Medicine, Board of

## August 2

Education, Board of  
Medical Assistance Services, Department of

## August 3

Art and Architectural Review Board  
Dentistry, Board of

## August 6

Alcoholic Beverage Control Board  
Barbers and Cosmetology, Board for

## August 8

Health, Department of

## August 9

Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for

## August 10

Health, Department of  
Medicine, Board of

## August 14

Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for  
Chesapeake Bay Local Assistance Board

## August 15

† Asbestos, Lead, and Home Inspectors, Virginia Board for  
Code Commission, Virginia  
† Education, Secretary of  
- Start Strong Pre-k Council  
† Treasury Board  
† Retirement System, Virginia

## August 16

† Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for  
† Conservation and Recreation, Department of  
† Design-Build/Construction Management Review Board  
† Fire Services Board, Virginia  
† Health, Department of  
- State EMS Advisory Board

## August 17

† Dentistry, Board of

† Fire Services Board, Virginia

† Health, Department of  
- State EMS Advisory Board

† Opticians, Board for

† Physical Therapy, Board of

**August 18**

† Fire Services Board, Virginia

**August 20**

† Alcoholic Beverage Control Board

**August 21**

† Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for

† Real Estate Board Appraiser Board

**August 23**

† Medicine, Board of

**August 28**

† Contractors, Board for

### PUBLIC HEARINGS

**May 29**

Health, State Board of

**May 30**

† Environmental Quality, Department of

**June 6**

† Air Pollution Control Board, State

**June 7**

† Milk Commission, State

**June 12**

Governor's Healthcare Reform Commission  
Health, State Board of

**July 9**

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

**July 10**

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

**July 11**

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

**September 13**

† Criminal Justice Services Board

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# Calendar of Events

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