



VIRGINIA

REGISTER OF REGULATIONS

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Virginia Code Commission

<http://register.dls.virginia.gov>

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VIRGINIA REGISTER INFORMATION PAGE

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, and notices of public hearings on regulations.

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 on 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.

A 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

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. 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 no more than 18 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. 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. **34:8 VA.R. 763-832 December 11, 2017**, refers to Volume 34, Issue 8, pages 763 through 832 of the *Virginia Register* issued on December 11, 2017.

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.

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PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the Virginia Register of Regulations website (<http://register.dls.virginia.gov>).

July 2018 through August 2019

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
34:24	July 3, 2018 (Tuesday)	July 23, 2018
34:25	July 18, 2018	August 6, 2018
34:26	August 1, 2018	August 20, 2018
35:1	August 15, 2018	September 3, 2018
35:2	August 29, 2018	September 17, 2018
35:3	September 12, 2018	October 1, 2018
35:4	September 26, 2018	October 15, 2018
35:5	October 10, 2018	October 29, 2018
35:6	October 24, 2018	November 12, 2018
35:7	November 7, 2018	November 26, 2018
35:8	November 19, 2018 (Monday)	December 10, 2018
35:9	December 5, 2018	December 24, 2018
35:10	December 14, 2018 (Friday)	January 7, 2019
35:11	January 2, 2019	January 21, 2019
35:12	January 16, 2019	February 4, 2019
35:13	January 30, 2019	February 18, 2019
35:14	February 13, 2019	March 4, 2019
35:15	February 27, 2019	March 18, 2019
35:16	March 13, 2019	April 1, 2019
35:17	March 27, 2019	April 15, 2019
35:18	April 10, 2019	April 29, 2019
35:19	April 24, 2019	May 13, 2019
35:20	May 8, 2019	May 27, 2019
35:21	May 22, 2019	June 10, 2019
35:22	June 5, 2019	June 24, 2019
35:23	June 19, 2019	July 8, 2019
35:24	July 3, 2019	July 22, 2019
35:25	July 17, 2019	August 5, 2019
35:26	July 31, 2019	August 19, 2019

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF DENTISTRY

Initial Agency Notice

Title of Regulation: **18VAC60-21. Regulations Governing the Practice of Dentistry.**

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

Name of Petitioner: Nicholas Ilchyshyn, DDS.

Nature of Petitioner's Request: To allow dentists who serve as preceptors for dental students for receive continuing education credit for such work.

Agency Plan for Disposition of Request: The petition will be published on July 23, 2018, in the Virginia Register of Regulations and also posted on the Virginia Regulatory Town Hall at www.townhall.virginia.gov to receive public comment ending August 22, 2018. The request to amend regulations and any comments for or against the petition will be considered by the board at the first scheduled meeting after close of comment, which will be September 14, 2018. The petitioner will receive information on the board's decision after that date.

Public Comment Deadline: August 22, 2018.

Agency Contact: Sandra Reen, Executive Director, Board of Dentistry, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4437, or email sandra.reen@dhp.virginia.gov.

VA.R. Doc. No. R18-38; Filed June 27, 2018, 1:04 p.m.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

FORENSIC SCIENCE BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Forensic Science Board intends to consider amending **6VAC40-30, Regulations for the Approval of Field Tests for Detection of Drugs**. The purpose of the proposed action is to broaden the regulations by amending the definitions of "field test" and "field test kit" to include presumptive mobile instruments, which are instruments that can test through clear plastic and glass packaging so that officers could field test potentially lethal compounds without having to handle them directly, reducing the risk of exposure. Proposed amendments are considered to establish a separate evaluation process for presumptive mobile instruments, a separate set of requirements for maintenance of approved status for presumptive mobile instruments, and a separate fee schedule for approval of presumptive mobile instruments.

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

Statutory Authority: § 9.1-1110 of the Code of Virginia.

Public Comment Deadline: August 25, 2018.

Agency Contact: Amy M. Curtis, Department Counsel, Department of Forensic Science, 700 North 5th Street, Richmond, VA 23219, telephone (804) 786-6848, FAX (804) 786-6857, or email amy.curtis@dfs.virginia.gov.

VA.R. Doc. No. R18-5420; Filed June 29, 2018, 2:18 p.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Department of Medical Assistance Services (DMAS) intends to consider amending **12VAC30-120, Waivered Services**. The purpose of the proposed action is to merge the current Elderly and Disabled with Consumer Direction Waiver population with that of the Technology Assistance Waiver under the Commonwealth Coordinated Care Plus Program. DMAS has received federal approval to create a new program known as Commonwealth Coordinated Care Plus (CCC Plus) Program that will include all remaining Medicaid populations and services, including long-term care and home-based and community-based waiver services into managed care. CCC Plus will operate under a fully integrated model across the full continuum of care that includes physical health, behavioral health, community based, and institutional services with very

few carved out services through person-centered care planning to ensure that members are aware of and can access community based treatment options designed to serve them in the settings of their choice.

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

Statutory Authority: § 32.1-325 of the Code of Virginia; 42 USC § 1396.

Public Comment Deadline: August 22, 2018.

Agency Contact: Emily McClellan, Regulatory Supervisor, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email emily.mcclellan@dmas.virginia.gov.

VA.R. Doc. No. R18-5055; Filed June 29, 2018, 1:49 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF NURSING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Nursing intends to consider amending **18VAC90-30, Regulations Governing the Licensure of Nurse Practitioners** and **18VAC90-40, Regulations for Prescriptive Authority for Nurse Practitioners**. The purpose of the proposed action is to eliminate the requirement for a separate license for a nurse practitioner to have prescriptive authority. 18VAC90-40, Regulations for Prescriptive Authority for Nurse Practitioners, likely will be repealed, and the necessary provisions will be incorporated into a new part in 18VAC90-30, Regulations Governing the Licensure of Nurse Practitioners. The goal is to reduce the financial and logistical burden on nurse practitioners, who currently must maintain a separate license to prescribe.

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

Statutory Authority: §§ 54.1-2400 and 54.1-2957.01 of the Code of Virginia.

Public Comment Deadline: August 22, 2018.

Agency Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4520, FAX (804) 527-4455, or email jay.douglas@dhp.virginia.gov.

VA.R. Doc. No. R18-5352; Filed June 26, 2018, 2:29 p.m.

REGULATIONS

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

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.

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Proposed Regulation

Title of Regulation: 2VAC5-675. Regulations Governing Pesticide Fees Charged by the Department of Agriculture and Consumer Services (amending 2VAC5-675-20 through 2VAC5-675-50).

Statutory Authority: § 3.2-3906 of the Code Virginia.

Public Hearing Information:

July 24, 2018 - 3 p.m. - Rural Retreat Depot, 105 West Railroad Avenue, Rural Retreat, VA 24368

Public Comment Deadline: September 21, 2018.

Agency Contact: Liza Fleeson Trossbach, Program Manager, Office of Pesticide Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 371-6559, FAX (804) 371-2283, TTY (800) 828-1120, or email liza.fleeson@vdacs.virginia.gov.

Basis: Section 3.2-109 of the Code of Virginia establishes the Board of Agriculture and Consumer Services as a policy board with the authority to adopt regulations in accordance with the provisions of Title 3.2 of the Code of Virginia.

Subdivision 7 of § 3.2-3906 of the Code of Virginia authorizes the board to adopt regulations establishing a fee structure for licensure, registration, and certification to defray the costs of implementing the Virginia Pesticide Control Act.

Purpose: The format and a large portion of the content of 2VAC5-675, Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services, were first implemented in July 1990. The regulations were amended in September 1994 and March 2009 and renumbered in October 2012 following the merger of the former Pesticide Control Board with the Board of Agriculture and Consumer Services. The current certification fees for pesticide applicators and licensing fees for pesticide businesses have been in place since 1990. The current pesticide product registration fee has been in place since 1999.

The agency has determined that current fees do not provide adequate funding for pesticide-related services. The fees prescribed in 2VAC5-675 are utilized to operate the agency's pesticide programs, which protect human health and the

environment by ensuring the proper use of pesticides used to control pests that adversely affect crops, structures, health, and domestic animals. Program activities include the certification of approximately 21,000 pesticide applicators, licensing of approximately 3,000 pesticide businesses, registration of approximately 15,000 pesticide products, and the conduct of routine inspections and investigations. In order to ensure compliance with all applicable laws and regulations related to the use of pesticides, it is imperative that fees provide adequate funding for these services.

Substance: The substantive changes include an increase to certification fees for commercial pesticide applicators and registered technicians, an increase to licensure fees for pesticide businesses, and an increase in registration fees for pesticide products. The proposed amendments to the regulation will:

Increase the annual product registration fee from \$160 per year to \$225 per year;

Increase the certification fee for commercial applicators from \$70 every two years to \$100 every two years;

Increase the certification fee for registered technicians from \$30 every two years to \$50 every two years; and

Increase the annual pesticide business license fee from \$50 per year to \$150 per year.

Issues: The proposed regulatory action is advantageous to the public and the regulated industry, as the amended fee structure will ensure the continuation of program services, which protect human health and the environment by ensuring the proper use of pesticides used to control pests that adversely affect crops, structures, health, and domestic animals. While increasing fees, these actions do not add any additional regulatory requirements to pesticide applicators, pesticide businesses, or registrants of pesticide products. There are no disadvantages to the public or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Board of Agriculture and Consumer Services (Board) proposes fee increases for commercial pesticide applicator certification, registered technician certification, pesticide business licensure, and pesticide product registration to reflect actual costs of program implementation.

Result of Analysis. The benefits likely exceed the costs for all proposed changes.

Regulations

Estimated Economic Impact.

Background: Pesticides are used for the control of pests that adversely affect crops, structures, human health, and domestic animals. Given the risk associated with the application of pesticides to both human health and the environment, the use of pesticides is highly regulated at the federal and state level. The Virginia Department of Agriculture and Consumer Services' (VDACS) pesticide programs protect human health and the environment by ensuring the proper use of pesticides. These programs include the certification of pesticide applicators, the licensing of pesticide businesses, the registration of pesticide products, and inspections and investigations to ensure compliance with all applicable laws and regulations.

Proposed Fee Increases: VDACS collects fees to fund its activities. The current certification fees for pesticide applicators and licensing fees for pesticide businesses have not been updated since 1990. The current pesticide product registration fee has not been updated since 1999. Given inflation, particularly for personal services and information technology, current fees do not provide adequate funding for the pesticide programs. Consequently, the Board proposes to raise registration, certification, and licensing fees as described in the following table.

	Current Fee	Proposed Fee
Pesticide product registration fee	\$160	\$225
Commercial applicator certificate fee (initial)	\$70	\$100
Commercial applicator certificate fee (biennial renewal)	\$70	\$100
Commercial applicator reexamination fee	\$70	\$100
Registered technician certificate fee (initial)	\$30	\$50
Registered technician certificate fee (biennial renewal)	\$30	\$50
Registered technician reexamination fee	\$30	\$50
Pesticide business licensing fee (annual)	\$50	\$150

The fee increases for the affected firms and individuals are relatively moderate. Given the likely benefit of protection of human health and the environment through the continuance of the pesticide programs, the benefit of the proposed amendments likely exceeds the cost.

Businesses and Entities Affected. The proposed amendments affect the approximate 3,000 licensed pesticide businesses, 18,000 certified applicators, including commercial applicators and registered technicians, and 1,550 registrants of pesticide products. The vast majority of the licensed pesticide businesses and employers of certified applicators are likely small businesses.¹

Localities Particularly Affected. The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment. The proposed amendments do not significantly affect employment.

Effects on the Use and Value of Private Property. The proposed amendments do not significantly affect the use and value of private property.

Real Estate Development Costs. The proposed amendments do not significantly affect real estate development costs.

Small Businesses:

Definition. Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

Costs and Other Effects. The proposed amendments moderately increase costs for small firms that distribute, store, sell, recommend for use, mix, or apply pesticides.

Alternative Method that Minimizes Adverse Impact. Not raising fees could potentially put the pesticide programs in jeopardy. There are no clear alternatives that minimize the adverse impact on small firms while maintaining the pesticide programs.

Adverse Impacts:

Businesses. The proposed amendments moderately increase costs for firms that distribute, store, sell, recommend for use, mix, or apply pesticides.

Localities. The proposed amendments do not adversely affect localities.

Other Entities. The proposed amendment does not adversely affect other entities.

¹Data sources: Virginia Department of Agriculture and Consumer Services

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

Summary:

The proposed amendments adjust the current fee structure for licensure, registration, and certification to reflect actual costs of program implementation and include a fee

increase for commercial pesticide applicator certification, registered technician certification, pesticide business licensure, and pesticide product registration.

Part II
Fees

2VAC5-675-20. Pesticide product registration fee; registration of new pesticide products; renewal of pesticide product registration.

A. Every pesticide product ~~which is to be~~ manufactured, distributed, sold, offered for sale, used, or offered for use within the Commonwealth shall be registered with the commissioner. The fee for registering each brand shall be ~~\$160~~ \$225. If a brand has more than one grade, each grade shall be registered, not the brand at the registration fee then in effect. The registration for a new pesticide product shall be effective upon receipt by the Department of Agriculture and Consumer Services of the application form accompanied by the required registration fee.

B. All pesticide product registrations shall expire on December 31 of each year unless canceled or otherwise terminated for cause. A registration not canceled or otherwise terminated for cause will be renewed upon receipt of the annual registration fee as set forth in subsection A of this section accompanied by the application renewal form. A registration that has been canceled or otherwise terminated for cause prior to December 31 may be resubmitted as a new registration when the conditions resulting in the cancellation or termination have been resolved. The registration of each brand or grade shall be renewed with the commissioner prior to December 31 of each year. If the registration is not renewed prior to December 31 of each year, the commissioner shall assess a late fee of 20% that shall be added to the registration fee. The late fee shall apply to all renewal registrations submitted to the department any time during the 12-month period following the expiration of the registration. Registrants who permit a registration to lapse for more than one year shall thereafter register the product as a new product. The applicant shall pay the total fee prior to the issuance of the registration by the commissioner.

2VAC5-675-30. Commercial applicator certificate fee.

Any person applying for a certificate as a commercial applicator shall pay to the department an initial nonrefundable certificate fee of ~~\$70~~ \$100 and a biennial nonrefundable renewal fee of ~~\$70~~ \$100 thereafter. All certificates shall expire at midnight on June 30 in the second year after issuance unless suspended or revoked for cause. All certificates not suspended or revoked for cause will be renewed upon receipt of the biennial renewal fee. If the applicator does not file an application for renewal of his certificate prior to COB June 30, the commissioner shall assess a late filing fee of 20% that shall be added to the renewal fee. The applicant shall pay the total fee prior to the

commissioner's issuance of the renewal. However, if the certificate is not renewed within 60 days following the expiration of the certificate, then such certificate holder shall be required to take another examination. The fee for this reexamination or for any commercial applicator reexamination pursuant to subsection C of § 3.2-3930 of the Code of Virginia shall be ~~\$70~~ \$100 and shall be nonrefundable. Any person applying to add a category or subcategory to his certificate shall pay to the department a nonrefundable fee of \$35. Federal, state, and local government employees certified to use, or supervise the use of, pesticides in government programs shall be exempt from any certification fees.

2VAC5-675-40. Registered technician certificate fee.

Any person applying for a certificate as a registered technician shall pay to the department an initial nonrefundable certificate fee of ~~\$30~~ \$50 and a biennial nonrefundable renewal fee of ~~\$30~~ \$50 thereafter. All certificates shall expire at midnight on June 30 in the second year after issuance unless suspended or revoked for cause. A certificate not suspended or revoked for cause will be renewed upon receipt of the biennial renewal fee. If the application for renewal of any certificate is not filed prior to COB June 30, a late filing fee of 20% shall be assessed and added to the renewal fee and shall be paid by the applicant before the renewal shall be issued. If the certificate is not renewed within 60 days following the expiration of the certificate, then such certificate holder shall be required to take another examination. The fee for this reexamination pursuant to subsection C of § 3.2-3930 of the Code of Virginia shall be ~~\$30~~ \$50 and shall be nonrefundable. Federal, state, and local government employees certified to use pesticides in government programs shall be exempt from any certification fees.

2VAC5-675-50. Business license fee.

Any pesticide business that distributes, stores, sells, recommends for use, mixes, or applies pesticides shall pay a nonrefundable annual pesticide business licensing fee of ~~\$50~~ \$150 for each location or outlet that he or it operates. All business licenses will expire at midnight on March 31 of each year unless suspended or revoked for cause. If a business license is not suspended or revoked for cause, it will be renewed upon payment of the annual fee. If any person operating as a pesticide business fails to apply for renewal of a pesticide business license by COB March 31 the applicant, as a condition of renewal, shall pay a late license fee of 20% of the licensing fee in addition to that fee. Merchants of limited quantities of nonrestricted use pesticides including grocery stores, convenience stores, drug stores, veterinarians, and other businesses who sell pesticides primarily for limited household use shall be exempt from the business license requirement.

Regulations

FORMS (2VAC5-675)

~~Application for New Pesticide Product Registration/Additional Information and Instructions, VDACS 07208 (rev. 7/12).~~

~~Application for Virginia Pesticide Business License to sell, distribute, store, apply, or recommend pesticides for use, VDACS 07209 (eff. 9/06).~~

~~Application for Reciprocal Pesticide Applicator Certificate/Commercial Pesticide Applicator Categories, VDACS 07210 (eff. 5/09).~~

~~Commercial Pesticide Applicator Certification Application/Eligibility Requirements for Commercial Applicator Certification, VDACS 07211 (rev. 7/12).~~

~~Pesticide Registered Technician Application/General Training Requirements for Registered Technicians, VDACS 07212 (eff. 1/09).~~

~~Commercial Pesticide Applicator Request for Authorization to Take Pesticide Applicator Examination/Commercial Pesticide Applicator Categories, VDACS 07218 (eff. 1/09).~~

[Application for New Pesticide Product Registration/Additional Information and Instructions, VDACS-07208 \(rev. 7/2017\)](#)

[Application for Virginia Pesticide Business License to sell, distribute, store, apply, or recommend pesticides for use, VDACS-07209 \(rev. 7/2017\)](#)

[Application for Reciprocal Pesticide Applicator Certificate/Commercial Pesticide Applicator Categories, VDACS-07210 \(rev. 7/2017\)](#)

[Commercial Pesticide Applicator Certification Application/Eligibility Requirements for Commercial Applicator Certification, VDACS-07211 \(rev. 7/2017\)](#)

[Pesticide Registered Technician Application/General Training Requirements for Registered Technicians, VDACS-07212 \(rev. 7/2017\)](#)

[Commercial Pesticide Applicator Request for Authorization to Take Pesticide Applicator Examination/Commercial Pesticide Applicator Categories, VDACS-07218 \(rev. 7/2017\)](#)

VA.R. Doc. No. R17-5041; Filed July 3, 2018, 10:51 a.m.

TITLE 3. ALCOHOLIC BEVERAGES

ALCOHOLIC BEVERAGE CONTROL AUTHORITY

Fast-Track Regulation

Title of Regulation: 3VAC5-10. Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers (amending 3VAC5-10-240).

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: August 22, 2018.

Effective Date: September 10, 2018.

Agency Contact: LaTonya D. Hucks, Legal Liaison, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4698, FAX (804) 213-4574, or email latonya.hucks@abc.virginia.gov.

Basis: Sections 4.1-103 and 4.1-111 of the Code of Virginia enumerate the powers of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, which includes the authority to adopt regulations, and to amend and repeal such regulations, and to do all acts necessary or advisable to carry out the purposes of Alcoholic Beverage Control Act (Title 4.1 of the Code of Virginia) in accordance with the Administrative Process Act.

Purpose: The purpose of this amendment is to adjust the appeals process so that it requires the interested party to identify some type of error in the initial decision in the request for an appeal instead of merely expressing a desire for an appeal. This regulation has little impact on public health, safety, or welfare; however, the general welfare of the public is benefited in that the regulation helps ensure agency resources are allocated to legitimate appeals that warrant immediate agency attention and action.

Rationale for Using Fast-Track Rulemaking Process: The amendments are expected to be noncontroversial because as the Department of Alcoholic Beverage Control transitions into an Authority, it is expected that certain regulations will have to be amended in order to accommodate a part-time board. Requiring an interested party to identify error in the request for an appeal will eliminate many meritless appeals and avoid overburdening the board.

Substance: Requests for appeals will have to identify the error in the decision.

Issues: The primary advantage of the amendment to the agency is that it will make the appeal process more efficient because requiring the interested party to identify the error in the decision will help to reduce or even eliminate meritless appeals to the board. The advantage to the public with the

change to this regulation is that licensees with valid appeals will have their appeals cases heard more efficiently because time and resources will not have to be expended on meritless appeals. The disadvantage is that it will require the licensee to engage in more critical thinking when filing an appeal, which could prove difficult for some less sophisticated licensees, or require licensees to hire an attorney to handle their appeal, which could be expensive for some. There are no disadvantages to the agency or the Commonwealth. The pertinent matter to the regulated community, government officials, and the public is that no longer will an interested party be able to request an appeal without identifying an error in the initial decision.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Alcoholic Beverage Control Board (Board) proposes to specify that in appealing an adverse initial decision, the interested party must identify any alleged errors in the decision of the Board.

Result of Analysis. The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact. The current regulation governing appeals to the Board does not require the interested party to identify any grounds for an appeal. Consequently, it is common for licensees to file an appeal effectively stating no more than "I appeal." In calendar year 2017, 70% of the appeals were of this category.¹ Appeals are costly in that they require significant staff time. In order to limit the wasting of resources where the licensee has no specified grounds for appeal, the Board proposes to require that the filed appeal include identifying any alleged errors in the initial decision. This is consistent with Code of Virginia § 2.2-4027, which requires that a party complaining of an agency action designate and demonstrate an error of law subject to review by the court.

It is expected that this would discourage the filing of appeals where the interested party has no specified grounds beyond unhappiness with the initial decision. Based on the estimated time saved and rate of compensation of the chief hearing officer, the Board's clerk, the appeals clerk, a court reporter, and the record backup clerk, on a per case avoided basis the proposed amendment would save approximately \$540 to \$935 in staff time.²

Businesses and Entities Affected. All 13,000 plus licensees could potentially be subject to disciplinary proceedings, and thus could be affected by the proposed amendments.³ The Department of Alcoholic Beverage Control issues licenses for manufacturers, wholesalers and shippers of alcoholic beverages; retail licenses for the sale of alcohol at restaurants, hotels, convenience stores, grocery stores, etc.; and banquet licenses to allow persons or groups to host events such as

wedding receptions, tastings, or fundraisers, where alcohol is served in an unlicensed location or club premise.

Localities Particularly Affected. The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment. The proposed amendments do not significantly affect employment.

Effects on the Use and Value of Private Property. The proposed amendments do not significantly affect the use and value of private property.

Real Estate Development Costs. The proposed amendments do not affect real estate development costs.

Small Businesses:

Definition. Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

Costs and Other Effects. The proposed amendments do not affect costs for small businesses.

Alternative Method that Minimizes Adverse Impact. The proposed amendments do not adversely affect small businesses.

Adverse Impacts:

Businesses. The proposed amendments do not adversely affect businesses.

Localities. The proposed amendments do not adversely affect localities.

Other Entities. The proposed amendments do not adversely affect other entities.

¹Data Source: Virginia Alcoholic Beverage Control Authority.

²Estimates of time saved and employee compensation provided by the Alcoholic Beverage Control Authority.

³Data source: Alcoholic Beverage Control Authority.

Agency's Response to Economic Impact Analysis: The Virginia Alcoholic Beverage Control Authority concurs with the Department of Planning and Budget's economic impact analysis.

Summary:

The amendment adds the requirement that the interested party identify the error in the decision being appealed in the written request to the board for an appeal.

3VAC5-10-240. Appeals.

A. An interested party may appeal to the board an adverse initial decision, including the findings of fact and the

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conclusions, of a hearing officer or a proposed decision, or any portion thereof, of the board provided a request therefor in writing identifying any alleged errors in the decision is received within 30 days after the date of mailing of the initial decision or the proposed decision, whichever is later.

B. At his option, an interested party may submit written exceptions to the initial or proposed decision within the 30-day period and waive further hearing proceedings.

C. If an interested party fails to appear at a hearing, the board may proceed in his absence and render a decision.

VA.R. Doc. No. R18-5368; Filed June 27, 2018, 8:44 a.m.

Fast-Track Regulation

Title of Regulation: 3VAC5-10. Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers (amending 3VAC5-10-400).

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: August 22, 2018.

Effective Date: September 10, 2018.

Agency Contact: LaTonya D. Hucks, Legal Liaison, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4698, FAX (804) 213-4574, or email latonya.hucks@abc.virginia.gov.

Basis: Sections 4.1-103 and 4.1-111 of the Code of Virginia enumerate the powers of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, which includes the authority to adopt regulations, and to amend and repeal such regulations, and to do all acts necessary or advisable to carry out the purposes of Alcoholic Beverage Control Act (Title 4.1 of the Code of Virginia) in accordance with the Administrative Process Act.

Purpose: The purpose of this regulation change is to clarify that the Rules of the Supreme Court of Virginia relating to the general rules applicable to all proceedings, foreign attorneys, the Virginia Rules of Evidence, appeals pursuant to the Administrative Process Act, and practices and procedures in civil actions are all applicable to all proceedings under the Wine and Beer Franchise Acts. The additional rules have always been applied in practice by virtue of the Administrative Process Act, even though they were not mentioned in the regulations. The purpose of the change is to make it abundantly clear that the mentioned portions of the Rules of the Supreme Court are applicable and not just Part Four. Also since mediation will be one of the proceedings that will be subject to these rules, it is necessary to include it in the regulation. This regulation has no significant impact on the health and safety of the public; however, general public welfare is benefited when the agency and the licensees are in

compliance with the prevailing laws of the Commonwealth and when all parties are well informed of the applicable laws.

Rationale for Using Fast-Track Rulemaking Process: The amendments are expected to be noncontroversial because they provide further clarification as to which Rules of the Supreme Court of Virginia apply to proceedings under the Wine and Beer Franchise Acts. The additional parts incorporated specifically in the amendment have been applied in practice; however, the regulation only cited Part Four and for the sake of clarification, the other portions are being incorporated by reference into the regulation.

Substance: The proposed regulation changes will amend the regulation to include Parts One, One A, Two, Two A, and Three of the Rules of Supreme Court of Virginia as applying to all proceedings under the Wine and Beer Franchise Acts. The additional parts mentioned specifically in the amendment have been applied in practice; however, the regulation currently only cites Part Four, and for the sake of clarification, the other portions are being added to the regulation. The amendments also add mediation as one of the proceedings subject to the aforementioned Rules of the Supreme Court of Virginia.

Issues: The primary advantage for the agency of this regulation amendment is that it clarifies that the Rules of the Supreme Court of Virginia relating to the general rules applicable to all proceedings, foreign attorneys, the Virginia Rules of Evidence, appeals pursuant to the Administrative Process Act, and practices and procedures in civil actions are all applicable to all proceedings under the Wine and Beer Franchise Acts. Advantages to the regulated community, government officials, and the public are that certain rules of the Virginia Supreme Court that were not initially applicable under the regulation will now apply and mediation is one of the proceedings subject to these rule. There are no disadvantages to the public, the agency, or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Alcoholic Beverage Control Board (Board) proposes to clarify: 1) that specific Rules of the Supreme Court of Virginia apply in all proceedings under the Wine and Beer Franchise Acts, and 2) that mediation is one of the proceedings subject to the aforementioned Rules of the Supreme Court of Virginia.

Result of Analysis. The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact. The current regulation specifies that:

The Rules of the Supreme Court of Virginia, Part Four, shall apply in all proceedings under the Wine and Beer Franchise

Acts, Chapters 4 (§ 4.1-400 et seq.) and 5 (§ 4.1-500 et seq.) of Title 4.1 of the Code of Virginia, including arbitration proceedings when necessary pursuant to §§ 4.1-409 and 4.1-508 of the Code of Virginia.

The Board proposes to amend the text to specify that Rules of the Supreme Court of Virginia, Parts One, One A, Two, Two A, Three, and Four all apply. This is a clarification that the Rules of the Supreme Court of Virginia (Rules) relating to the general rules applicable to all proceedings, foreign attorneys, the Virginia Rules of Evidence, appeals pursuant to the Administrative Process Act, and practices and procedures in civil actions are all applicable to all proceedings under the Wine and Beer Franchise Acts.

The Board also proposes to specify that mediation is subject to the Rules. This is also a clarification of current law. The proposed clarifying amendments do not change applicable requirements but are beneficial in that they may reduce potential misunderstandings.

Businesses and Entities Affected. All 13,000 plus licensees could potentially be subject to disciplinary proceedings, and thus could be affected by the proposed amendments.¹ ABC issues: licenses for manufacturers, wholesalers, and shippers of alcoholic beverages; retail licenses for the sale of alcohol at restaurants, hotels, convenience stores, grocery stores, etc.; and banquet licenses to allow persons or groups to host events such as wedding receptions, tastings, or fundraisers, where alcohol is served in an unlicensed location or club premise.

Localities Particularly Affected. The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment. The proposed amendments do not affect employment.

Effects on the Use and Value of Private Property. The proposed amendments do not affect the use and value of private property.

Real Estate Development Costs. The proposed amendments do not affect real estate development costs.

Small Businesses:

Definition. Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

Costs and Other Effects. The proposed amendments do not affect costs for small businesses.

Alternative Method that Minimizes Adverse Impact. The proposed amendments do not adversely affect small businesses.

Adverse Impacts:

Businesses. The proposed amendments do not adversely affect businesses.

Localities. The proposed amendments do not adversely affect localities.

Other Entities. The proposed amendments do not adversely affect other entities.

¹ Data source: Department of Alcoholic Beverage Control.

Agency's Response to Economic Impact Analysis: The Virginia Alcoholic Beverage Control Authority concurs with the Department of Planning and Budget's economic impact analysis.

Summary:

The amendments (i) incorporate by reference Parts One, One A, Two, Two A, and Three of the Rules of Supreme Court of Virginia (Rules) as applying to all proceedings under the Wine and Beer Franchise Acts and (ii) add mediation as one of the proceedings subject to the Rules, in addition to the currently incorporated Part Four of the Rules. Currently, arbitration is the one proceeding to which the Rules apply under the Wine and Beer Franchise Acts.

3VAC5-10-400. Discovery, prehearing procedures and production at hearings; definitions.

The Rules of the Supreme Court of Virginia, ~~Part~~ Parts One, One A, Two, Two A, Three, and Four, shall apply in all proceedings under the Wine and Beer Franchise Acts, Chapters 4 (§ 4.1-400 et seq.) and 5 (§ 4.1-500 et seq.) of Title 4.1 of the Code of Virginia, including mediation and arbitration proceedings when necessary pursuant to §§ 4.1-409 and 4.1-508 of the Code of Virginia. Any references to a "court" contained in the rules shall be deemed to mean the hearing officer or officers of the board conducting the proceeding.

No provision of this section shall affect the practice of taking evidence at a hearing, but such practice, including that of generally taking evidence ore tenus only at hearings before hearing officers, shall continue unaffected hereby.

DOCUMENTS INCORPORATED BY REFERENCE (3VAC5-10)

[Rules of the Supreme Court of Virginia, Part One: General Rules Applicable to All Proceedings](#)

[Rules of the Supreme Court of Virginia, Part One A: Foreign Attorneys](#)

[Rules of the Supreme Court of Virginia, Part Two: Virginia Rules of Evidence](#)

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[Rules of the Supreme Court of Virginia, Part Two A: Appeals Pursuant to the Administrative Process Act](#)

[Rules of the Supreme Court of Virginia, Part Three: Practice and Procedures in Civil Actions](#)

[Rules of the Supreme Court of Virginia, Part Four: Pretrial Procedures, Depositions, and Production at Trial-](#)

VA.R. Doc. No. R18-5369; Filed June 27, 2018, 8:48 a.m.

CHAPTER 23
LICENSURE REGULATIONS FOR SCHOOL
PERSONNEL

Part I
Definitions

8VAC20-23-10. Definitions.

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

"Accredited institution" means an institution of higher education accredited by a regional accrediting agency recognized by the United States Department of Education.

"Accredited virtual school or program" means a virtual school or program accredited by one of the accrediting agencies recognized by the Virginia Department of Education. [School divisions operating as multi-division online providers may be deemed as meeting accreditation requirements if a majority of their schools are fully accredited by the Virginia Board of Education.]

"Alternate route to licensure" means a nontraditional route to licensure available to individuals who meet the criteria specified in 8VAC20-23-90.

"Approved program" means a professional education program recognized as meeting state standards for the content and operation of such programs so that graduates of the program will be eligible for state licensure. The Virginia Board of Education has the authority to approve programs in Virginia.

"Cancellation" means the withdrawal of a [teaching] license following the voluntary return of the license by the license holder.

"Certified [program] provider" means a provider certified by the Virginia Department of Education to provide preparation and training for applicants seeking the Provisional License specified in 8VAC20-23-90.

"Collegiate Professional License" means a five-year, renewable [teaching] license available to an individual who has satisfied all requirements for licensure set forth in this chapter, including an earned baccalaureate degree from a regionally accredited college or university and the professional teacher's assessments prescribed by the Virginia Board of Education.

["~~Content area coursework" means courses at the undergraduate level (i.e., two year or four year institution) or at the graduate level that will not duplicate previous courses, or the level of coursework, taken in humanities, English, history and social sciences, sciences, mathematics, health and physical education, and fine arts. These courses are usually available through the college or department of arts or sciences.]~~

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TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Final Regulation

Titles of Regulations: **8VAC20-22. Licensure Regulations for School Personnel (repealing 8VAC20-22-10 through 8VAC20-22-760).**

8VAC20-23. Licensure Regulations for School Personnel (adding 8VAC20-23-10 through 8VAC20-23-800).

Statutory Authority: §§ 22.1-298.1 and 22.1-299 of the Code of Virginia.

Effective Date: August 23, 2018.

Agency Contact: Patty S. Pitts, Assistant Superintendent for Teacher Education and Licensure, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 371-2522, or email patty.pitts@doe.virginia.gov.

Summary:

The regulatory action repeals the existing regulation (8VAC20-22) and adopts a new regulation (8VAC20-23) regarding licensure for school personnel to align the regulation with recent changes in the Code of Virginia, current best practices in education, current educational research, and the revised Virginia Standards of Learning and the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers.

Substantive elements of the regulations (i) revise selected definitions to conform with changes in the regulations; (ii) modify prescribed licensure requirements, including reducing the number of years of work experience required for a career switcher provisional license from five to three and extending the international educator license from three to five years; (iii) add new endorsement areas in mathematics, engineering, and special education; and (iv) increase rigor in the requirements for selected endorsement areas.

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.

"Denial" means the refusal to grant a [teaching] license [~~to a new applicant or to an applicant who is reapplying after the expiration of a license~~].

"Division Superintendent License" means a five-year, renewable license available to an individual who has completed an earned master's degree from a regionally accredited college or university and meets the requirements specified in 8VAC20-23-630. The individual's name [~~must shall~~] be listed on the Virginia Board of Education's list of eligible division superintendents.

"Experiential learning" means a process of applying for an initial license through the alternate route as prescribed by the Virginia Board of Education and meeting the criteria specified in 8VAC20-23-90 E to be eligible to request experiential learning credits in lieu of the coursework for the endorsement (teaching) content area.

["Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Virginia Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.]

"International Educator License" means [~~a five-year cultural exchange opportunity for Virginia students and international teachers. The International Educator License is~~] a professional teaching license issued for no more than five years to an exchange teacher with citizenship in a nation other than the United States of America [~~and who meets requirements by a state-approved, federally-designated Exchange Visitor Program and who is~~] employed as [a] teacher in a Virginia public school or an accredited nonpublic school.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into Virginia from another state when that individual meets certain conditions specified in this chapter.

"Mentor" means a classroom teacher hired by the local school division who has achieved continuing contract status or other instructional personnel including retired teachers who meet local mentor selection criteria. The mentor should work in the same building as the beginning teacher or be instructional personnel who is assigned solely as a mentor. A mentor should be assigned a limited number of teachers at any time. Instructional personnel who are not assigned solely as mentors should not be assigned to more than four teachers at any time. Mentors guide teachers in the program through demonstrations, observations, and consultations.

"Online Teacher License" means a five-year, renewable license valid only for teaching online courses. Teachers who hold a five-year renewable license issued by the Virginia Board of Education may teach online courses for which they are properly endorsed and do not need to seek this license.

"Postgraduate Professional License" means a five-year, renewable license available to an individual who has qualified for the Collegiate Professional License and who holds an appropriate earned graduate degree from a regionally accredited college or university.

["Professional studies" means courses and other learning experiences designed to prepare individuals in the areas of human development and learning, curriculum and instruction, assessment of and for learning, classroom and behavior management, foundations of education and the teaching profession, language and literacy, and supervised clinical experiences.]

"Professional teacher assessment" means those tests or other requirements mandated for licensure as prescribed by the Virginia Board of Education.

"Provisional License" means a nonrenewable license valid for a specified period of time not to exceed three years issued to an individual who has allowable deficiencies for full licensure as set forth in this chapter. The individual [~~must shall~~] have a minimum of an [~~undergraduate~~ earned baccalaureate] degree from a regionally accredited college or university, with the exception of those individuals seeking the Technical Professional License. The Provisional License [will be issued for a three-year validity period], with the exception of [~~those individuals seeking licensure through a career switcher program who will be issued a one year Provisional License, will be~~ the Provisional (Career Switcher) License that will be initially issued for a one-year validity period and Teach For America Provisional License that will be initially] issued for [~~two years~~ a two-year validity period]. [~~Individuals may apply for a third year on the Provisional License by submitting documentation indicating that all licensure assessments prescribed by the Virginia Board of Education have been taken.~~] Individuals [~~must shall~~] complete all requirements [for licensure], including passing all licensure assessments, for a renewable license within the validity period of the [~~license~~ Provisional License].

"Pupil Personnel Services License" means a five-year, renewable license available to an individual who has earned an appropriate graduate degree from a regionally accredited college or university with an endorsement as a school counselor, school psychologist, school social worker, or vocational evaluator. This license does not require teaching experience unless otherwise outlined under the specific endorsement's requirements.

"Renewable license" means a license issued by the Virginia Board of Education for five years to an individual who meets all requirements specified in this chapter.

"Revocation" means the withdrawal of a [teaching] license.

"School Manager License" means a five-year, renewable license intended to provide for a differentiation of

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administrative responsibilities in a school setting. A school manager is licensed to administer noninstructional responsibilities in an educational setting. ~~[For example, a A]~~ school manager is restricted from evaluating teachers, supervising instruction, developing and evaluating curriculum, and serving as a school's student disciplinarian. The license is available to a candidate who holds a baccalaureate degree from a regionally accredited college or university; has three years of ~~[success successful]~~ managerial experience; and is recommended for the license by a Virginia school division superintendent.

"Suspension" means the temporary withdrawal of a ~~[teaching]~~ license.

"Technical Professional License" means a five-year, renewable license available to an individual who has graduated from ~~[an a public or]~~ accredited ~~[nonpublic]~~ high school (or possesses a ~~[General Educational Development Certificate Virginia Board of Education-approved high school equivalency credential]~~); has exhibited academic proficiency, technical competency, and successful occupational experience; and meets the requirements specified in ~~[subdivision 4 of]~~ 8VAC20-23-50. ~~[A 4]~~.

~~["Teach For America License" means a two-year provisional license available to an individual who is a participant in Teach For America and meets the requirements specified in 8VAC20-23-50.]~~

Part II Administering the Regulations

8VAC20-23-20. Administering this chapter.

A. In administering this chapter, modifications may be made in exceptional cases by the Superintendent of Public Instruction. Proposed modifications shall be made in writing to the Superintendent of Public Instruction, Commonwealth of Virginia, Virginia Department of Education, P.O. Box 2120, Richmond, Virginia 23218-2120.

B. In administering this chapter, competencies required for endorsement areas are outlined in the Regulations Governing the Review and Approval of Education Programs in Virginia (8VAC20-543). This document should be referenced for detailed information regarding coursework content for endorsements. Individuals ~~[must shall]~~ complete the semester hours required for endorsement areas, or the equivalent, that ~~[must shall]~~ be documented and approved by the ~~[Virginia]~~ Department of Education.

~~[C. Virginia school divisions may submit requests to the Virginia Department of Education for determination of appropriate endorsements for blended or integrated course options.~~

D. Upon the effective date of this chapter, the Virginia Board of Education grants a one-year transition period for the implementation of this chapter.]

Part III Licensure

8VAC20-23-30. Purpose and responsibility for licensure.

The primary purpose for licensing teachers and other school personnel is to maintain standards of professional competence. The responsibility for licensure is set forth in § 22.1-298.1 of the Code of Virginia, which states that the Virginia Board of Education shall prescribe by regulation the requirements for licensure of teachers.

8VAC20-23-40. Conditions for licensure.

A. Applicants for licensure ~~[must shall]~~:

1. Be at least 18 years of age;

2. Pay the appropriate fees as determined by the Virginia Board of Education and complete the application process;

3. Have earned a baccalaureate degree, with the exception of the Technical Professional License, from a regionally accredited college or university and meet requirements for the license sought. Persons seeking initial licensure through approved programs from Virginia institutions of higher education shall only be licensed as instructional personnel ~~[by the Virginia Board of Education if the professional education programs offered at such institutions have been accredited by a national accrediting agency and the education (endorsement) programs have final approval by the]~~ if the education endorsement programs have approval by the ~~[]~~ Virginia Board of Education; ~~[individuals who have earned a degree from an institution in another country shall hold the equivalent of a regionally accredited college or university degree in the United States, as verified by a Virginia Department of Education-approved credential evaluation agency, for the required degree for the license;]~~ and

4. Possess good moral character ~~[(i.e., and be)~~ free of conditions outlined in Part VII (8VAC20-23-720 et seq.) of this chapter.

B. All candidates who hold at least a baccalaureate degree from a regionally accredited college or university and who seek an initial Virginia teaching license ~~[must shall]~~ obtain passing scores on professional teacher's assessments prescribed by the Virginia Board of Education. With the exception of the career switcher program that requires assessments as prerequisites, individuals ~~[must shall]~~ complete the professional teacher's ~~[assessments assessment]~~ requirements within the three-year validity of the initial provisional license. Candidates seeking a Technical Professional License, International Educator License, School Manager License, or Pupil Personnel Services License are not required to take the professional teacher's assessments. Individuals who hold a valid out-of-state license (full credential without deficiencies) and who have completed a minimum of three years of full-time, successful teaching

experience in a public or an accredited nonpublic school, kindergarten through grade 12, outside of Virginia are exempt from the professional teacher's assessment requirements. Documentation [~~must~~ shall] be submitted to verify the school's status as a public or an accredited nonpublic school.

C. All individuals seeking an initial endorsement in early/primary education preK-3, elementary education preK-6, special education-general curriculum, special education-deaf and hard of hearing, special education-blindness and visual impairments, and individuals seeking an endorsement as a reading specialist [~~must~~ shall] obtain passing scores on a reading instructional assessment prescribed by the Virginia Board of Education.

D. Licensure by reciprocity is set forth in 8VAC20-23-100. A school leaders [licensure] assessment prescribed by the Virginia Board of Education [~~must~~ shall] be met for all individuals who are seeking an endorsement authorizing them to serve as principals and assistant principals in the public schools. Individuals seeking an initial administration and supervision endorsement who are interested in serving as central office instructional personnel are not required to take and pass the school leaders [licensure] assessment prescribed by the Virginia Board of Education.

E. Individuals seeking initial licensure [~~must~~ shall] demonstrate proficiency in the use of educational technology for instruction, complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services, and receive professional development in instructional methods tailored to promote student academic progress and effective preparation for the [Virginia] Standards of Learning end-of-course and end-of-grade assessments.

F. Every person seeking initial licensure shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and use of automated external defibrillators. The certification or training program shall be based on the current national evidenced-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross. The Virginia Board of Education shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training.

G. The teacher of record for verified credit courses for high school graduation [~~must~~ shall] hold a Virginia license with the appropriate content endorsement.

[H. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification

credential, as defined in 8VAC20-23-10, in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Virginia Board of Education may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential.

I. Effective July 1, 2017, every person seeking renewal of a license shall complete awareness training, provided by the Virginia Department of Education, on the indicators of dyslexia, as that term is defined by the Virginia Board of Education pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia.]

8VAC20-23-50. Types of licenses; dating licenses.

A. The following types of licenses are available:

1. Provisional License. The Provisional License is a nonrenewable license valid for a period not to exceed three years issued to an individual who has allowable deficiencies for full licensure as set forth in this chapter. The Provisional License will be issued for [~~two years~~ a three-year validity period], with the [~~exception~~ exceptions] of [~~those individuals seeking a the~~] Provisional [(Career Switcher)] License [~~through a career switcher program~~ that will initially be issued for a one-year validity period and the Provisional Teach For America License issued for a two year validity period], [~~Individuals may apply for a third year on the Provisional License by submitting documentation indicating that all licensure assessments prescribed by the Virginia Board of Education (<http://doe.virginia.gov/teaching/licensure/prof-teacher-assessment.pdf>) have been taken. The Provisional (Career Switcher) License will be dated as set forth in 8VAC20-23-90-A-2.~~] Individuals [~~must~~ shall] complete [~~the all~~] requirements [for licensure,] including passing all licensure assessments, for [~~the a~~] renewable [~~five-year~~] license within the validity period of the Provisional License. The individual [~~must~~ shall] have a minimum of an [~~undergraduate~~ earned baccalaureate] degree from a regionally accredited college or university, with the exception of those individuals seeking the Technical Professional License.

2. Collegiate Professional License. The Collegiate Professional License is a five-year, renewable license available to an individual who has satisfied all requirements for licensure, including an earned [~~undergraduate~~ baccalaureate] degree from a regionally accredited college or university and the professional teacher's assessments prescribed by the Virginia Board of Education.

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3. Postgraduate Professional License. The Postgraduate Professional License is a five-year, renewable license available to an individual who has qualified for the Collegiate Professional License and who holds an appropriate earned graduate degree from a regionally accredited college or university.

4. Technical Professional License. The Technical Professional License is a five-year, renewable license available to a person who has graduated from [a public or] an accredited [nonpublic] high school or possesses a [~~General Educational Development Certificate~~ Virginia Board of Education-approved high school equivalency credential]; has exhibited academic proficiency, skills in literacy and communication, technical competency, and successful occupational experience; [~~and~~] has completed nine semester hours of specialized professional studies credit from a regionally accredited college or university [; and has completed one year of successful, full-time teaching experience in a public school or accredited nonpublic school in the area of endorsement]. The nine semester hours of professional studies coursework [~~must~~ shall] include three semester hours of human development and learning, three semester hours of curriculum and instruction, and three semester hours of applications of instructional technology or classroom and behavior management. The Technical Professional License is issued at the recommendation of [~~an~~ a Virginia] employing educational agency in the areas of career and technical education, educational technology, and military science. Individuals seeking an endorsement to teach military science [~~must~~ shall] have the appropriate credentials issued by the United States military. The employing Virginia educational agency [~~must~~ shall] ensure the credentials issued by the United States military are active during the period the individual is teaching. In addition to demonstrating competency in the endorsement area sought, the individual [~~must~~ shall]:

a. Hold a valid license issued by the appropriate Virginia board for those program areas requiring a license and a minimum of two years of successful experience at the journeyman level or an equivalent. The employing Virginia educational agency [~~must~~ shall] ensure that the valid license issued by the appropriate Virginia board for the occupational program area is active during the period the individual is teaching;

b. Have completed a registered apprenticeship program and two years of successful experience at the journeyman level or an equivalent level in the trade; or

c. Have four years of successful work experience at the management or supervisory level or equivalent or have a combination of four years of training and [~~successful~~] work experience at the management or supervisory level or equivalent.

Individuals holding the Technical Professional License who seek the Collegiate Professional or Postgraduate Professional License [~~must~~ shall] meet the requirements of the respective licenses.

5. School Manager License. The school manager license is a five-year, renewable license intended to provide for the differentiation of administrative responsibilities in a school setting. A school manager is licensed to administer noninstructional responsibilities in an educational setting. [~~For example, a A~~] school manager is restricted from evaluating teachers, supervising instruction, developing and evaluating curriculum, and serving as a school's student disciplinarian. The license is available to a candidate who holds a baccalaureate degree from a regionally accredited college or university, has three years of successful managerial experience, and is recommended for the license by a Virginia school division superintendent.

6. Pupil Personnel Services License. The Pupil Personnel Services License is a five-year, renewable license available to an individual who has earned an appropriate graduate degree from a regionally accredited college or university with an endorsement for school counselor, school psychologist, school social worker, or vocational evaluator. This license does not require teaching experience, unless otherwise outlined under the specific endorsement's requirements.

7. Division Superintendent License. The Division Superintendent License is a five-year, renewable license available to an individual who has completed an earned master's degree from a regionally accredited college or university and meets the requirements specified in 8VAC20-23-630. The individual's name [~~must~~ shall] be listed on the Virginia Board of Education's list of eligible division superintendents.

8. International Educator License. The International Educator License provides a five-year cultural exchange opportunity for Virginia students and international teachers. The International Educator License is a professional teaching license issued [for no more than five years] to an exchange teacher with citizenship in a nation other than the United States of America [~~and~~] who is employed as a teacher in a Virginia public or accredited nonpublic school. To be issued the five-year, nonrenewable International Educator License, an individual serving as a cultural exchange teacher in Virginia [~~must~~ shall]:

a. Be employed by a Virginia public or an accredited nonpublic school;

b. Hold non-United States citizenship and be a nonpermanent resident; and

c. Meet the following requirements as verified by a state-approved, federally-designated Exchange Visitor Program (22 CFR Part 62):

- (1) Be proficient in written and spoken English;
- (2) Demonstrate competence in the appropriate academic subject area or areas by meeting the credential requirements for a qualified teacher in the exchange country;
- (3) Hold the United States equivalent of a baccalaureate degree or higher as determined by an approved credential [evaluation] agency; and
- (4) Complete at least two years of successful full-time teaching experience that enables the educator to fulfill a similar assignment in his home country or is comparable to those requirements for Virginia teachers.

If an individual meets requirements of subdivisions 8 a, 8 b, 8 c (1), 8 c (2), and 8 c (3) of this subsection and has completed at least one year, but less than two years, of successful full-time teaching experience that [enables would enable] the educator to fulfill a similar assignment in his home country or is comparable to those requirements for Virginia teachers, the International Educator License will be issued for three years with an option to extend the nonrenewable International Educator License for the additional two years upon [meeting passing] all teacher assessments prescribed by the Virginia Board of Education and a recommendation of the Virginia employing school division or accredited nonpublic school.

Individuals who have been issued an International Educator License who seek a five-year, renewable license [will need to shall] meet all licensure and endorsement requirements, including [passing] applicable assessments prescribed by the Virginia Board of Education.

9. Online Teacher License. The Online Teacher License is a five-year, renewable license valid only for teaching online courses. Teachers who hold a five-year renewable license issued by the Virginia Board of Education may teach online courses for which they are properly endorsed and do not need to seek this license.

a. [The In order to be issued an Online Teacher License, the] individual [is required to shall] meet [the] requirements for an endorsement in a content (teaching) area [; and] professional studies [requirements;] and [achieve] qualifying scores on professional teacher's assessments as prescribed by the Virginia Board of Education. In addition, the individual [must shall] complete a three-semester-hour course in online instructional procedures.

Online instructional procedures: [3 Three] semester hours. Skills in this area shall contribute to an understanding of the principles of online learning and

online instructional strategies and the application of skills [in and] the ability to use the Internet for teaching, learning, and management; design, deliver, and support instruction in an online environment; adapt strategies for a variety of course models [(e.g.), [such as] synchronous and asynchronous []]; select, adapt, and create rich multimedia for instruction; adapt individualized education program requirements to online course practices, as appropriate; use data to meet individual [students student's] needs; and employ innovative teaching strategies in an online environment. Demonstrated proficiency of advanced skills in the following [must areas shall] be addressed: use of communication technologies to interact with and engage students, parents, and mentors; use of education technologies; management of instructional activities in a technology-mediated environment; and nontraditional content delivery methods.

b. Online teaching experience is not acceptable to meet the full-time teaching experience for other license types, such as a Division Superintendent License, or for endorsements, such as for the reading specialist, school counselor, or administration and supervision endorsements. The Online Teacher License may be issued if requirements have been met as one of the following licenses to individuals teaching only online courses:

(1) Online Teacher (Postgraduate Professional) License - a five-year, renewable license available to an individual who has qualified for the Online Teacher (Collegiate Professional) License and who holds an appropriate earned graduate degree from a regionally accredited college or university.

(2) Online Teacher (Collegiate Professional) License - a five-year, renewable teaching license available to an individual who has satisfied all requirements for licensure, including an earned baccalaureate degree from a regionally accredited college or university, endorsement and professional studies requirements, and [passed] the professional teacher's assessments prescribed by the Virginia Board of Education, or

(3) Online Teacher (Technical Professional) License - a five-year, renewable teaching license available to an individual who has graduated from [a public or] an accredited [nonpublic] high school or possesses a [General Educational Development Certificate Virginia Board of Education-approved high school equivalency credential]; has exhibited academic proficiency, technical competency, and occupational experience; and meets the requirements specified in subdivision 4 of this subsection. An individual seeking an Online Teacher (Technical Professional) License [must shall] be recommended for the license by a Virginia public school,

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a Virginia accredited nonpublic school, or an accredited virtual school program.

c. A nonrenewable Online Teacher (Provisional) License may be issued for a period not to exceed three years to an individual who has allowable deficiencies for full licensure as set forth in 8VAC20-23-90 B. The Online (Provisional) License will be issued for [~~two~~ three] years. [~~Individuals may apply for a third year on the Online (Provisional) License by submitting documentation indicating that all licensure assessments prescribed by the Virginia Board of Education have been taken.~~] The individual [~~must~~ shall] have a minimum of an [~~undergraduate~~ earned baccalaureate] degree from a regionally accredited college or university, with the exception of those individuals seeking the Technical Professional License. Individuals [~~must~~ shall] complete all requirements for a renewable Online Teacher License within the validity period of the license.

10. Teach For America License. The Teach For America License is a two-year provisional license.

a. This provisional license is available to any participant in Teach For America, a nationwide nonprofit organization focused on closing the achievement gaps between students in high-income and low-income areas, who submits an application and meets the following requirements:

(1) Holds, at minimum, a baccalaureate degree from a regionally accredited institution of higher education;

(2) Has met the requirements prescribed by the Virginia Board of Education for all endorsements sought or has met the qualifying scores on the content area assessment prescribed by the board for the endorsements sought;

(3) Possesses good moral character according to criteria developed by the Virginia Board of Education;

(4) Has been offered and has accepted placement in Teach For America;

(5) Has successfully completed preservice training and is participating in the professional development requirements of Teach For America, including teaching frameworks, curricula, lesson planning, instructional delivery, classroom management, assessment and evaluation of student progress, classroom diversity, and literacy development;

(6) Has an offer of employment from a local school board to teach in a public elementary or secondary school in the Commonwealth or a preschool program that receives state funds pursuant to subsection C of § 22.1-199.1 of the Code of Virginia; and

(7) Receives a recommendation from the employing school division for a Teach For America License in the

endorsement area in which the individual seeks to be licensed.

b. In addition to the criteria set forth in subdivision 10 a of of this subsection, any individual who seeks an endorsement in early childhood, early/primary, or elementary education shall either (i) agree to complete such coursework in the teaching of [~~reading~~ language and literacy] as may be prescribed by the Virginia Board of Education pursuant to 8VAC20-23-130 during the first year of employment or (ii) achieve a passing score on a reading instructional assessment prescribed by the Virginia Board of Education.

c. Teachers issued a Teach For America provisional license shall not be eligible for continuing contract status while employed under the authority of a Teach For America license and shall be subject to the probationary terms of employment specified in § 22.1-303 of the Code of Virginia.

d. The Virginia Board of Education may extend any Teach For America License for one additional year upon request of the employing school division, provided that no Teach For America License shall exceed a total of three years in length.

e. Notwithstanding any provision of law to the contrary, upon completion of at least two years of full-time teaching experience in a public elementary or secondary school in the Commonwealth or a preschool program that receives state funds pursuant to subsection C of § 22.1-199.1 of the Code of Virginia, an individual holding a Teach For America License shall be eligible to receive a renewable license if he has (i) achieved satisfactory scores on all professional teacher assessments required by the Virginia Board of Education and (ii) received satisfactory evaluations at the conclusion of each year of employment.

f. Notwithstanding any provision of law to the contrary, the Virginia Board of Education shall issue a Teach For America License to any individual who (i) has completed two years of successful teaching in the Teach For America program in another state, (ii) is not eligible to receive a renewable license, and (iii) meets the criteria set forth in subdivision 10 a of this subsection.

B. All licenses will be effective from July 1 in the school year in which the application is made. An employing Virginia public school division, agency, or accredited nonpublic school is required to notify employees in writing at the time of employment of the need to meet appropriate assessment requirements for licensure.

8VAC20-23-60. Designations on licenses for career paths to teaching.

A. Designations on licenses will reflect stages in the professional development of teachers and promote continuing growth and career paths as educators.

B. Teaching licenses may be issued with one of the following designations, and the designation will be processed as an add-on endorsement. These designations will not apply to the Division Superintendent License, School Manager License, International Educator License, or Pupil Personnel Services License.

1. Career Teacher: This voluntary teacher designation will be issued on a renewable teaching license for individuals who have gained continuing contract status in Virginia and who apply for the Career Teacher designation.

2. Mentor Teacher: This voluntary teacher designation will be issued on a renewable teaching license for individuals who have (i) achieved the Career Teacher designation, (ii) received a recommendation for the designation from an employing Virginia school division superintendent or designee or accredited nonpublic school head, (iii) served at least three years as a mentor teacher in Virginia, (iv) documented responsibilities as a mentor, and (v) completed a local or state mentor teacher training program in accordance with the Virginia Board of Education requirements for mentor teachers in the [Virginia Virginia] Board of Education Mentor Teacher Guidelines [(<http://www.doc.virginia.gov/teaching/career-resources/mentor/program-creation-guidelines.pdf>)].

3. Teacher as Leader: This voluntary teacher designation will be issued on a renewable teaching license for individuals who have (i) achieved the Career Teacher designation; (ii) completed at least five years of successful, full-time teaching experience in a Virginia public school or accredited nonpublic school; (iii) received [the a] recommendation from an employing Virginia school division superintendent or designee or an accredited nonpublic school head; (iv) and completed one of the following:

a. National Board Certification or a nationally recognized certification program approved by the Virginia Board of Education and a recommendation from an employing Virginia school division superintendent or designee or accredited nonpublic school head and documentation [,] in an approved [Virginia] Department of Education format [,] verifying the individual's demonstrated skills and abilities as a school leader and direct contributions to school effectiveness and student achievement; or

b. A recommendation from an employing Virginia school division superintendent or designee or accredited nonpublic school head and documentation [,] in an approved [Virginia] Department of Education format

[,] verifying the individual's demonstrated skills and abilities as a school leader and direct contributions to school effectiveness and student achievement.

8VAC20-23-70. Additional endorsements.

A. An individual who holds a teaching license may add an additional teaching endorsement to the license by passing a rigorous academic subject test for endorsements in which a test is prescribed by the Virginia Board of Education. This testing option does not apply to individuals (i) who are seeking an early/primary education preK-3 or elementary education preK-6 endorsement, special education endorsements, or a reading specialist endorsement or (ii) who hold a Technical Professional License, Vocational Evaluator License, Pupil Personnel Services License, School Manager License, or Division Superintendent License.

B. One or more endorsements may be added to a license [,] provided [that] specific endorsement requirements have been met. Written requests may be made by the licensed professional and should be directed to the Virginia employing educational agency [(if the individual has such employment)] or college or university. If the request is not acted upon by the local educational agency or college or university within 30 days or is disputed, the license holder may make a written request for an additional endorsement directly to the Office of Professional Licensure, Virginia Department of Education. Written requests should be submitted by January 15 to be in effect by July 1 of the same [calendar] year.

8VAC20-23-80. Deletion of an endorsement.

An endorsement may be deleted from a license at the request of the licensed professional. Written requests are made by the licensed professional and should be directed to the employing educational agency. If the request is not acted upon by the local educational agency within 30 days or is disputed, the license holder may make a written request for the deletion of an endorsement directly to the Office of Professional Licensure, Virginia Department of Education. Written requests should be submitted by January 15 to be in effect on July 1 of that [calendar] year. Individuals who wish to add an endorsement that has been deleted [~~must~~ shall] meet requirements for that endorsement at the time it is requested.

8VAC20-23-90. Alternate routes to licensure.

A. Career switcher alternate route to licensure for career [professions professionals] - Provisional (Career Switcher) License. An alternate route is available to career switchers who seek teaching endorsements preK through grade 12 with the exception of special education.

1. An individual seeking a Provisional (Career Switcher) License through the career switcher program [~~must~~ shall] meet the following prerequisite requirements:

a. An application process;

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b. An earned baccalaureate degree from a regionally accredited college or university;

c. The completion of requirements for an endorsement in a teaching area or the equivalent through verifiable experience or academic study;

d. At least [~~five~~ three] years of [successful] full-time work experience or its equivalent; and

e. Virginia qualifying scores on the professional teacher's assessments as prescribed by the Virginia Board of Education.

2. The Provisional (Career Switcher) License is awarded at the end of Level I preparation [for an initial validity period of one school year]. All components of the career switcher alternate route for career [~~professions must~~ professionals shall] be completed by the candidate.

3. The Level I requirements [~~must shall~~] be completed during the course of a single year and may be offered through a variety of delivery systems, including distance learning programs. If an employing agency recommends extending the Provisional (Career Switcher) License for a second year, the candidate will enter Level III of the program. Career switcher programs [~~must be certified~~ shall submit program documentation as set forth by the Virginia Department of Education for review and be certified every seven years] by the Virginia Department of Education.

a. Level I preparation. Intensive Level I preparation includes a minimum of 180 clock hours of instruction, including field experience. This phase includes [~~but is not limited to;~~ human development and learning;] curriculum and instruction, including technology [reading, and other; language and literacy;] specific course content relating to the [Virginia] Standards of Learning; [~~differentiation of instruction~~ foundations of education and the teaching profession]; classroom and behavior management; [~~instructional design based on assessment data; and human development and learning~~ and assessment of and for learning].

b. Level II preparation during first year of employment.

(1) Candidate seeks employment in Virginia with the one-year Provisional (Career Switcher) License.

(2) Continued Level II preparation during the first year of employment with a minimum of five seminars that expand the intensive preparation requirements listed in subdivision 3 a of this subsection. The five seminars will include a minimum of 20 cumulative instructional hours. A variety of instructional delivery techniques will be utilized to implement the seminars.

(3) One year of successful, full-time teaching experience in a Virginia public or accredited nonpublic school under

a one-year Provisional (Career Switcher) License. A trained mentor [~~must shall~~] be assigned to assist the candidate during the first year of employment. Responsibilities of the mentor include [~~but are not limited to;~~] the following:

(a) Collaborate with the beginning teacher in the development and implementation of an individualized professional development plan;

(b) Observe, assess, coach, and provide opportunities for constructive feedback, including strategies for self-reflection;

(c) Share resources and materials;

(d) Share best instructional, assessment, and organizational practices; classroom and behavior management strategies; and techniques for promoting [varied and] effective [methods of] communication [with and among students]; and

(e) Provide general support and direction regarding school policies and procedures.

(4) Upon [successful] completion of [the] Levels I and II [preparation requirements] of the career switcher alternate route to licensure program and submission of a recommendation from the [employing] Virginia educational [~~employing~~] agency, the candidate will be eligible to apply for a five-year, renewable license. Renewal requirements for the regular license will be subject to current regulations of the Virginia Board of Education.

c. Level III preparation, if required.

(1) Post preparation, if required, will be conducted by the [employing] Virginia [~~employing~~] educational agency to address the areas where improvement is needed as identified in the candidate's professional improvement plan; and

(2) Upon [successful] completion of Levels I, II, and [if required, Level] III of the career switcher alternate route to licensure program and submission of a recommendation from the [employing] Virginia educational [~~employing~~] agency, the candidate will be eligible to receive a five-year renewable license.

4. Verification of program completion will be documented by the certified program provider and the division superintendent or designee.

5. Certified providers implementing a career switcher program may charge a fee for participation in the program.

B. An alternate route is available to individuals employed by [an a Virginia] educational agency who seek teaching endorsements preK through grade 12. The employing Virginia educational agency may request a nonrenewable

Provisional License on behalf of the individual if the individual has completed an allowable portion of professional studies and endorsement requirements. [An employed teacher may demonstrate meeting the teaching endorsement requirements by passing a rigorous academic subject test for endorsements in which a test is prescribed by the Virginia Board of Education. This testing option does not apply to individuals (i) who are seeking an early/primary education preK-3 or elementary education preK-6 endorsement, special education endorsements, or a reading specialist endorsement or (ii) who hold a Technical Professional License, Vocational Evaluator License, Pupil Personnel Services License, School Manager License, or Division Superintendent License.] This route [is] also [applicable is available] to individuals who are employed by a Virginia public school, a Virginia accredited nonpublic school, or an accredited virtual school or program and who are seeking the Online Teacher License that is issued to teachers who teach only online courses. The Provisional License will be issued for [~~two~~ a validity period not to exceed three] years. [~~Individuals may apply for a third year on the Provisional License by submitting documentation indicating that all licensure assessments prescribed by the Virginia Board of Education have been taken.~~] The Provisional License is a nonrenewable teaching license valid for a period not to exceed three years. Individuals [must shall] complete all licensure requirements to become eligible for the five-year, renewable license.

1. An individual seeking a license through this alternate route [must shall] have met the following requirements:

- a. Entered the teaching field through the alternate route to licensure upon the recommendation of the [employing] Virginia [employing] educational agency. For the Online Teacher Provisional License, individuals [must shall] be employed by a Virginia public school division, a Virginia accredited nonpublic school, or an accredited virtual school or program;
- b. Earned a baccalaureate degree from a regionally accredited college or university with the exception of individuals seeking the Technical Professional License;
- c. Have met requirements for the endorsement area; and
- d. Need to complete an allowable portion of professional studies and licensure requirements.

2. The professional studies requirements for the appropriate level of endorsement sought [must shall] be completed. A Virginia educational agency may submit to the Superintendent of Public Instruction for approval an alternate program to meet the professional studies requirements. The alternate program [must shall] include training [~~(e.g.,~~ such as] seminar, internship, [or] coursework [~~, etc.)~~] in human development and learning; curriculum and instruction, including technology; assessment of and for learning; classroom and behavior

management; [foundations of education and] the teaching profession, including legal status of teachers and students, federal and state laws, and teacher evaluation as prescribed by [~~Virginia's Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers~~ the Virginia Board of Education's guidelines for performance standards and evaluation criteria established pursuant to § 22.1-253.13:5 B of the Code of Virginia] and [reading language and literacy].

3. One year of successful, full-time teaching experience in the appropriate teaching area in a Virginia public or an accredited nonpublic school [must shall] be completed. For the Online Teacher License only, one year of successful online teaching experience in the endorsement area in a public school division, an accredited nonpublic school, or an accredited virtual school or program may be accepted in lieu of the supervised teaching experience. A fully licensed experienced teacher [must shall] be available in the school building to assist the beginning teacher employed through the alternate route.

C. Alternate route in special education. The Provisional (Special Education) License is a nonrenewable teaching license issued [for a validity period not to exceed three years] to an individual employed as a special education teacher in a public school or a nonpublic [special education] school in Virginia who does not hold the appropriate special education endorsement. The Provisional (Special Education) License will be issued [~~for two years. Individuals may apply for a third year on the Provisional License by submitting documentation indicating that all licensure assessments prescribed by the Virginia Board of Education have been taken only with endorsements in special education~~]. The Provisional License is a nonrenewable teaching license valid for a period not to exceed three years. This alternate route to special education [endorsement] is not applicable to individuals seeking the Online Teacher License. To be issued the Provisional (Special Education) License through this alternate route, an individual [must meet the requirements through one of the two following options shall]:

1. [~~Option 1. The individual must hold a full, valid Collegiate Professional or Postgraduate Professional License and must: a.~~] Be employed by a Virginia public or [accredited] nonpublic school as a special [~~educator~~ education teacher] and have the recommendation of the employing educational agency;

[~~b.~~ 2.] Have earned a baccalaureate degree from a regionally accredited college or university;

[~~c.~~ 3.] Have an assigned mentor with an active Virginia teaching license with an endorsement in special education; and

[~~d.~~ 4.] Have a planned program of study in the assigned endorsement area, make progress toward meeting the

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endorsement requirements each of the three years of the license, and have completed at least three semester hours of coursework in the competencies of foundations for educating students with disabilities and [have] an understanding and application of the legal aspects and regulatory requirements associated with identification, education, and evaluation of students with disabilities. A survey course integrating these competencies would satisfy this requirement.

The Provisional (Special Education) License [issued] through this alternate route shall not be issued without the completion of these prerequisites.

[2. Option II. The individual must:

a. Be employed by a Virginia public or nonpublic school as a special educator and have the recommendation of the employing educational agency;

b. Have earned a baccalaureate degree from a regionally accredited college or university;

c. Have an assigned mentor endorsed in special education; and

d. Have a planned program of study in the assigned endorsement area, make progress toward meeting the endorsement requirements each of the three years of the license, and have completed nine semester hours including courses in the following: characteristics of students with disabilities, individualized education program implementation, and classroom and behavior management.

The Provisional (Special Education) License through this alternate route shall not be issued without the completion of these prerequisites:]

D. Alternate programs at institutions of higher education or Virginia school divisions. Alternate programs developed by institutions of higher education (i) recognize the unique strengths of prospective teachers from nontraditional backgrounds and (ii) prepare these individuals to meet the same standards that are established for others who are granted a license through an alternate route.

E. Experiential learning. Individuals applying for an initial teaching license through the alternate route as prescribed by the Virginia Board of Education [must shall] meet the following criteria to be eligible to request [that] experiential learning [to] satisfy the coursework for the endorsement (teaching) content area:

1. Have earned a baccalaureate degree from a regionally accredited college or university;

2. Have at least [five three] years of documented [successful] full-time work experience that may include specialized training related to the endorsement sought; and

3. Have met the [Virginia] qualifying score on the content knowledge assessment prescribed by the Virginia Board of Education.

Experiential learning does not apply to individuals seeking special education and [elementary education (i.e.,] preK-3 and preK-6 []] endorsements or endorsements in which there is no Virginia Board of Education [-] prescribed content or subject assessment.

8VAC20-23-100. Conditions for licensure for out-of-state candidates by reciprocity.

A. An individual coming into Virginia from any state may qualify for a Virginia teaching license with comparable endorsement areas if the individual (i) has completed a state-approved teacher preparation program through a regionally accredited four-year college or university or (ii) holds a valid out-of-state teaching license [(i.e., full (full] credential without deficiencies) that [must shall] be in force at the time the application for a Virginia license is made. [An individual shall meet licensure requirements set forth in the Code of Virginia.] An individual seeking licensure [must shall] establish a file in the [Virginia] Department of Education by submitting a complete application packet that includes official student transcripts. Unless exempted by the criteria in subsection C of this section, professional teacher's [assessments assessment requirements] prescribed by the Virginia Board of Education [must shall] be satisfied.

B. An individual coming into Virginia will qualify for a Virginia teaching license with comparable endorsement areas if the individual holds an active national certification from the National Board for Professional Teaching Standards (NBPTS) or a nationally recognized certification program approved by the Virginia Board of Education.

C. Individuals who hold a valid out-of-state license [(i.e., full (full] credential without deficiencies) and who have completed a minimum of three years of full-time, successful teaching experience in a public or an accredited nonpublic school, kindergarten through grade 12, outside of Virginia are exempt from the professional teacher's assessment requirements. Documentation [must shall] be submitted to verify the school's status as a public or accredited nonpublic school.

8VAC20-23-110. Requirements for renewing a license.

A. The Division Superintendent, Postgraduate Professional, Collegiate Professional, Technical Professional, Pupil Personnel Services, Online Teacher, and School Manager Licenses may be renewed upon the completion of 180 professional development points within a five-year validity period based on an individualized professional development plan that includes ongoing, sustained, and high-quality professional development. [Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the

Virginia Board of Education, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education.]

B. An individual [~~who holds an expired license must seeking renewal shall~~] submit a completed licensure application at the time a [~~licensure~~] renewal request is submitted.

[~~C. Virginia public school divisions and public education agencies must report annually to the Virginia Department of Education that instructional personnel have completed high-quality professional development each year as set forth by the Virginia Department of Education.~~

~~D. C.] Any individual licensed and endorsed to teach (i) middle school civics or economics or (ii) high school government or history who is seeking renewal of such license is required to demonstrate knowledge of Virginia history or state and local government by completing a module or professional development course specifically related to Virginia history or state and local government that has a value of five professional development points. [This requirement applies for purposes of the individual's next or initial renewal occurring after July 1, 2014.~~

~~E. If the requirement has not been met for initial licensure or licensure renewal, individuals D. Every person] seeking renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross. The Virginia Board of Education shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training.~~

~~F. E. Every person seeking renewal of a license shall demonstrate proficiency in the use of educational technology for instruction.~~

F. Every person seeking renewal of a license shall complete awareness training, provided by the Virginia Department of Education, on the indicators of dyslexia, as that term is defined by the Virginia Board of Education pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia.

G. Training in instructional methods tailored to promote academic progress and effective preparation for the Virginia Standards of Learning tests and end-of-grade assessments is required for licensure renewal.

H. Every person seeking renewal or initial license shall complete a study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services.

I. When provided by the state, individuals shall complete other professional development activities prescribed by the Virginia Board of Education.

J.] Professional development points may be accrued by the completion of professional development activities to improve and increase instructional personnel's knowledge of the academic subjects the teachers teach or the area assigned from one or more of the following eight options.

1. College credit. Acceptable coursework offers content that provides new information and is offered on campus, off campus, or through extension by any regionally accredited two-year or four-year college or university. College coursework [~~must shall~~] develop further experiences in subject content taught, teaching strategies, uses of technologies, leadership, and other essential elements in teaching to high standards and increasing student learning. [~~Instructional personnel must complete coursework to improve and increase the knowledge of the academic subjects or endorsement areas in which they are assigned. Individuals who do not hold a graduate degree must refer to subsection G of this section.~~ No person seeking renewal of a license shall be required to complete coursework and earn credit at an institution of higher learning.]

2. Professional conference. A professional conference is a workshop, institute, or seminar of four or more hours that contributes to ongoing, sustained, and high-quality professional development.

3. Curriculum development. Curriculum development is a group activity in which the license holder contributes to the improvement of the curriculum of a school, a school division, or an [~~education~~ educational] institution in the teaching area assigned. This includes the alignment of curriculum frameworks, instructional materials, and assessments to provide a system with clear expectations of what is to be taught and learned.

4. Publication of article. The article [~~must shall~~] contribute to the education profession or to the body of knowledge of the license holder's teaching area or instructional position. [~~This article shall be published in a recognized professional journal.~~] Grant reports that present the results of educational research are acceptable provided the license holder had an active role in planning, analyzing, interpreting, demonstrating, disseminating, or evaluating the study or innovation. [~~The article must be published in a recognized professional journal.~~]

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5. Publication of book. Books [must shall] be published for purchase and [must shall] contribute to the education profession or to the body of knowledge of the license holder's teaching area or instructional position. The published book [must shall] increase the field of content knowledge; [provide information on] planning and assessment for evaluating and providing students with feedback that encourages student progress and measures student achievement; [reference] instruction, safety, and learning environment; [expand upon] and communication and community relations working with students, parents, and members of the community to promote broad support for student learning. Points will not be awarded for self-published books.

6. Mentorship. Mentoring is the process by which an experienced professional who has received mentorship training provides assistance to one or more persons for the purpose of improving their performance. Assistance may involve role modeling, direct instruction, demonstration, observation with feedback, developing of plans, and consultation to promote instructional excellence and increased student achievement. Mentoring may include the supervision of a field experience of a pre-service student teacher or an intern in an approved teacher or principal preparation program, as well as mentoring as part of the induction process for a beginning teacher or a first-year administrator. Individuals serving in this role and submitting documentation for license renewal based on the mentorship option shall receive training as a mentor prior to the assignment and at least once during the five-year renewal cycle.

7. Educational project. Educational projects [must shall] be planned, focused projects based on high standards of teaching and learning. Projects [must shall] result in a written report or other tangible product. Projects [must shall] contribute to the education profession or to the body of knowledge of the license holder's teaching area or instructional position. A project could include participation in new professional responsibilities, such as leading a school improvement initiative.

8. Professional development activity. Professional development activities [must shall] focus on student learning and achievement, schoolwide educational improvement, leadership, subject content, teaching strategies, and use of technologies [and or] other essential elements in teaching to high standards. Activities [must shall] be planned, rigorous, systematic, and promote continuous inquiry and reflection. Local employing educational agencies are encouraged to design professional development activities that are conducted in school settings and linked to student learning and achievement.

[G. A minimum of 90 points (i.e., three semester hours in a content area) at the undergraduate (i.e., two year or four year

institution) or graduate level earned from a regionally accredited college or university in the license holder's endorsement areas shall be required of license holders without a master's degree. With prior approval, exceptions to the content course requirement may be made by the division superintendent or principal. Special education coursework designed to assist classroom teachers and other school personnel in working with students with disabilities, a course in gifted education, a course in educational technology, or a course in English as a second language may be completed to satisfy the content course requirement. Professional development activities designed to support the Virginia Standards of Learning, Standards of Accreditation, and state assessments may be accepted in lieu of the content course. An individual without a master's degree who holds a renewable Online Teacher License may complete pedagogy of online instruction coursework to meet this requirement. The substance of the activities must clearly support these initiatives and address one or more of the following areas: (i) new content knowledge to implement the Virginia Standards of Learning, (ii) curriculum development initiative designed to translate the standards from standards to classroom objectives, (iii) teaching beginning reading skills including phonemic awareness and the structure of language (i.e., phonics), (iv) staff development activities in assessment to assist classroom teachers in the utilization of test results to improve classroom instruction, and (v) professional development designed to implement the technology standards in the schools. Technical Professional License holders without baccalaureate degrees may satisfy the requirement through career and technical education workshops, career and technical education institutes, or through undergraduate coursework at two year or four year institutions.

H. Content area courses are courses at the undergraduate level (i.e., two year or four year institution) or at the graduate level that will not duplicate previous courses taken in the humanities, English, history and social sciences, sciences, mathematics, health and physical education, and fine arts. These courses are usually available through the college or department of arts and sciences. License holders with elementary education, middle education, special education, or reading endorsements must satisfy the 90 point requirement through reading coursework or content coursework in one of the areas listed in this subsection. Courses available through a regionally accredited college's or university's department of education may be used to satisfy the content requirement for those license holders with endorsements in health and physical education, career and technical education, and library science education.

I. With prior approval of the division superintendent or principal, the 90 points in a content area also may be satisfied through coursework taken to obtain a new teaching endorsement or coursework taken because of a particular need of a particular teacher.]

~~[J. K.] The [remaining 90 180] points may be accrued by activities drawn from one or more of the eight renewal options. Renewal work is designed to provide licensed personnel with opportunities for professional development relative to the grade levels or teaching fields to which they are assigned or for which they seek an added endorsement. Such professional development encompasses (i) responsible remediation of any area of an individual's knowledge or skills that fails to meet the standards of competency and (ii) responsible efforts to increase the individual's knowledge of new developments in his field and to respond to new curricular demands within the individual's area of professional competence.~~

~~[K. L.] The proposed work toward renewal in certain options [must shall] be approved in advance by the chief executive officer or designee of the employing educational agency. Persons who are not employed by an educational agency may renew [or reinstate] their license by submitting to the Office of Professional Licensure, [Virginia] Department of Education, [their a renewal application, fee, the] individualized renewal record [,] and verification of [points the completion of all renewal requirements], including official student transcripts of coursework taken at a regionally accredited two-year or four-year college or university.~~

~~[L. Accrual of professional development points shall be determined by criteria set forth by the Virginia Department of Education in the Virginia Renewal Manual (http://doe.virginia.gov/teaching/licensure/licensure_renewal_manual.pdf).~~

~~M. Persons seeking license renewal as teachers must demonstrate proficiency in the use of educational technology for instruction.~~

~~N. M.] Virginia school divisions and [accredited] nonpublic schools [will shall] recommend renewal of licenses using the renewal point system. [The renewal recommendation must include verification of demonstrated proficiency in the use of educational technology for instruction.~~

~~O. Training in instructional methods tailored to promote academic progress and effective preparation for the Standards of Learning tests and end of grade assessments is required for licensure renewal.~~

~~P. If they have not already met the requirement, persons seeking licensure renewal as teachers must complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services that are relevant to the specific teacher licensure routes.]~~

Part IV

Licensure Regulations Governing Early/Primary Education, Elementary Education, and Middle Education Endorsements

8VAC20-23-120. Early/primary education, elementary education, and middle education endorsements.

Individuals seeking licensure with endorsements in early/primary education, elementary education, and middle education may meet requirements through the completion of an approved program [,] or if employed by a Virginia public or [accredited] nonpublic school [,] through the alternate route to licensure. Components of the licensure program include a degree from a regionally accredited college or university in the liberal arts [and or] sciences, or equivalent; professional teacher's assessments requirement prescribed by the Virginia Board of Education; specific endorsement requirements; and professional studies requirements.

8VAC20-23-130. Professional studies requirements [for early/primary education, elementary education, and middle education endorsements].

Professional studies requirements for early/primary education, elementary education, and middle education: 21 semester hours. These requirements may be taught in integrated coursework or modules.

1. Human development and learning (birth through adolescence): 3 semester hours.

a. Skills in this area shall contribute to an understanding of the physical, social, emotional, speech and language, and intellectual development of children and the ability to use this understanding in guiding learning experiences and relating meaningfully to students.

b. The interaction of children with individual differences - economic, social, racial, ethnic, religious, physical, and [mental cognitive]- should be incorporated to include skills contributing to an understanding of developmental disabilities and developmental issues related to [,] but not limited to [,] low socioeconomic status [;] attention deficit disorders [;] developmental disorders [;] gifted education [,] including the use of multiple criteria to identify gifted students [;] substance abuse [; child abuse; trauma, including child abuse and neglect and other adverse childhood experiences;] and family disruptions.

2. Curriculum and instruction: 3 semester hours.

a. Early/primary education preK-3 or elementary education preK-6 curriculum and instruction: 3 semester hours.

(1) Skills in this area shall contribute to an understanding of the principles of learning; the application of skills in discipline-specific methodology; [varied and] effective [methods of] communication with and among students;

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selection and use of materials, including media and contemporary technologies; and selection, development, and use of appropriate curricula, methodologies, and materials that support and enhance student learning and reflect the research on unique, age-appropriate, and culturally relevant curriculum and pedagogy.

(2) Understanding of the principles of online learning and online instructional strategies and the application of skills to deliver online instruction [~~must shall~~] be included.

(3) Instructional practices that are sensitive to culturally and linguistically diverse learners, including [~~limited~~] English [~~proficient students~~ learners], gifted and talented students, and [~~those~~] students with disabilities [~~;~~] and appropriate for the [~~level of endorsement (i.e.,~~] preK-3 or preK-6 [~~]-sought endorsement~~] shall be included.

(4) Teaching methods shall be tailored to promote student engagement and student academic progress and effective preparation for the [Virginia] Standards of Learning assessments.

(5) Study in (i) methods of improving communication between schools and families [~~;~~] (ii) communicating with families regarding social and instructional needs of children [~~;~~] (iii) ways of increasing family [~~involvement engagement~~] in student learning at home and in school [~~;~~] (iv) the Virginia Standards of Learning [~~;~~] and (v) Virginia Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds prepared by the [~~department's~~ Virginia Department of Education's] Office of Humanities and Early Childhood shall be included.

(6) Early childhood educators [~~must shall~~] understand the role of families in child development and in relation to teaching educational skills.

(7) Early childhood educators [~~must shall~~] understand the role of the informal and play-mediated settings for promoting students' skills and development and [~~must shall~~] demonstrate knowledge and skill in interacting in such situations to promote specific learning outcomes as reflected in Virginia's Foundation Blocks for Early Learning [~~;~~ Comprehensive Standards for Four-Year-Olds].

[(8)] Demonstrated proficiency in the use of educational technology for instruction shall be [~~included~~ required]. [~~Persons seeking initial licensure as teachers and persons seeking licensure renewal as teachers for the first time shall complete study~~ Study] in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services [~~that are relevant to the specific teacher licensure routes~~ and training or certification in

emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators shall be included].

[(9)] Pre-student teaching experiences [~~(i.e., field~~ (field) experiences) should be evident within these skills.

b. Middle education 6-8 curriculum and instruction: 3 semester hours.

(1) Skills in this area shall contribute to an understanding of the principles of learning; the application of skills in discipline-specific methodology; [varied and] effective [methods of] communication with and among students; [~~and~~] selection and use of materials, including media and contemporary technologies [; and evaluation of pupil performance].

(2) Understanding of the principles of online learning and online instructional strategies and the application of skills to deliver online instruction [~~must shall~~] be included.

(3) Instructional practices that are sensitive to culturally and linguistically diverse learners including [~~limited~~] English [~~proficient students~~ learners], gifted and talented students, and students with disabilities, and [~~must shall~~] be appropriate for the middle education endorsement shall be included.

(4) Teaching methods shall be tailored to promote student engagement and student academic progress and effective preparation for the Virginia Standards of Learning assessments.

(5) Study in methods of improving communication between schools and families, ways of increasing family [~~involvement engagement~~] in student learning at home and in school, and [family engagement with] the [Virginia] Standards of Learning shall be included.

(6) Demonstrated proficiency in the use of educational technology for instruction shall be included. [(7) Persons seeking initial licensure as teachers and persons seeking licensure renewal as teachers for the first time shall complete study Study] in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services [~~that are relevant to the specific teacher licensure routes~~ and training or certification in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators shall be included].

[(7)] Pre-student teaching experiences [~~(i.e., field~~ (field) experiences) should be evident within these skills.

3. Classroom and behavior management: 3 semester hours.

a. Skills in this area shall contribute to an understanding and application of research-based classroom and

behavior management techniques, classroom community building, positive behavior supports, and individual interventions, including techniques that promote emotional well-being and teach and maintain behavioral conduct and skills consistent with norms, standards, and rules of the educational environment.

b. This area shall address diverse approaches based upon [culturally responsive] behavioral, cognitive, affective, social and ecological theory and practice.

c. Approaches should support professionally appropriate practices that promote positive redirection of behavior, development of social skills, and of [self-discipline self-discipline].

d. Knowledge and an understanding of various school crisis management and safety plans and the demonstrated ability to create a safe, orderly classroom environment [~~must~~ shall] be included.

e. The link between classroom management and students' ages [~~must~~ shall] be understood and demonstrated in techniques used in the classroom.

4. Assessment of and for learning: 3 semester hours.

a. Skills in this area shall be designed to develop an understanding and application of creating, selecting, and implementing valid and reliable classroom-based assessments of student learning, including formative and summative assessments. Assessments designed and adapted to meet the needs of diverse learners [~~must~~ shall] be addressed.

b. Analytical skills necessary to inform ongoing planning and instruction, as well as to understand [] and help students understand their own progress and growth [~~must~~ shall] be included.

c. Skills [shall] also include the [ability to understand the] relationships among assessment, instruction, and monitoring student progress to include student performance measures in grading practices, the ability to interpret valid assessments using a variety of formats in order to measure student attainment of essential skills in a standards-based environment, and the ability to analyze assessment data to make decisions about how to improve instruction and student performance.

d. Understanding of state assessment programs and accountability systems, including assessments used for student achievement [~~goal-setting~~ goal-setting] as related to teacher evaluation and determining student academic progress [~~must~~ shall] be included.

e. Knowledge of legal and ethical aspects of assessment [] and skills for developing familiarity with assessments used in preK-12 education [~~(e.g.)~~], [such as] diagnostic, college admission exams, industry

certifications, and placement [~~assessments~~ ~~must~~ assessment shall] be included.

5. [~~The~~ Foundations of education and the] teaching profession: 3 semester hours.

a. Skills in this area shall be designed to develop an understanding of the historical, philosophical, and sociological foundations underlying the role, development, and organization of public education in the United States.

b. Attention [~~must~~ shall] be given to the legal status of teachers and students, including federal and state laws and regulations; school as an organization and culture; and contemporary issues and current trends in education, including the impact of technology on education. Local, state, and federal governance of schools, including the roles of teachers and schools in communities, [~~must~~ shall] be included.

c. Professionalism and ethical standards, as well as personal integrity [~~must~~ shall] be addressed.

d. Knowledge and understanding of Virginia's Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers [~~must~~ shall] be included.

6. [~~Reading~~ Language and literacy]: 6 semester hours.

a. Early/primary preK-3 and elementary education preK-6 - language acquisition and reading and writing: 6 semester hours. Skills listed for these endorsement areas represent the minimum competencies that a beginning teacher [~~must~~ shall] be able to demonstrate. These skills are not intended to limit the scope of a beginning teacher's program. Additional knowledge and skills that add to a beginning teacher's competencies to deliver instruction and improve student achievement should be included as part of a quality learning experience.

(1) Language acquisition: 3 semester hours. Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning [] as well as the complex nature of language acquisition as a precursor to literacy. Language acquisition shall follow the typical development of linguistic competence in the areas of phonetics, semantics, syntax, morphology, phonology, and pragmatics.

(2) Reading and writing: 3 semester hours. Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning [] as well as the reciprocal nature of reading and writing. Reading shall include phonemic [and other phonological] awareness, concept of print, phonics, fluency, vocabulary development, and comprehension strategies. Writing shall include writing strategies and conventions as supporting [~~the~~] composing and

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[~~writing~~ written] expression and usage and mechanics domains. Additional skills shall include proficiency in understanding the stages of spelling development [~~and~~] the writing process, as well as the ability to foster appreciation of a variety of fiction and nonfiction texts and independent reading.

b. Middle education - language acquisition and reading development: 3 semester hours and literacy in the content areas: 3 semester hours.

(1) Language acquisition and reading development: 3 semester hours. Skills in this area shall be designed to impart a thorough understanding of the complex nature of language acquisition and reading, to include phonemic [and other phonological] awareness, phonics, fluency, vocabulary development, and comprehension strategies for adolescent learners. Additional skills shall include proficiency in writing strategies [,] as well as the ability to foster appreciation of a variety of fiction and nonfiction texts and independent reading for adolescent learners.

(2) Literacy in the content areas: 3 semester hours. Skills in this area shall be designed to impart an understanding of vocabulary development and comprehension skills in English, mathematics, science, history and social science, and other content areas. Strategies include teaching students how to ask effective questions, summarize and retell both verbally and in writing, and to listen effectively. Teaching strategies include literal, interpretive, critical, and evaluative comprehension, as well as the ability to foster appreciation of a variety of fiction and nonfiction texts and independent reading for adolescent readers.

7. Supervised clinical [~~experience~~ experiences]. Supervised clinical experiences shall be continuous and systematic and comprised of early field experiences and a minimum of 10 weeks of [successful] full-time student teaching [in the endorsement area sought] under the supervision of a cooperating teacher with demonstrated effectiveness in the classroom. The summative supervised student teaching experience shall include at least 150 clock hours spent in direct teaching at the level of endorsement [in a public or accredited nonpublic school]. One year of successful full-time teaching experience in the endorsement area in a public or accredited nonpublic school may be accepted in lieu of the supervised teaching experience. For the Online Teacher License only, one year of successful online teaching experience in the endorsement area in a public school, an accredited nonpublic school, or an accredited virtual school or program may be accepted in lieu of the supervised teaching experience. A fully licensed, experienced teacher shall be available in the school building to assist a beginning teacher employed through the alternate route.

8VAC20-23-140. Early childhood for three-year-olds and four-year-olds (add-on endorsement).

Endorsement requirements. The candidate [~~must~~ shall] have:

1. An earned baccalaureate degree from a regionally accredited college or university and hold a license issued by the Virginia Board of Education with an endorsement in elementary education [(~~such, such~~) as preK-3 or [~~preK-6~~] preK-6,] or special education early childhood;

2. Completed 9 semester hours of graduate-level coursework in early childhood education; and

3. Completed a supervised practicum of at least 45 instructional hours in a preschool setting [(~~i.e., three year-olds~~) (three-year-olds)] and four-year-olds in a public school, an accredited nonpublic school, or another program approved by the Virginia Board of Education. One year of successful, full-time teaching experience in a public or accredited nonpublic school may be accepted in lieu of the practicum.

4. The add-on endorsement to an elementary endorsement that includes preK is not required to teach preK [(~~i.e., three year-olds~~) (three-year-olds)] and four-year-olds, but the endorsement recognizes the candidate's additional preparation in early childhood education.

8VAC20-23-150. Early/primary education preK-3.

Endorsement requirements.

1. The candidate must have graduated from an approved teacher preparation program in early/primary education preK-3; or

2. The candidate for the early/primary education preK-3 endorsement must have earned a baccalaureate degree from a regionally accredited college or university in the liberal arts [~~and~~ or] sciences, or equivalent, and completed coursework that covers the early/primary education preK-3 competencies and [~~fulfills~~ meets] the following [~~51~~] semester-hour requirements:

a. English [(~~must~~ shall) include composition, oral communication, and literature): 12 semester hours; or complete 6 semester hours in English and pass a rigorous elementary subject test prescribed by the Virginia Board of Education;

b. Mathematics [(~~must~~ shall) include algebra, geometry, probability and statistics, and methods in teaching elementary mathematics): 12 semester hours; or complete 6 semester hours in mathematics, complete a methods in teaching elementary mathematics course (3 semester hours), and pass a rigorous elementary subject test prescribed by the Virginia Board of Education;

c. Laboratory sciences: 12 semester hours (in at least two science disciplines and methods in teaching elementary science); or complete 6 semester hours in laboratory science (in two science disciplines), complete a methods in teaching elementary science course (3 semester hours), and pass a rigorous elementary subject test prescribed by the Virginia Board of Education;

d. History [~~(must~~ (shall)] include American history and world history): 6 semester hours, and Social Science [~~(must~~ (shall)] include geography and economics): 6 semester hours; or complete 3 semester hours in history, complete 3 semester hours in social science (geography or economics), [complete a methods in teaching elementary history and social sciences course (3 semester hours).] and pass a rigorous elementary subject test prescribed by the Virginia Board of Education; and

e. Arts: 3 semester hours.

8VAC20-23-160. Elementary education preK-6.

Endorsement requirements.

1. The candidate shall have graduated from an approved teacher preparation program in elementary education preK-6; or

2. The candidate for the elementary education preK-6 endorsement [~~must~~ shall] have earned a baccalaureate degree from a regionally accredited college or university majoring in the liberal arts [~~and~~ or] sciences (or equivalent) and [~~fulfill~~ meet] the following [~~57~~] semester-hour requirements:

a. English [~~(must~~ (shall)] include composition, oral communication, and literature): 12 semester hours; or complete 6 semester hours in English and pass a rigorous elementary subject test prescribed by the Virginia Board of Education;

b. Mathematics [~~(must~~ (shall)] include algebra, geometry, probability and statistics, and teaching elementary mathematics): 15 semester hours; or complete 6 hours in mathematics, complete a methods in teaching elementary mathematics course (3 semester hours), and pass a rigorous elementary subject test prescribed by the Virginia Board of Education;

c. [~~Science (including a laboratory course)~~ Laboratory sciences]: 15 semester hours in at least three science disciplines and at least a three credit science methods course; or complete [~~69~~] semester hours (in two science disciplines), complete a methods in teaching elementary science course (3 semester hours), and pass a rigorous elementary subject test prescribed by the Virginia Board of Education;

d. History [~~(must~~ (shall)] include American history and world history): 6 semester hours, and Social Science

[~~(must~~ (shall)] include geography and economics): 6 semester hours; or complete 3 semester hours in history, complete 3 semester hours in social science (geography or economics), [complete a methods in teaching elementary history and social sciences course (3 semester hours).] and pass a rigorous elementary subject test prescribed by the Virginia Board of Education; and

e. Arts: 3 semester hours.

8VAC20-23-170. Middle education 6-8.

Endorsement requirements.

1. The candidate [~~must~~ shall] have graduated from an approved teacher preparation discipline-specific program in middle education 6-8 with at least one area of academic preparation from the areas of English, mathematics, science, and history and social sciences; or

2. An applicant seeking the middle education 6-8 endorsement [~~must~~ shall] have earned a baccalaureate degree from a regionally accredited college or university in the liberal arts [~~and~~ or] sciences, or equivalent; and completed the minimum number of semester hours, as indicated, in at least one area of academic preparation [~~(i.e., concentration)~~ (concentration)] that will be listed on the license. The applicant will be restricted to teaching only in the area or areas of concentration listed on the teaching license.

a. English. English concentration [~~(must~~ (shall)] include coursework in language, [~~for example~~ such as] history, structure, grammar, fiction and nonfiction texts, media literacy, advanced composition, and interpersonal communication or speech): 21 semester hours.

b. Mathematics. Mathematics concentration [~~(must~~ (shall)] include coursework in algebra, geometry, probability and statistics, applications of mathematics, and methods of teaching mathematics to include middle school mathematics content): 24 semester hours.

c. [~~Science. Science~~ Science Laboratory sciences. Laboratory sciences] concentration [~~(must~~ (shall)] include courses in each of the following: biology, chemistry, physics, and Earth and space science; and a laboratory course is required in [~~two~~ each] of the four areas): [~~24~~ 24] semester hours.

d. History and social sciences. History and social sciences concentration [~~(must~~ (shall)] include a course in American history; world history; economics; American government, including state and local government; and geography): 21 semester hours.

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Part V

Licensure Regulations Governing PreK-12 [Endorsements],
Special Education, Secondary Grades 6-12 [Endorsements],
and Adult Education [Endorsements]

8VAC20-23-180. PreK-12 [endorsements], special education, secondary grades 6-12 [endorsements], and adult education [endorsements].

Individuals seeking licensure with preK-12 [endorsements], special education, secondary grades 6-12 [endorsements], or adult education [endorsements] may meet requirements through the completion of an approved program [1] or if employed by a Virginia public or [accredited] nonpublic school [1] through the alternate route to licensure. Components of the licensure program include a degree from a regionally accredited college or university in the liberal arts [and or] sciences, or equivalent; professional teacher's assessment requirements prescribed by the Virginia Board of Education; specific endorsement requirements; and professional studies requirements.

8VAC20-23-190. Professional studies requirements [for PreK-12, special education, secondary grades 6-12, and adult education endorsements].

Professional studies requirements for [adult education], preK-12 [endorsements, and] secondary grades 6-12 [endorsements, and adult education endorsements]: 18 semester hours. Professional studies requirements for special education [endorsements]: 21 semester hours. These requirements may be taught in integrated coursework or modules.

1. Human development and learning (birth through adolescence): 3 semester hours.

a. Skills in this area shall contribute to an understanding of the physical, social, emotional, speech and language, and intellectual development of children and the ability to use this understanding in guiding learning experiences [and relating meaningfully to students].

b. The interaction of children with individual differences - economic, social, racial, ethnic, religious, physical, and [mental cognitive] - should be incorporated to include skills contributing to an understanding of developmental disabilities and developmental issues related to [1] but not limited to [1] low socioeconomic status [2] attention deficit disorders [2] developmental disabilities [2] gifted education [1] including the use of multiple criteria to identify gifted students [2] substance abuse [2] ~~child abuse~~; trauma, including child abuse and neglect and other adverse childhood experiences;] and family disruptions.

2. Curriculum and instruction: 3 semester hours.

a. Skills in this area shall contribute to an understanding of the principles of learning; the application of skills in

discipline-specific methodology; [varied and] effective [methods of] communication with and among students; selection and use of materials, including media and contemporary technologies; selection, development, and use of appropriate curricula, methodologies, and materials that support and enhance student learning and reflect the research on unique, age-appropriate, and culturally relevant curriculum and pedagogy.

b. Understanding of the principles of online learning and online instructional strategies and the application of skills to deliver online instruction [~~must~~ shall] be included.

c. Instructional practices that are sensitive to culturally and linguistically diverse learners, including [limited] English [proficient ~~students~~ learners]; gifted and talented students and [those] students with disabilities; and appropriate for the level of endorsement sought shall be included.

d. Teaching methods shall be tailored to promote student academic progress and effective preparation for the Virginia Standards of Learning assessments.

e. Methods of improving communication between schools and families, ways of increasing family [involvement engagement] in student learning at home and in school, and [family engagement with] the Virginia Standards of Learning shall be included.

f. Demonstrated proficiency in the use of educational technology for instruction shall be included. [g. Persons seeking initial licensure as teachers and persons seeking licensure renewal as teachers for the first time shall complete study Study] in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services [that are relevant to the specific teacher licensure routes and training or certification in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators shall be included].

[h. g.] Curriculum and instruction for secondary grades 6-12 endorsements shall include middle and secondary education.

[h.] Pre-student teaching experiences [(i.e., field (field) experiences)] should be evident within these skills. For preK-12, field experiences shall be at the elementary, middle, and secondary levels.

3. Assessment of and for learning: 3 semester hours.

a. Skills in this area shall be designed to develop an understanding and application of creating, selecting, and implementing valid and reliable classroom-based assessments of student learning, including formative and summative assessments. Assessments designed and

adapted to meet the needs of diverse learners [~~must~~ shall] be addressed.

b. Analytical skills necessary to inform ongoing planning and instruction, as well as to understand, and help students understand their own progress and growth [~~must~~ shall] be included.

c. Skills [shall] also include [the ability to understand] the relationships among assessment, instruction, and monitoring student progress to include student performance measures in grading practices, the ability to interpret valid assessments using a variety of formats in order to measure student attainment of essential skills in a standards-based environment, and the ability to analyze assessment data to make decisions about how to improve instruction and student performance.

d. Understanding of state assessment programs and accountability systems, including assessments used for student achievement [~~goal-setting~~ goal-setting] as related to teacher evaluation and determining student academic progress [~~including knowledge of legal and ethical aspects of assessment~~ shall be included].

e. [~~Develop~~ Knowledge of legal and ethical aspects of assessment and skills for developing] familiarity with assessments used in preK-12 education [~~(e.g.,~~ such as] diagnostic, college admission exams, industry certifications, [and] placement assessments [~~)-~~shall be included].

4. [~~The~~ Foundations of education and the] teaching profession: 3 semester hours.

a. Skills in this area shall be designed to develop an understanding of the historical, philosophical, and sociological foundations underlying the role, development, and organization of public education in the United States.

b. Attention [~~must~~ shall] be given to the legal status of teachers and students, including federal and state laws and regulations [;] school as an organization and culture [;] and contemporary issues and current trends in education, including the impact of technology on education. Local, state, and federal governance of schools, including the roles of teachers and schools in communities [~~must~~ shall] be included.

c. Professionalism and ethical standards, as well as personal integrity [~~must~~ shall] be addressed.

d. Knowledge and understanding of Virginia's Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers [~~must~~ shall] be included.

5. Classroom and behavior management: 3 semester hours.

a. Skills in this area shall contribute to an understanding and application of research-based classroom and

behavior management techniques, classroom community building, positive behavior supports, and individual interventions, including techniques that promote emotional well-being and teach and maintain behavioral conduct and skills consistent with norms, standards, and rules of the educational environment.

b. This area shall address diverse approaches based upon [culturally responsive] behavioral, cognitive, affective, social and ecological theory and practice.

c. Approaches should support professionally appropriate practices that promote positive redirection of behavior, development of social skills and of self-discipline.

d. Knowledge and an understanding of various school crisis management and safety plans and the [demonstrated] ability to create a safe, orderly classroom environment [~~must~~ shall] be included. The link between classroom management and the students' ages [~~must~~ shall] be understood and demonstrated in techniques used in the classroom.

6. [~~Reading~~ Language and literacy].

a. Adult education, preK-12, and secondary grades 6-12 - literacy in the content areas: 3 semester hours. Skills in this area shall be designed to impart an understanding of vocabulary development and comprehension skills in English, mathematics, science, history and social science, and other content areas. Strategies include teaching students how to ask effective questions, summarize and retell both verbally and in writing, and listen effectively. Teaching strategies include literal, interpretive, critical, and evaluative comprehension, as well as the ability to foster appreciation of a variety of fiction and nonfiction texts and independent reading for adolescent learners.

b. Special education - language acquisition and reading and writing: 6 semester hours. Skills listed for these endorsement areas represent the minimum competencies that a beginning teacher [~~must~~ shall] be able to demonstrate. These skills are not intended to limit the scope of a beginning teacher's program. Additional knowledge and skills that add to a beginning teacher's competencies to deliver instruction and improve student achievement should be included as part of a quality learning experience.

(1) Language acquisition: 3 semester hours. Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning [,] as well as the complex nature of language acquisition as a precursor to literacy. Language acquisition shall follow the typical development of linguistic competence in the areas of phonetics, semantics, syntax, morphology, phonology, and pragmatics.

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(2) Reading and writing: 3 semester hours. Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning [,] as well as the reciprocal nature of reading and writing. Reading shall include phonemic [and other phonological] awareness, concept of print, phonics, fluency, vocabulary development, and comprehension strategies. Writing shall include writing strategies and conventions as supporting the composing and [~~writing~~ written] expression and usage and mechanics domains. Additional skills shall include proficiency in understanding the stages of spelling development [; and] the writing process [, as well as the ability to foster appreciation of a variety of fiction and nonfiction texts and independent reading and the ability to foster appreciation of a variety of fiction and nonfiction texts and independent reading] .

7. Supervised classroom experience. Supervised clinical experiences shall be continuous and systematic and comprised of early field experiences and a minimum of 10 weeks of [successful] full-time student teaching [in the endorsement area sought] under the supervision of a cooperating teacher with demonstrated effectiveness in the classroom. The summative supervised student teaching experience shall include at least 150 clock hours spent in direct teaching at the level of endorsement [in a public or accredited nonpublic school] .

If a preK-12 endorsement is sought, teaching activities shall be at the elementary and middle or secondary levels. Individuals seeking the endorsement in library media shall complete the supervised school library media practicum in a school library media setting. Individuals seeking an endorsement in an area of special education shall complete the supervised classroom experience requirement in the area of special education for which the endorsement is sought. One year of successful full-time teaching experience in the endorsement area in a public or an accredited nonpublic school may be accepted in lieu of the supervised teaching experience. For the Online Teacher License only, one year of successful online teaching experience in the endorsement area in a public school, an accredited nonpublic school, or an accredited virtual school or program may be accepted in lieu of the supervised teaching experience. A fully licensed, experienced teacher shall be available in the school building to assist a beginning teacher employed through the alternate route.

8VAC20-23-200. Adult education.

A. Endorsement requirements. The candidate [~~must~~ shall] have:

1. Earned a baccalaureate degree from a regionally accredited college or university or hold a Collegiate Professional License [(requires a baccalaureate degree from a regionally accredited college or university)] ; and

2. A minimum of 15 semester hours in adult education that [~~must~~ shall] include the following competencies and one semester of supervised successful full-time, or an equivalent number of hours of part-time experience, teaching of adults:

a. Understanding of the nature or psychology of the adult learner or adult development;

b. Understanding of the knowledge, skills, and processes needed for the selection, evaluation, and instructional applications of the methods and materials for [~~adult basic skills~~ adults to become college and career ready,] including:

(1) Curriculum development in adult basic education or [~~General Educational Development (GED)~~ Virginia Board of Education-approved high school equivalency] instruction;

(2) [~~Beginning reading~~ Literacy skills] for adults;

(3) [~~Beginning mathematics~~ Numeracy skills] for adults;

(4) Reading comprehension for adult education; [and]

[~~(5) Foundations of adult education; and~~

~~(6)~~ (5)] Other adult basic skills instruction.

B. Individuals not holding a Collegiate Professional License or a Postgraduate Professional License [~~must~~ shall] meet the professional teacher's assessment requirements prescribed by the Virginia Board of Education.

8VAC20-23-210. Adult English as a second language (add-on endorsement).

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in adult English as a second language; or

2. [~~An earned~~ Earned a] baccalaureate degree from a regionally accredited college or university and hold a license issued by the Virginia Board of Education with an endorsement in a teaching area; and

3. Completed 21 semester hours of coursework distributed in the following areas:

a. Methods for teaching [adult] English [~~as a second language to adults~~ learners] : 3 semester hours;

b. English linguistics: 3 semester hours;

c. Cross-cultural education: 3 semester hours;

d. Modern foreign language: 6 semester hours; and

e. Electives from the following areas: 6 semester hours:

- (1) Cross-cultural communication;
- (2) Second language acquisition;
- (3) General linguistics;
- (4) Teaching reading to adults;
- (5) Adult English [~~as a second language learner~~] instruction; or
- (6) Adult English [~~as a second language learner~~] curriculum development.

8VAC20-23-220. Career and technical education – agricultural education.

A. Endorsement requirements. The candidate [~~must~~ shall] have:

- 1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program [~~with a minimum of a baccalaureate degree from a regionally accredited college or university~~] in agricultural education; or
- 2. [~~Completed~~ Earned a baccalaureate degree from a regionally accredited college or university and completed] 39 semester hours of coursework in agriculture, including at least [~~three~~ 3] semester hours in each of the [~~following~~] areas in subdivisions 2 a through 2 f [of this subsection,] as well as a minimum of [~~nine~~ 9 semester] hours in one concentration area listed in [~~the following areas~~] subdivisions 2 a through 2 f:
 - a. Plant science;
 - b. Animal science;
 - c. Agricultural mechanics and applied technology with a lab component;
 - d. Agricultural economics and management;
 - e. Forestry and wildlife management;
 - f. Horticulture; and
 - g. Supervised occupational experience, 3 semester hours, or one year of successful, full-time or the equivalent [~~of relevant occupational experience~~] (a minimum of 2,000 cumulative hours) [~~relevant occupational experience~~] within the past five years.

[If an individual is seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education, an industry certification credential as defined in 8VAC20-23-10 in the area in which the teacher seeks endorsement is required. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Virginia Board of Education may, upon request of the employing school division or educational

agency, issue the teacher a provisional license to allow time for the teacher to attain such credential.]

B. Technical Professional License. An endorsement in specialized areas may be granted to individuals who have:

- 1. Been recommended by an employing Virginia educational agency;
- 2. Completed two years of successful, full-time or the equivalent of occupational experience within the past five years in the teaching specialty sought;
- 3. Completed professional studies requirements (human development and learning: 3 semester hours; curriculum and instruction in career and technical education: 3 semester hours; and applications of instructional technology or classroom and behavior management: 3 semester hours); and
- 4. Completed an agricultural education certificate or associate degree program in the teaching specialty area sought.

[If an individual is seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education, an industry certification credential as defined in 8VAC20-23-10 in the area in which the teacher seeks endorsement is required. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Virginia Board of Education may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential.]

8VAC20-23-230. Career and technical education – business and information technology.

A. Endorsement requirements. The candidate [~~must~~ shall] have:

- 1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program [~~with a minimum of a baccalaureate degree from a regionally accredited college or university~~] in business and information technology; or
- 2. [~~Completed~~ Earned a baccalaureate degree from a regionally accredited college or university and completed] a major in business education or 39 semester hours of coursework in business and information technology, including:
 - a. Accounting: 6 semester hours;
 - b. Economics: 3 semester hours;
 - c. Business law, business principles, management, marketing, or finance: 9 semester hours;

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d. Communications and media to include oral, written, and presentation [skills]: 3 semester hours;

e. Information systems and technology to include computer software applications [~~e.g.~~], [such as] word processing, spreadsheet, database, and presentation []], information technology fundamentals, database management, communications systems, programming, software development, security, and networking: 12 semester hours;

f. Input technologies to include touch keyboarding (required, or documented demonstrated mastery of the touch keyboarding skill), audio input devices, video input devices, pointing devices, touch screens, or other emerging input technologies: 3 semester hours; and

g. Supervised business experience: 3 semester hours [~~3~~] or one year of successful full-time or the equivalent [~~(i.e.,~~ (a minimum of) 2,000 [~~part-time~~ cumulative] hours) relevant occupational experience within the last five years.

[If an individual is seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education, an industry certification credential as defined in 8VAC20-23-10 in the area in which the teacher seeks endorsement is required. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Virginia Board of Education may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential.]

B. Technical Professional License. An endorsement in a highly specialized business and information technology area, such as networking, [~~administration, communications systems,~~] programming, database management, Internet application development, medical office procedures, legal office procedures, network administration, and other emerging highly specialized areas may be granted to individuals who have:

1. Been recommended by an employing Virginia educational agency;
2. Completed two years of successful, full-time or the equivalent occupational experience within the last five years in the teaching specialty area sought;
3. Completed a business certificate or associate degree program from a regionally accredited institution in the teaching specialty area sought; and
4. Completed professional studies requirements (human development and learning: 3 semester hours; curriculum and instruction in career and technical education: 3 semester hours; and applications of instructional

technology or classroom and behavior management: 3 semester hours).

[If an individual is seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education, an industry certification credential as defined in 8VAC20-23-10 in the area in which the teacher seeks endorsement is required. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Virginia Board of Education may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential.]

8VAC20-23-240. Career and technical education – family and consumer sciences.

A. Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program [~~with a minimum of a baccalaureate degree from a regionally accredited college or university~~] in family and consumer sciences; or

2. [~~Completed~~ Earned a baccalaureate degree from a regionally accredited college or university and completed] a major in family and consumer sciences education or 39 semester hours of coursework in family and consumer sciences distributed in the following areas:

a. Development of individuals through the lifespan and the family life cycle [~~and family~~]: 9 semester hours;

b. Resource management, personal and family finance, and consumer economics: 6 semester hours;

c. Food, nutrition, dietetics, wellness, and food science: 9 semester hours;

d. Housing, home furnishing, and equipment: 3 semester hours;

e. Apparel and textiles: 6 semester hours;

f. Occupational program management: 3 semester hours; and

g. Supervised occupational experience related to family and consumer sciences, 3 semester hours, or one year of successful, full-time or the equivalent [~~of~~ (a minimum of 2,000 cumulative hours)] relevant occupational experience within the last five years.

[If an individual is seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education, an industry certification credential as defined in 8VAC20-23-10 in the area in which the teacher seeks endorsement is required. If a teacher seeking an initial

license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Virginia Board of Education may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential.]

B. Technical Professional License. An endorsement in a specialized family and consumer sciences area, such as child care occupations, consumer services, family and human services, fashion design occupations, food occupations, hospitality occupations, interior design occupations, [and] home furnishings occupations, and home and institutional services, may be granted to individuals who have:

1. Been recommended by an employing Virginia educational agency [;]
2. Completed at least two years of successful, full-time occupational experience or the equivalent within the past five years in the teaching specialty for which they are seeking endorsement [;]
3. Completed a family and consumer sciences certificate or associate degree program [from a regionally accredited college or university,] where applicable in the area of endorsement sought [; and]
4. Completed professional studies requirements (human development and learning: 3 semester hours; curriculum and instruction in career and technical education: 3 semester hours; and applications of instructional technology or classroom and behavior management: 3 semester hours).

[If an individual is seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education, an industry certification credential as defined in 8VAC20-23-10 in the area in which the teacher seeks endorsement is required. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Virginia Board of Education may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential.]

8VAC20-23-250. Career and technical education – health and medical sciences.

A. Endorsement requirements. The candidate [must shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved program of study [with a minimum of a baccalaureate degree from a regionally accredited college or university] in a health care program of study and hold a current license or certification as a professional practitioner in the area in which one is to be teaching; or

2. [~~A~~ Earned a baccalaureate degree from a regionally accredited college or university and hold a] current license or certification as a professional practitioner in the area in which one is to be teaching and completed two years of successful, full-time or the equivalent of occupational experience within the past five years in an area related to the teaching specialty sought.

[If an individual is seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education, an industry certification credential as defined in 8VAC20-23-10 in the area in which the teacher seeks endorsement is required. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Virginia Board of Education may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential.]

B. Technical Professional License. An endorsement in a specialized health occupations area may be granted to individuals who have:

1. Been recommended by an employing Virginia educational agency;
2. A license or [~~be~~ are] certified as a professional practitioner in the area in which one is to be teaching;
3. Completed two years of full-time or the equivalent of occupational experience within the past five years in the teaching specialty sought;
4. Completed a health occupations certificate or associate degree program from a regionally accredited institution in the teaching specialty area sought; and
5. Completed professional studies requirements (human development and learning: 3 semester hours; curriculum and instruction in career and technical education: 3 semester hours; and applications of instructional technology or classroom and behavior management: 3 semester hours).

[If an individual is seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education, an industry certification credential as defined in 8VAC20-23-10 in the area in which the teacher seeks endorsement is required. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Virginia Board of Education may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential.]

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8VAC20-23-260. Career and technical education – marketing education.

A. Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] ~~from an approved teacher preparation program [with a minimum of a baccalaureate degree from a regionally accredited college or university]~~ in marketing education; or

2. [~~Completed~~ Earned a baccalaureate degree from a regionally accredited college or university and completed] a major in marketing education or a minimum of 39 semester hours of coursework in marketing to include [;]

a. Marketing processes and environment: 3 semester hours;

b. Management and supervision: 6 semester hours;

c. Economics: 3 semester hours;

d. Merchandising and operations: 3 semester hours;

e. Advertising and promotion: 3 semester hours;

f. Sales and selling: 3 semester hours;

g. Communication theory and techniques: 3 semester hours;

h. Consumer behavior: 3 semester hours;

i. International (global) marketing: 3 semester hours;

j. Finance, accounting, or marketing mathematics: 3 semester hours;

k. Technology applications: 3 semester hours; and

l. Supervised marketing occupational experience, 3 semester hours, or one year of [successful] full-time work experience in the field of marketing may be accepted in lieu of the supervised marketing internship.

[If an individual is seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education, an industry certification credential as defined in 8VAC20-23-10 in the area in which the teacher seeks endorsement is required. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Virginia Board of Education may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential.]

B. Technical Professional License. An endorsement in a specialized marketing area, such as apparel and accessories, hotel operations, international marketing, or restaurant, may be granted to individuals who have:

1. Been recommended by an employing Virginia educational agency;

2. Completed two years of [successful] full-time occupational experience, or the equivalent, within the last five years in the teaching specialty area sought; and

3. Completed professional studies requirements (human development and learning: 3 semester hours; curriculum and instruction in career and technical education: 3 semester hours; and applications of instructional technology or classroom and behavior management: 3 semester hours).

[If an individual is seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education, an industry certification credential as defined in 8VAC20-23-10 in the area in which the teacher seeks endorsement is required. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Virginia Board of Education may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential.]

8VAC20-23-270. Career and technical education – technology education.

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] ~~from an approved teacher preparation program [from a regionally accredited college or university with a minimum of a baccalaureate degree]~~ in technology education; or

2. [~~Completed~~ Earned a baccalaureate degree from a regionally accredited college or university and completed] a major in technology education or 33 semester hours in technology education distributed in the following areas:

a. The nature of technology. Experiences shall include those that promote an understanding of the characteristics, scope, and core concepts of physical, biological, and informational technologies, the relationships among these technologies, and their connections to other science, technology, engineering, and mathematics (STEM) fields: 6 semester hours;

b. Technology and society. Experiences shall include those that develop a working knowledge of the cultural, social, economic, and political effects of technology, its effect on the environment, and the role of society in the history, development, and use of physical, biological, and informational technologies: 3 semester hours;

c. Engineering. Experiences shall include those that develop comprehension of the attributes of technological

design, inclusive of constraints, optimization, predictive analysis, problem solving, critical thinking, technical writing, and integrative mathematics and science: 6 semester hours;

d. Abilities for a technological world. Experiences shall include those that develop the capacity to utilize the design process, to use and maintain technological products and systems, and to assess their impact: 9 semester hours; and

e. The designed world. Experiences shall include those that promote an understanding of current and emerging physical, biological, and informational technologies: 9 semester hours; or

3. Earned a baccalaureate degree from a regionally accredited college or university with a major in one of the following fields of study: architecture, design, engineering, engineering technology, industrial technology, or physics and completed a minimum of 15 semester hours of technology education content coursework, including at least 3 semester hours in each of the following areas:

a. The nature of technology;

b. Technology and society;

c. Engineering;

d. Abilities for a technological world; and

e. The designed world.

[If an individual is seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education, an industry certification credential as defined in 8VAC20-23-10 in the area in which the teacher seeks endorsement is required. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Virginia Board of Education may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential.]

8VAC20-23-280. Career and technical education – trade and industrial education.

A. Endorsement requirements.

1. The candidate [~~must~~ shall] have graduated from an approved teacher preparation program with a minimum of a baccalaureate degree from a regionally accredited college or university in trade and industrial education; or

2. A candidate who has graduated from an approved teacher preparation program that is not in the trade and industrial education program subject area for which the candidate is seeking endorsement [~~must~~ shall] have:

a. A current state [~~licensure~~ license] or industry certification based on the prescribed standard or examination, if applicable; and

b. Evidence of at least two years of [successful] full-time or equivalent occupational experience within the past five years in the teaching specialty for which the candidate is seeking endorsement. A candidate whose occupational experience has not been within the last five years [~~must~~ shall] participate in a supervised technical update related to the teaching specialty or area of endorsement or complete a supervised internship of work experience of not less than six weeks related to the area of endorsement or teaching specialty.

B. Technical Professional License. An endorsement in a specialized trade and industrial education area will be granted to an individual who has:

1. Been recommended by an employing Virginia educational agency;

2. A current license or is currently certified as a professional practitioner in the area in which [~~he~~ the individual] is to be teaching, if applicable, or can demonstrate competency in the area of trade and industrial education [~~he~~ the individual] is to be teaching;

3. Evidence of at least two years of [successful] full-time or the equivalent occupational experience within the past five years in the teaching specialty for which he is seeking endorsement. Candidates whose occupational experience has not been within the last five years [~~must~~ shall] participate in a supervised technical update related to the teaching specialty or area of endorsement or complete a supervised internship of work experience of not less than six weeks related to the area of endorsement or teaching specialty; and

4. Completed professional studies requirements (human development and learning: 3 semester hours; curriculum and instruction in career and technical education: 3 semester hours; and applications of instructional technology or classroom and behavior management: 3 semester hours).

C. Add-on endorsement requirements. A candidate [~~must~~ shall]:

1. Hold an active Collegiate Professional or Postgraduate Professional License with a teaching endorsement;

2. Demonstrate competency in the trade or industrial area being sought;

3. Hold current state licensure or industry certification for the trade or industrial area for which endorsement is sought based upon the prescribed standard or examination;

4. Have completed two years or 4,000 clock hours of satisfactory, full-time occupational experience at the

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journeyman level or an equivalent level in the occupation within the last five years. Candidates whose occupational experience has not been within the last five years [~~must~~ shall] participate in a supervised technical update related to the teaching specialty or area of endorsement or complete a supervised internship of work experience of not less than six weeks related to the area of endorsement or teaching specialty; and

5. Have completed 3 semester hours in curriculum and instruction specific to vocational industrial education.

8VAC20-23-290. Career and technical education – transition and special needs (add-on endorsement).

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program [~~with a minimum of a baccalaureate degree from a regionally accredited college or university~~] in [transition and special needs [education]; or

2. [~~Completed~~ Earned a baccalaureate degree from a regionally accredited college or university and completed] a major in career and technical education or special education [~~pre-K-12~~ preK-12] with an endorsement in one area of career and technical education or special education preK-12, including 12 semester hours distributed in the following areas:

a. Overview of special needs programs and services: 3 semester hours;

b. Instructional methods, curriculum, and resources: 3 semester hours;

c. Career and life planning, transitioning, occupational information, and delivery of cooperative education programs: 3 semester hours; and

d. Purposes and practices and characteristics of special populations: 3 semester hours; and

3. Completed successful, supervised occupational experience, 3 semester hours, or one year of full-time or the equivalent of relevant occupational experience within the past five years.

8VAC20-23-300. Computer science.

A. Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in computer science; or

2. Earned a baccalaureate degree from a regionally accredited college or university and completed 36 semester hours of coursework distributed in the following areas:

a. Mathematics, including discrete mathematics;

b. Data structures and algorithm analysis;

c. Foundations of computer science; and

d. Programming in at least two distinct languages: 6 semester hours.

B. Add-on endorsement requirements in computer science. The candidate [~~must~~ shall] have:

1. [~~An-earned~~ Earned a] baccalaureate degree from a regionally accredited college or university and hold a license issued by the Virginia Board of Education with a teaching endorsement in a teaching area; and

2. Completed 18 semester hours of coursework distributed in the following areas:

a. Mathematics, including discrete mathematics;

b. Data structures and algorithm analysis;

c. Foundations of computer science; and

d. Programming in at least two distinct languages: 6 semester hours.

8VAC20-23-310. Dance arts preK-12.

A. Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in dance arts; or

2. Earned a baccalaureate degree from a regionally accredited college or university and completed a major in dance arts or 24 semester hours with coursework distributed in the following areas:

a. Development of movement language: 9 semester hours.

(1) A course in each area of ballet, folk, jazz, and modern dance: 6 semester hours; and

(2) Area of concentration in one area of ballet, folk, jazz, or modern dance beyond the entry level: 3 semester hours;

b. Composition, improvisation, and dance arts production, [which] may include stage lighting, stage costuming, or stage makeup: 3 semester hours;

c. Scientific foundations, including human anatomy, kinesiology, and injury prevention and care for dance arts: 9 semester hours; and

d. Cultural understanding, including cultural context and dance history: 3 semester hours.

B. Add-on endorsement requirements in dance arts. The candidate [~~must~~ shall] have:

1. [~~An earned~~ Earned a] baccalaureate degree from a regionally accredited college or university and hold a license issued by the Virginia Board of Education with a teaching endorsement in a teaching area; and

2. Completed 15 semester hours of coursework distributed in the following areas:

a. Development of movement language: 9 semester hours.

(1) A course in each area of ballet, folk, jazz, and modern [dance]; 6 semester hours; and

(2) Area of concentration in one area of ballet, folk, jazz, or modern [dance] beyond the entry level: 3 semester hours;

b. Composition, improvisation, and dance arts production, [which] may include stage lighting, stage costuming, or stage makeup: 3 semester hours; and

c. Cultural understanding, including cultural context and dance history: 3 semester hours.

8VAC20-23-320. Driver education (add-on endorsement).

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~An earned~~ Earned a] baccalaureate degree from a regionally accredited college or university and hold a license issued by the Virginia Board of Education with a teaching endorsement in a teaching area; and

2. Completed an approved teacher preparation program in driver education; or

3. [~~Completed~~ Earned a baccalaureate degree from a regionally accredited college or university and hold a license issued by the Virginia Board of Education with a teaching endorsement in a teaching area; and completed] 6 semester hours of coursework distributed in the following areas:

a. Driver Task Analysis [~~;- to include,~~ including] instructional strategies as prescribed in the Curriculum and Administrative Guide for Driver Education in Virginia [2010] (http://www.doe.virginia.gov/instruction/driver_education/curriculum_admin_guide/index.shtml); understanding the highway transportation system; applying Virginia's motor vehicle laws; personal, legal, and emotional factors; visual and sensory perception; risk perception and risk management; space management and other defensive driving techniques; environmental, financial, and other vehicle ownership responsibilities;

vehicle technologies; and the scientific principles of the driving tasks: 3 semester hours; and

b. Principles and methodologies of classroom and in-car instruction, including applying classroom and in-car teaching techniques for delivering concurrent instruction; applying perception, vehicle balance, speed control, and other risk management principles to the development of precision driving skills; and understanding program administrative tasks, including juvenile licensing laws and issuance of a driver's license; a minimum of 14 hours of actual behind-the-wheel supervised teaching experience demonstrating vehicle control skills and performance capabilities that includes 2 hours of basic evasive maneuvers; and a minimum of 14 hours of mentorship with a licensed, endorsed driver education teacher: 3 semester hours.

4. A current, valid Virginia driver's license. [School divisions are to ensure that teachers of driver education hold a valid driver's license.]

8VAC20-23-330. Engineering.

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in engineering;

2. Earned a baccalaureate degree from a regionally accredited college or university and completed a major in engineering or an engineering subspecialty [~~at in~~] an Accreditation Board for Engineering and Technology (ABET)-accredited college or university program;

3. Earned a baccalaureate degree from a regionally accredited college or university and completed an engineering technology, science, or technology education major with at least 12 semester hours of coursework in engineering courses, including:

a. Introduction to engineering design;

b. Statics or dynamics;

c. Circuits or fluid mechanics; and

d. Thermodynamics;

4. [~~Completed~~ Earned a baccalaureate degree from a regionally accredited college or university and completed] a science, mathematics, or technology education major with at least five years of successful [full-time] experience working in an engineering environment; or

5. [~~Hold~~ Earned a baccalaureate degree from a regionally accredited college or university and hold] a professional engineer's (P.E.) license.

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8VAC20-23-340. English.

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in English; or

2. Earned a baccalaureate degree from a regionally accredited college or university and completed a major in English or a minimum of 36 semester hours of coursework distributed in the following areas:

a. Literacy and reading: 12 semester hours. Courses [~~must~~ shall] include:

- (1) Survey of British literature;
- (2) Survey of American literature;
- (3) World literature; and
- (4) Literary theory and criticism.

b. Language: 3 semester hours. Includes the development and nature of the English language.

c. Composition: 12 semester hours. Experiences shall include:

- (1) A grammar course integrating grammar and writing;
- (2) The teaching of writing, based on current knowledge and most effective practices, including the use of technology for this purpose;
- (3) An advanced composition course emphasizing rhetorical practices of expository, persuasive, argumentative, and analytical writing; and
- (4) Teaching research including ethical accessing, evaluating, organizing, crediting, and synthesizing information.

d. Oral language: 3 semester hours. Experiences shall include the teaching of public and presentation speaking, including nonverbal communication and the role of communication in small group and mass communication.

e. Electives from the areas listed in [~~this section~~ this subdivision 2]: 6 semester hours.

8VAC20-23-350. English as a second language preK-12.

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in English as a second language; or

2. Earned a baccalaureate degree from a regionally accredited college or university and completed 24 semester hours of coursework distributed in the following areas:

a. Teaching of reading and writing. Courses [~~must~~ shall] include [~~the five areas of reading instruction: skills in] phonemic [and other phonological] awareness [; phonics, fluency, vocabulary and text comprehension as well as the similarities and differences between reading in a first language and reading in a second language and a balanced literacy approach]~~; [pre-reading, during reading, and post-reading strategies; vocabulary development; and guided reading. Ability to structure interactive tasks that engage students in using oral language to develop language and skills. Ability to determine students' reading levels and design instruction for multi-level classrooms by incorporating appropriate scaffolding or language supports;] one course [~~must~~ shall] address teaching reading to English language learners: 6 semester hours;

b. English linguistics: [general and English linguistics] 3 semester hours;

c. Cross-cultural education: 3 semester hours;

d. Second language acquisition: 3 semester hours;

e. Methods of English as a second language, to include [instruction based on the understanding of] the World-Class Instructional Design and Assessment (WIDA) English Language Development (ELD) Standards: 3 semester hours;

f. English as a second language assessment to include assessing comprehension and communication in English: 3 semester hours; and

g. Electives from the areas listed in [~~this section~~ this subdivision 2]: 3 semester hours.

8VAC20-23-360. Foreign language preK-12.

A. The specific language of the endorsement will be noted on the license.

B. Endorsement requirements for foreign language preK-12 - languages other than Latin [and American Sign Language]. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in a foreign language; or

2. Earned a baccalaureate degree from a regionally accredited college or university [,] and completed [a major in the foreign language or] 30 semester hours of coursework above the intermediate level in the foreign language distributed in the following areas:

a. Advanced grammar and composition;

b. Conversation, culture and civilization, and literature; and

c. In addition to the 30 semester hours, completed a minimum of 3 semester hours of methods of teaching foreign languages at the elementary and secondary levels.

3. Endorsement in a second [foreign] language may be obtained [with by successfully completing] 24 semester hours of coursework above the intermediate level.

4. Candidates who have learned a foreign language without formal academic credit in a regionally accredited college or university [must shall] complete the following requirements:

a. Achieve a qualifying score on a foreign language assessment in the appropriate language as prescribed by the Virginia Board of Education; and

b. Earn a minimum of 3 semester hours of methods of teaching foreign languages at the elementary and secondary levels from a regionally accredited college or university in the United States or obtain teacher certification in another country with at least 3 semester hours of methods of teaching foreign languages at the elementary and secondary levels at a foreign institution.

C. Endorsement requirements for foreign language preK-12 - Latin. The candidate [must shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in Latin; or

2. Earned a baccalaureate degree from a regionally accredited college or university and completed 24 semester hours of Latin above the intermediate level. A maximum of six semester hours of Roman history, Roman life, [Roman] mythology, or [Roman] archaeology may be included in the total hours. A minimum of 3 semester hours of methods of teaching Latin at the elementary and secondary levels are required.

D. Endorsement requirements for foreign language preK-12 - American Sign Language.

1. The candidate [must shall] have (i) graduated from an approved teacher preparation program in a foreign language - American Sign Language or (ii) earned a baccalaureate degree from a regionally accredited college or university and completed a major in American Sign Language or 24 semester hours above the intermediate level in American Sign Language. The program shall include (i) courses in advanced grammar and syntax, conversation, and culture and (ii) a minimum of 3 semester hours of methods of teaching foreign languages at the elementary and secondary levels.

2. Native users or candidates who have learned American Sign Language without formal academic credit in a

regionally accredited college or university, as explained in subdivision 1 of this subsection, [must shall] complete the following requirements:

a. Competency in American Sign Language demonstrated by written documentation of one of the following:

(1) Hold a current, valid Provisional, Qualified, or Professional certification by the American Sign Language Teachers' Association;

(2) Hold one of the following current, valid national certificates in interpreting:

(a) Registry of Interpreters for Deaf certification in at least one of the following: Certificate of Interpretation (CI), Certificate of Deaf Interpretation (CDI), Reverse Skills Certification (RSC), or Comprehensive Skills Certificate (CSC);

(b) [~~Hold a A~~] current, valid National Association for the Deaf Level IV certification or higher; or

(c) [A] National Interpreter Certification (NIC); or

(3) Complete requirements by achieving a qualifying score on an assessment demonstrating proficiency in American Sign Language prescribed by the Virginia Board of Education.

b. [~~Completed a A~~] minimum of 3 semester hours of methods of teaching foreign languages at the elementary and secondary levels from a regionally accredited college or university in the United States; and

c. [~~Earned a A~~] minimum of 6 semester hours in coursework [,] including grammar and syntax of American Sign Language.

8VAC20-23-370. Gifted education (add-on endorsement).

Endorsement requirements. The candidate [must shall] have:

1. [~~An earned~~ Earned a] baccalaureate degree from a regionally accredited college or university and hold a license issued by the Virginia Board of Education with a teaching endorsement in a teaching area; [and]

2. [~~Completed~~ Earned a baccalaureate degree from a regionally accredited college or university and completed] an approved teacher preparation program in gifted education; or

3. Completed the following requirements:

[a. Earned a baccalaureate degree from a regionally accredited college or university and hold a license issued by the Virginia Board of Education with a teaching endorsement in a teaching area; and]

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[a. b.] Completed 12 semester hours of graduate-level coursework in gifted education distributed in the following areas:

(1) [~~Academic and social-emotional characteristics and special populations of gifted learners~~ Introduction and identification of giftedness]; 3 semester hours;

(2) [~~Curriculum models and differentiation of instruction~~ for Social and emotional development and guidance of] gifted learners: 3 semester hours;

(3) [~~Identification and assessment of~~ Curriculum and instructional strategies for] gifted learners: 3 semester hours; and

(4) [~~Current trends and issues in the field of gifted education~~ Advanced course work in one of the following areas]; 3 semester hours [~~; and~~:

(a) Advanced curriculum, instruction, and assessment design;

(b) Advanced program development and evaluation; or

(c) Advanced study in underrepresented populations; and]

[b. c.] Completed a practicum of at least 45 instructional hours. This practicum shall include a minimum of 45 instructional hours of successful teaching experiences with gifted students in a public or an accredited nonpublic school. In lieu of the practicum, one year of successful, full-time teaching experience with gifted students in a public or an accredited nonpublic school may be accepted [,] provided the teacher is assigned a mentor holding a valid license with an endorsement in gifted education.

8VAC20-23-380. Health and physical education preK-12.

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in health and physical education; or

2. Earned a baccalaureate degree from a regionally accredited college or university and completed a major in health and physical education or 45 semester hours of coursework distributed in the following areas:

a. Personal health [~~and~~,] safety [, and care of athletic injuries]; 3 semester hours;

b. Human anatomy, physiology, [exercise physiology,] and [~~kinesiology~~ biomechanics of human movement]; 9 semester hours;

c. General health and physical education theory, including curriculum design and development in health and physical education: 3 semester hours;

d. Instructional methods and skills for secondary physical education: 3 semester hours;

e. [~~Instructional~~ Concepts of motor learning, instructional] methods [,] and skills for elementary physical education: 3 semester hours;

f. [~~School~~ Instruction methods for elementary and secondary school] health [~~methods course~~]; 3 semester hours;

g. Health and physical education electives: 9 semester hours;

h. [~~Adapted~~ Instructional methods and strategies for adapted] physical education: 3 semester hours;

i. Technology in health and physical education: 3 semester hours;

j. [Principles of human] nutrition: 3 semester hours; and

k. [~~Measurement~~ Assessment] and evaluation in the content area: 3 semester hours.

8VAC20-23-390. History and social sciences.

A. Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in history and social sciences; or

2. Earned a baccalaureate degree from a regionally accredited college or university and completed 51 semester hours of coursework distributed in [each of] the following areas:

a. History: a major in history or 18 semester hours in history [(~~must~~ shall) include coursework in American history, Virginia history, and world history];

b. Political science: a major in political science or 18 semester hours in political science [~~to~~, which shall] include coursework in American government (state and local government);

c. Geography: 9 semester hours; and

d. Economics: 6 semester hours.

B. Add-on endorsement requirements in history, political science, geography, and economics. The candidate [~~must~~ shall] have:

1. Earned a baccalaureate degree from a regionally accredited college or university and [~~have~~ hold] a

teaching license with an endorsement in history, political science, geography, or economics; and

2. Completed 21 semester hours of coursework in the additional social science area [~~four~~ -] history, political science, geography, or economics [} for which the add-on endorsement is] sought.

8VAC20-23-400. Journalism (add-on endorsement).

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~An earned~~ Earned a] baccalaureate degree from a regionally accredited college or university and hold a license issued by the Virginia Board of Education with a teaching endorsement in a teaching area; and

2. Completed a minimum of 15 semester hours in journalism.

8VAC20-23-410. Keyboarding (add-on endorsement).

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~An earned~~ Earned a] baccalaureate degree from a regionally accredited college or university and hold a license issued by the Virginia Board of Education with a teaching endorsement in a teaching area; and

2. Completed 6 semester hours in keyboarding. Three of the six semester hours may be from either formal keyboarding instruction or documented demonstrated mastery of the touch keyboarding skill, and three semester hours [~~must~~ shall] include document formatting skills, word processing, and computer applications.

8VAC20-23-420. Library media preK-12.

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved preparation program in school library media; or

2. Earned a baccalaureate degree from a regionally accredited college or university and completed 24 semester hours distributed in the following areas:

a. Teaching for learning, including knowledge of learners and learning; effective and knowledgeable teaching; collaborative instructional partners; integration of learning standards and technologies; assessment of and for student learning; and the design and implementation of instruction that engages students interests and develops their ability to inquire, think critically, and gain and share knowledge: 3 semester hours;

b. Literacy and reading, including familiarity with children's, young adult, and professional literature in

multiple formats; use of a variety of strategies to promote reading for enjoyment and information; collection development to support diverse learning needs; and collaboration to reinforce reading instructional strategies: 6 semester hours;

c. Information and knowledge, including efficient and ethical information-seeking behavior, ethical and equitable access to information, design and delivery of authentic learning through current and emerging technology, and the use of evidence-based action research to create and share knowledge: 6 semester hours;

d. Advocacy and leadership, including networking with the library community, commitment to professional development, leadership in articulating the role of the school library program in the educational community and in student learning, and advocacy for school library programs, resources, and services: 3 semester hours; and

e. Program management and administration, including planning, developing, implementing, and evaluating library programs, collections, and facilities; personnel; funding; organization of materials; professional ethics; and strategic planning and program assessment: 6 semester hours.

3. Supervised school library media practicum. Experiences shall include clinical experience to give the applicant an opportunity to apply the skills, [~~understandings~~ knowledge], and competencies required for the endorsement. One year of successful, full-time experience as a school librarian in a public or accredited nonpublic school may be accepted in lieu of the supervised practicum.

8VAC20-23-430. Mathematics.

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in mathematics; or

2. Earned a baccalaureate degree from a regionally accredited college or university and completed a major in mathematics or 36 semester hours of coursework distributed in each of the following areas:

a. Algebra. Experience shall include linear algebra (matrices, vectors, and linear transformations) and abstract algebra (ring, group, and field theory);

b. Geometry. Experience shall include Euclidean and non-Euclidean geometries;

c. Analytic geometry;

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- d. Probability and statistics;
- e. Discrete mathematics. Experience shall include the study of mathematical properties of finite sets and systems and linear programming;
- f. Calculus. Experience shall include multivariable calculus; [~~and~~]
- g. Mathematical modeling [; and
- h. Computer science, including two programming languages].

8VAC20-23-440. Mathematics – [Algebra algebra] I (add-on endorsement).

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~An earned~~ Earned a] baccalaureate degree from a regionally accredited college or university and hold a license issued by the Virginia Board of Education with a teaching endorsement in a teaching area; and
2. Either:
 - a. Completed an approved teacher preparation program in Algebra I; or
 - b. Completed 24 semester hours that include coursework in each of the following areas:
 - (1) Elementary functions, introductory college algebra, and trigonometry;
 - (2) Linear algebra;
 - (3) Calculus;
 - (4) Euclidean geometry;
 - (5) Probability and statistics;
 - (6) Discrete mathematics;
 - (7) Mathematical modeling; and
 - (8) Methods of teaching algebra.

8VAC20-23-450. Music education – instrumental preK-12.

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in music education - instrumental; or
2. Earned a baccalaureate degree from a regionally accredited college or university and completed 42 semester hours of coursework distributed in [each of] the following areas:

a. Basic music knowledge. Experiences shall be related to music theory, music history, and literature: 18 semester hours [;]

b. Musical performance. Experiences shall consist of developing competency in a primary performance medium (band or orchestral instrument), in a secondary performance medium (band, orchestral, or keyboard instrument), and in teaching, rehearsing, and conducting ensembles: 18 semester hours [; and]

c. Electives with coursework selected from either of the two areas listed in subdivisions 2 a and 2 b of this section: 6 semester hours.

8VAC20-23-460. Music education – vocal/choral preK-12.

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in music education - vocal/choral; or
2. Earned a baccalaureate degree from a regionally accredited college or university and completed 42 semester hours of coursework distributed in [each of] the following areas:
 - a. Basic music knowledge. Experiences shall be related to music theory, music history, and literature: 18 semester hours [;]
 - b. Musical performance. Experiences shall consist of developing competency in a primary and secondary medium, selected from voice or keyboard [;] and in teaching, rehearsing, and conducting ensembles: 18 semester hours [; and]
 - c. Electives with coursework selected from either of the two areas listed in subdivisions 2 a and 2 b of this section: 6 semester hours.

8VAC20-23-470. Science – biology.

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in biology;
2. Earned a baccalaureate degree from a regionally accredited college or university and completed a major in biology or 32 semester hours in biology [;] and at least one course in each of the following [areas]: genetics, biochemistry/molecular biology, cell biology, botany, zoology, anatomy/physiology, ecology, and evolutionary biology and other preparation consistent with the competencies for the endorsement; or

3. Earned an endorsement in another science discipline and [completed] at least 18 semester hours in biology, including at least one course in each of the following areas: genetics, biochemistry/molecular biology or cell biology, botany [or,] zoology, anatomy/physiology, and evolutionary biology or ecology.

8VAC20-23-480. Science – chemistry.

Endorsement requirements. The candidate [must shall] have:

1. [Graduated Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in chemistry;
2. Earned a baccalaureate degree from a regionally accredited college or university and completed a major in chemistry or 32 semester hours in chemistry, including at least one course in each of the following [areas]; inorganic chemistry, organic chemistry, physical chemistry, biochemistry, and analytical chemistry and other preparation consistent with the competencies required for the endorsement; or
3. Earned an endorsement in another science discipline and [completed] at least 18 semester hours in chemistry, including at least one course in each of the following areas: inorganic chemistry, organic chemistry, physical chemistry, biochemistry, and analytical chemistry.

8VAC20-23-490. Science – Earth science.

Endorsement requirements. The candidate [must shall] have:

1. [Graduated Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in Earth science;
2. Earned a baccalaureate degree from a regionally accredited college or university and completed a major in Earth science, geology, or environmental science with a minimum of 32 semester hours in Earth sciences, including at least one course in each of the following [areas]; structural geology, petrology, paleontology, oceanography, meteorology, and astronomy/space science; or
3. Earned an endorsement in another science discipline and [completed] at least 18 semester hours in Earth sciences, including at least one course in each of the following areas: structural geology, petrology, paleontology, oceanography, meteorology, and astronomy/space [or planetary] science.

8VAC20-23-500. Science – physics.

Endorsement requirements. The candidate [must shall] have:

1. [Graduated Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in physics;
2. Earned a baccalaureate degree from a regionally accredited college or university and completed a major in physics or 32 semester hours in physics, including the following coursework: mechanics, electricity and magnetism, optics, and modern physics and other preparation consistent with the competencies required for the endorsement; or
3. Earned an endorsement in another science discipline and at least 18 semester hours in physics, including preparation in each of the following areas: mechanics, electricity and magnetism, optics, and modern physics.

8VAC20-23-510. Special education – adapted curriculum K-12.

Endorsement requirements: The candidate [must shall] have:

1. [Graduated Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved program in special education - adapted curriculum; or
2. Earned a baccalaureate degree from a regionally accredited college or university and completed 27 semester hours in the education of students with disabilities [as] distributed in the following areas:
 - a. Core coursework: 12 semester hours distributed among the following areas:
 - (1) Foundations: 3 semester hours. Characteristics that include knowledge of the foundation for educating students with disabilities; historical, ethical, and legal aspects that include an understanding and application of the federal and state regulatory requirements; and expectations associated with identification, education, and evaluation of students with disabilities;
 - (2) Assessment and evaluation: 3 semester hours. Includes an understanding and application of the foundation of assessment and evaluation related to best practices in special education, including types and characteristics of assessment, introduction to formal and informal assessment, and the use of assessments and other information to determine special education eligibility, service delivery, curriculum, and instruction of students with disabilities. Understanding of the current legal and ethical issues related to assessment selection and use, including comprehensive evaluation requirements, students with disabilities participation in the state and local accountability systems, assessment options, appropriate grading and testing accommodations, and assessment of students from diverse backgrounds.

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(3) Collaboration that includes skills in consultation, case management, co-teaching, and collaboration: 3 semester hours. Includes understanding roles and responsibilities, knowledge and application of effective communication skills and of culturally responsive practices and strategies, and the ability to develop home, school, and community partnerships to address the needs of students with disabilities.

(4) Management of classroom instruction and behaviors: 3 semester hours. Includes an understanding and knowledge of research-based classroom management techniques, positive behaviors supports, and individual interventions and a demonstrated ability to create a safe, orderly classroom environment [,] including classroom organization, instructional design, and establishment of classroom routines and procedures. Knowledge of the elements of effective instructional planning, differentiation of instruction, and other instructional approaches to enhance student engagement and achievement. Understanding of behavior assessments, data collection and analysis, and development and monitoring of behavior intervention plans.

b. Adapted curriculum coursework: 15 semester hours of coursework distributed in the following areas:

(1) Characteristics: 3 semester hours. Skills in this area include the ability to demonstrate knowledge of the characteristics, including medical and health conditions, and learning and support needs of students with disabilities (K-12) whose cognitive and functional skills are significantly different from typically developing peers and therefore require adaptations to the general curriculum for an appropriate education, including, but not limited to, students with autism spectrum disorders, developmental delay, intellectual disability, traumatic brain injury, and multiple disabilities including sensory, deaf-blindness, speech-language, orthopedic [and/or and other] health impairments as an additional disability to those referenced above.

(2) Individualized education program (IEP) implementation: 3 semester hours. Knowledge of the eligibility process and legal and regulatory requirements of IEP development, including timelines, components, team composition, roles, and responsibilities. Skills in this area include the ability to apply knowledge of assessment and evaluation throughout the K-12 grade levels to construct, use, and interpret a variety of standardized and nonstandardized data collection techniques; to make decisions about student progress, instruction, program, goal development, modifications, adaptations, placement, and teaching methodology for students with disabilities who are accessing the general education curriculum and [Virginia] Standards of Learning through an aligned curriculum; and to

demonstrate the use of assessment, evaluation, and other information to develop and implement individual educational planning and group instruction with students with disabilities in an adapted curriculum across the K-12 grade levels.

(3) Transitioning: 3 semester hours. Skills in this area include the ability to prepare students and work with families to provide successful student transitions throughout the educational experience to include postsecondary education, training, employment, and independent living that addresses an understanding of long-term planning, age-appropriate transition assessments, career development, life skills, community experiences and resources, and self-determination to include goal setting, decision making, problem solving, self-awareness and self-advocacy, guardianship, and other legal considerations.

(4) Instructional methods and strategies for the adapted curriculum: 3 semester hours. An understanding and application of service delivery, curriculum, and instruction of students with disabilities who need an adapted curriculum. Knowledge of the general curriculum requirements and expectations and how to provide access to the curriculum based on student characteristics and needs. Skills in this area include the ability to understand and use a range of modifications, adaptations, special instructional strategies, and research-based interventions that reflect best practice in reading, writing, and mathematics instruction for students with more significant disabilities; ability to align the instructional practices and intervention with the Virginia Standards of Learning and state assessments; knowledge of available assistive and instructional technologies, including alternative communication methods and systems to promote learning and independence for students with disabilities in the adaptive curriculum and the ability to evaluate its effectiveness; ability to develop and use curriculum-based and standardized assessment to conduct ongoing evaluations of instructional material and practices to determine effectiveness and assess student needs as they relate to curriculum design and delivery; ability to modify and adapt instructional content in a variety of settings and collaborate with general education content teachers to develop and implement instructional practices that meet the needs of students with disabilities in the adapted curriculum and monitor student progress.

(5) Individualized supports and specialized care of students with significant disabilities: 3 semester hours. Knowledge of and ability to implement adapted strategies to address the positioning, handling, communication, personal care, and medical needs of students with significant disabilities. Knowledge and understanding of the roles of related disciplines and service providers in collaborative planning and service

delivery. Demonstration of the ability to develop and utilize a blended curriculum design to address disability-specific or unique needs such as feeding and communication while addressing the adapted curriculum requirements.

8VAC20-23-520. Special education blindness and visual impairments preK-12.

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in special education visual impairments preK-12; or

2. Earned a baccalaureate degree from a regionally accredited college or university and completed a major in special education blindness and visual impairments or 30 semester hours in education of students with visual impairments, distributed with at least one course in each of the following areas:

a. Characteristics of students with visual impairment [: 3 semester hours]. Provides an overview of the characteristics of and services to persons with visual impairments, including the impact of visual impairment on infant and child growth and development, child and adolescent emotional and social development, and family interaction patterns. Includes the educational, conceptual, psychosocial, and physical implications of a visual impairment.

b. Foundations [: 3 semester hours]. Includes knowledge of the foundation for educating students with disabilities; historical, ethical, and legal aspects that include understanding and application of the regulatory requirements; and expectations associated with identification, education, and evaluation of students with disabilities.

c. Braille code: 3 semester hours. Includes the literary code of Braille, its implications for educational and literacy programs for students with visual disabilities and how to teach the Braille code to students with visual impairments.

d. Braille reading and writing: 3 semester hours. Includes instruction in the various technologies used by students who use Braille; basic instruction on transcription of advanced Braille codes, [including uncontracted and contracted Unified English Braille,] including music, foreign language, chemistry, [~~computer Braille,~~] and Nemeth code (Braille mathematics code); techniques for teaching skills in each code; and technology tools used to create Braille and tactile materials in addition to other assistive technologies used for instruction in mathematics and science.

e. Medical and educational implications of visual impairment [: 3 semester hours]. Includes anatomy of the human eye, normal visual development, pathology of the eye, examination procedures for the identification of visual pathology, and the effects of pathology on visual learning and development.

f. Assistive technology for students with sensory impairment [: 3 semester hours]. Introduces specific technology and resources available to enhance and improve ability of individuals with sensory disabilities and includes literacy skill development of students who are blind or visually impaired using technology.

g. Curriculum and assessment [: 3 semester hours]. Includes knowledge of educational assessments used with students with visual impairments and additional disabilities including deaf-blindness. Addresses assessment of technology needs of students with visual impairments, including functional vision assessments, learning media assessments, assistive technology, and assessment in areas of the expanded core curriculum; application of assessment results to development of the individualized education program (IEP); planning for placement; and services and accommodations for students with visual impairments.

h. Positive behavior intervention supports [: 3 semester hours]. Includes understanding of research-based, positive behavior intervention supports and individual interventions; knowledge of the elements of effective instructional planning, differentiation of instruction, and other instructional approaches to enhance student engagement and achievement; and understanding of behavior assessments, data collection and analysis, development and monitoring of behavior intervention plans.

i. Collaboration [: 3 semester hours]. Includes skills in consultation, case management, co-teaching, and collaboration that include understanding roles and responsibilities, knowledge and application of effective communication skills, of culturally responsive practices and strategies, and the ability to develop home, school, and community partnerships to address the needs of students who are visually impaired.

j. Teaching methods [: 3 semester hours]. [Skills in this area include:]

(1) [~~Includes—methods~~ Methods] of teaching compensatory skills, the core curriculum, and technology used by students who are blind and visually impaired; introduces individual family service plans (IFSPs); and includes understanding and application of development and implementation of the IEP, including service delivery, curriculum, and instruction of students who are visually impaired.

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(2) Knowledge of the general curriculum requirements and expectations and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address the identified needs of the students. Skills in this area include the ability to identify, understand, and implement a range of specialized instructional strategies and research-based interventions that reflect best practice in instruction for students who are visually impaired.

(4) Ability to align the instructional practices and intervention with the [Virginia] Standards of Learning and state assessments.

(5) Ability to develop and use curriculum-based and standardized assessments to conduct ongoing evaluations of instructional materials and practices to assess student needs as they relate to curriculum design and delivery.

(6) Ability to model and directly teach instructional strategies in a variety of settings, and monitor student progress.

(7) Ability to adapt materials and procedures to meet the needs of students with visual impairments.

k. Orientation and mobility. Includes the components of orientation and mobility (O&M); how the need for independent travel in the blind population created the field of O&M; and the philosophy and history of O&M, including cane instruction, dog guides, and methods of travel. Addresses techniques in developing orientation skills and basic mobility instruction. Motor and concept skill development are emphasized.

8VAC20-23-530. Special education deaf and hard of hearing preK-12.

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in special education deaf and hard of hearing; or

2. Earned a baccalaureate degree from a regionally accredited college or university and completed a major in special education deaf and hard of hearing or 27 semester hours in education of students who are deaf and hard of hearing distributed in the following areas:

a. Foundations: 3 semester hours. Includes knowledge of the foundation for educating students with disabilities; historical, ethical and legal aspects that include understanding and application of the regulatory requirements; and expectations associated with identification, education, and evaluation of students with disabilities.

b. Characteristics: 3 semester hours. Includes the ability to demonstrate knowledge of etiologies of hearing loss, definitions, characteristics, learning, and support needs of students who are deaf and hard of hearing from pre-K through secondary levels, who may be using various communication modalities/languages and who may have additional disabilities.

c. Assessment and evaluation: 3 semester hours. Includes an understanding and application of the foundation of assessment and evaluation related to best practices, including types and characteristics of assessments, formal and informal assessment, and the use of assessment information to determine special education eligibility and inform service delivery, curriculum, accommodations, instructional methods, and student progress. Understanding comprehensive evaluation requirements, participation of students with disabilities in state and local accountability systems, assessment options, appropriate testing accommodations, and assessment of students from diverse backgrounds.

d. Instructional planning: 3 semester hours. [Includes the following:]

(1) Familiarity with individual family service plans (IFSPs).

(2) An understanding and application of development and implementation of the individualized education program (IEP) including service delivery, curriculum, and instruction of students who are deaf and hard of hearing and [in] transition.

(3) Knowledge of the general curriculum requirements and expectations and how to provide access to the curriculum based on student characteristics and needs.

(4) Ability to assess, interpret data, and implement instructional practices to address the identified needs of the students. Skills in this area include the ability to identify, understand, and implement a range of specialized instructional strategies and research-based interventions that reflect best practice in instruction for students who are deaf and hard of hearing.

(5) Ability to align the instructional practices and intervention with the [Virginia] Standards of Learning and state assessments.

(6) Ability to develop and use curriculum-based and standardized assessments to conduct ongoing evaluations of instructional materials and practices to assess student needs as they relate to the curriculum design and delivery.

(7) Ability to model and directly teach instructional strategies in a variety of settings, collaborate with general educators to develop and implement instructional

practices that meet the needs of students who are deaf and hard of hearing, and monitor student progress.

e. Speech, language, and literacy development: 3 semester hours. Includes an understanding of the normal developmental sequence of speech, language (oral, signed, and written), auditory, and cognitive milestones, varying methodologies and strategies used in assessing language skills (through the air and spoken) of a student who is deaf and hard of hearing; demonstrate skills necessary to foster and enhance language development and communication skills in students who are deaf and hard of hearing including American Sign Language, cued speech, and listening and spoken language skills. Ability to model and directly teach instructional strategies that foster language and literacy development.

f. Classroom and behavior management: 3 semester hours. Includes an understanding and knowledge of research-based classroom management techniques, positive behavior intervention supports and individual interventions; and demonstrated ability to create a safe, orderly classroom environment including classroom organization, instructional design, and establishment of classroom routines and procedures. Knowledge of the elements of effective instructional planning, differentiation of instruction, and other instructional approaches to enhance student engagement and achievement. Understanding of behavior assessments, data collection and analysis, development, and monitoring of behavior intervention plans

g. Audiology and speech and hearing science: 3 semester hours. Understanding of the basic principles of sound reception and production including neuroanatomy of speech and hearing mechanisms and physical characteristics and measurement of acoustic stimuli; biological, neurological, and acoustic bases of communication; reading and interpreting audiograms and other audiologic assessments used in determining eligibility; knowledge of types, degrees, and effects of hearing loss on developmental domains; relevance of age of onset, age of identification of hearing loss, and age of amplification and intervention in speech and language development; ability to troubleshoot hearing aids, external components of cochlear implants, and other assistive listening devices; [and] ability to foster development of listening skills.

h. Collaboration: 3 semester hours. Includes skills in consultation, case management, co-teaching, and collaboration that includes understanding roles and responsibilities, knowledge and application of effective communication skills, of culturally responsive practices and strategies, and the ability to develop home, school, and community partnerships to address the needs of students who are deaf and hard of hearing.

i. Communication modalities: 3 semester hours. Includes introduction to the various communication modalities used by students who are deaf and hard of hearing, including listening and spoken language, cued speech, speech reading, and through the air communication including use of American Sign Language (ASL) and contact varieties of signed language and coursework to learn ASL.

8VAC20-23-540. Special education early childhood (birth-age five years).

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in early childhood special education; or
2. Earned a baccalaureate degree from a regionally accredited college or university and completed a major in early childhood special education or 27 semester graduate hours in early childhood special education, including at least one course in each of the following:
 - a. Foundations and legal aspects of special education: 3 semester hours;
 - b. Assessment for diagnosis, program planning, and curriculum-based measurement to document progress for young children with typical development, disabling, and at-risk conditions: 3 semester hours;
 - c. Curriculum and instructional programming for preschool: 3 semester hours;
 - d. Speech and language development and intervention: 3 semester hours;
 - e. Medical aspects: 3 semester hours;
 - f. Social and emotional skills and behavior management for early childhood: 3 semester hours;
 - g. Consultation, co-teaching, coaching, and mentoring: 3 semester hours;
 - h. Family-centered intervention: 3 semester hours; and
 - i. Early childhood elective: 3 semester hours.

8VAC20-23-550. Special education – general curriculum K-12.

Endorsement requirements: The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved program in special education - general curriculum; or

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2. Earned a baccalaureate degree from a regionally accredited college or university and completed 27 semester hours in the education of students with disabilities distributed in the following areas:

a. Core coursework: 12 semester hours distributed among the following areas:

(1) Foundations: 3 semester hours. Characteristics that include knowledge of the foundation for educating students with disabilities; historical, ethical, and legal aspects that include an understanding and application of the federal and state regulatory requirements; and expectations associated with identification, education, and evaluation of students with disabilities.

(2) Assessment and evaluation: 3 semester hours. Includes an understanding and application of the foundation of assessment and evaluation related to best practice in special education, including types and characteristics of assessment, introduction to formal and informal assessment, and the use of assessments and other information to determine special education eligibility, service delivery, curriculum, and instruction of students with disabilities. Understanding of the current legal and ethical issues related to assessment selection and use, including comprehensive evaluation requirements, students with disabilities participation in the state and local accountability systems, assessment options, appropriate grading and testing accommodations, and assessment of students from diverse backgrounds.

(3) Collaboration that includes skills in consultation, case management, co-teaching, and collaboration: 3 semester hours. Includes understanding roles and responsibilities, knowledge and application of effective communication skills and of culturally responsive practices and strategies and the ability to develop home, school, and community partnerships to address the needs of students with disabilities.

(4) Management of classroom instruction and behaviors: 3 semester hours. Includes an understanding and knowledge of research-based classroom management techniques, positive behavior support, and individual interventions and a demonstrated ability to create a safe, orderly classroom environment, including classroom organization, instructional design, and establishment of classroom routines and procedures. Knowledge of the elements of effective instructional planning, differentiation of instruction, and other instructional approaches to enhance student engagement and achievement. Understanding of behavior assessments, data collection and analysis, development, and monitoring of behavior intervention plans.

b. General curriculum coursework: 15 semester hours distributed in the following areas:

(1) Characteristics: 3 semester hours. Skills in this area shall include the ability to demonstrate knowledge of definitions, characteristics, and learning and behavioral support needs of students with disabilities who are accessing the general education curriculum at the elementary, middle, and high school levels, including [~~but not limited to,~~] students with learning disabilities, emotional disability, and intellectual disabilities; developmental delay; autism; other health impairments; traumatic brain injury; and multiple disabilities.

(2) Individualized education program development and implementation: 3 semester hours. Knowledge of the eligibility process and legal and regulatory requirements of IEP development [.] including timelines, components, team composition, and roles and responsibilities. Skills in this area include the ability to apply knowledge of assessment and evaluation throughout the K-12 grade levels to construct, use, and interpret a variety of standardized and nonstandardized data collection techniques; to make decisions about student progress, instructional program, goal development, accommodations, placement, and teaching methodology for students with disabilities who are accessing the general education curriculum and the [~~standards of learning~~ Virginia Standards of Learning]; and to demonstrate the use of assessment, evaluation, and other information to develop and implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels.

(3) Transitioning: 3 semester hours. Skills in this area include the ability to prepare students and work with families and community agencies to provide successful student transitions throughout the educational experience to include postsecondary education training, employment, and independent living that addresses an understanding of long-term planning, career development, life skills, community experiences and resources, self-advocacy, and self-determination, guardianship, and legal considerations.

(4) Instructional strategies in reading and writing: 3 semester hours. [Skills in this area include:]

(a) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in reading and writing.

(b) Knowledge of the general curriculum, English requirements and expectations, and how to provide access to the curriculum based on student characteristics and needs.

(c) Ability to assess, interpret data, and implement instructional practices to address the identified reading needs of the students. Skills in this area include the ability to identify, understand, and implement a range of specialized instructional strategies and research-based interventions that reflect best practice in reading and writing instruction for students with disabilities.

(d) Ability to align the instructional practices and intervention with the Virginia Standards of Learning and state assessments.

(e) Knowledge and ability to utilize current assistive and instructional reading and writing technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(f) Ability to develop and use curriculum-based and standardized reading and writing assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as they relate to the curriculum design and delivery.

(g) Ability to model and directly teach reading and writing instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the general curriculum, and monitor student progress.

(5) Instructional strategies in mathematics: 3 semester hours. [Skills in this area include:]

(a) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in mathematics.

(b) Knowledge of the general curriculum mathematics requirements and expectations and how to provide access to the curriculum based on student characteristics and needs.

(c) Ability to assess, interpret data, and implement instructional practices to address calculations, reasoning, and problem-solving skills. Skills in this area include the ability to understand and use a range of specialized mathematics instructional strategies and research-based interventions that reflect best practice in mathematics instruction for students with disabilities.

(d) Ability to align the instructional practices and intervention with the Virginia Standards of Learning and state assessments.

(e) Knowledge of and ability to utilize current mathematics related assistive and instructional technologies to promote learning and independence for students with disabilities in the general curriculum and

the ability to evaluate the effectiveness of the use of the technologies.

(f) Ability to develop and use curriculum-based and standardized mathematics assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as they relate to the mathematics curriculum design and delivery.

(g) Ability to model and directly teach mathematics instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the mathematics general curriculum, and monitor student progress.

8VAC20-23-560. Special education – general curriculum K-6 (add-on endorsement).

Endorsement requirements: The candidate [~~must~~ shall have]:

1. [~~Hold an earned~~ Earned a] baccalaureate degree from a regionally accredited college or university and hold a license issued by the Virginia Board of Education with an endorsement in elementary education [~~(+e)~~], [such as] early/primary education preK-3 or elementary education preK-6 [~~+~~].

2. [~~Have completed~~ Completed] 15 semester hours in the education of students with disabilities distributed in each of the following areas:

a. Foundations: 3 semester hours. Characteristics that include knowledge of the foundation for educating students with disabilities; historical, ethical, and legal aspects that include an understanding and application of the federal and state regulatory requirements; and expectations associated with identification, education, and evaluation of students with disabilities.

b. Individualized education program development and implementation: 3 semester hours. Knowledge of the eligibility process and legal and regulatory requirements of IEP development [,] including timelines, components, team composition, and roles and responsibilities. Skills in this area include the ability to apply knowledge of assessment and evaluation throughout the K-12 grade levels to construct, use, and interpret a variety of standardized and nonstandardized data collection techniques; to make decisions about student progress, instructional, program, goal development, accommodations, placement, and teaching methodology for students with disabilities who are accessing the general education curriculum and the Virginia Standards of Learning; and to demonstrate the use of assessment, evaluation, and other information to develop and implement individual educational planning

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and group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels.

c. Assessment and evaluation: 3 semester hours. Includes an understanding and application of the foundation of assessment and evaluation related to best practice in special education, including types and characteristics of assessment, introduction to formal and informal assessment, and the use of assessments and other information to determine special education eligibility, service delivery, curriculum, and instruction of students with disabilities. Understanding of the current legal and ethical issues related to assessment selection and use, including comprehensive evaluation requirements, students with disabilities' participation in the state and local accountability systems, assessment options, appropriate grading and testing accommodations, and assessment of students from diverse backgrounds.

d. Instructional strategies in reading and writing: 3 semester hours. [Skills in this area include:]

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in reading and writing.

(2) Knowledge of the general curriculum, English requirements and expectations, and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address the identified reading needs of the students. Skills in this area include the ability to identify, understand, and implement a range of specialized instructional strategies and research-based interventions that reflect best practice in reading and writing instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the Virginia Standards of Learning and state assessments.

(5) Knowledge and ability to utilize current assistive and instructional reading and writing technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized reading and writing assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as they relate to the curriculum design and delivery.

(7) Ability to model and directly teach reading and writing instructional strategies in a variety of settings, collaborate and co-teach with general educators to

develop and implement instructional practices that meet the needs of students with disabilities in the general curriculum, and monitor student progress.

e. Instructional strategies in mathematics: (3 semester hours). [Skills in this area include:]

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in mathematics.

(2) Knowledge of the general curriculum mathematics requirements and expectations and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address calculations, reasoning, and problem-solving skills. Skills in this area include the ability to understand and use a range of specialized mathematics instructional strategies and research-based interventions that reflect best practice in mathematics instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the Virginia Standards of Learning and state assessments.

(5) Knowledge of and ability to utilize current mathematics-related assistive and instructional technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized mathematics assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as they relate to the mathematics curriculum design and delivery.

(7) Ability to model and directly teach mathematics instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the mathematics general curriculum, and monitor student progress.

[3. Completed a practicum of at least 45 instructional hours. This practicum shall include a minimum of 45 instructional hours of successful teaching experiences with students with disabilities accessing the general curriculum in a public or an accredited nonpublic school. In lieu of the practicum, one year of successful, full-time teaching experience with students with disabilities accessing the general curriculum in a public or an accredited nonpublic school may be accepted provided the teacher is assigned a mentor holding a valid license with an endorsement in special education.]

8VAC20-23-570. Special education – general curriculum middle grades 6-8 (add-on endorsement).

Endorsement requirements: The candidate [~~must~~ shall have]:

1. [~~Hold an earned~~ Earned a] baccalaureate degree from a regionally accredited college or university and hold a license issued by the Virginia Board of Education with an endorsement in middle education [~~(i.e.)~~], [such as] middle education 6-8 English, middle education 6-8 history and social sciences, middle education 6-8 mathematics, or middle education-sciences []].

2. [~~Have completed~~ Completed] 15 semester hours in the education of students with disabilities distributed in each of the following areas:

a. Foundations: 3 semester hours. Characteristics that include knowledge of the foundation for educating students with disabilities; historical, ethical, and legal aspects that include an understanding and application of the federal and state regulatory requirements; and expectations associated with identification, education, and evaluation of students with disabilities.

b. Individualized education program development and implementation: 3 semester hours. Knowledge of the eligibility process and legal and regulatory requirements of IEP development, including timelines, components, team composition, and roles and responsibilities. Skills in this area include the ability to apply knowledge of assessment and evaluation throughout the K-12 grade levels to construct, use, and interpret a variety of standardized and nonstandardized data collection techniques; to make decisions about student progress, instructional, program, goal development, accommodations, placement, and teaching methodology for students with disabilities who are accessing the general education curriculum and the [~~standards of learning~~ Virginia Standards of Learning]; and to demonstrate the use of assessment, evaluation, and other information to develop and implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels.

c. Transitioning: 3 semester hours. Skills in this area include the ability to prepare students and work with families and community agencies to provide successful student transitions throughout the educational experience to include postsecondary education training, employment, and independent living that addresses an understanding of long-term planning, career development, life skills, community experiences and resources, self-advocacy, and self-determination, guardianship, and legal considerations.

d. Instructional strategies in reading and writing: 3 semester hours. [Skills in this area include:]

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in reading and writing.

(2) Knowledge of the general curriculum, English requirements and expectations, and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address the identified reading needs of the students. Skills in this area include the ability to identify, understand, and implement a range of specialized instructional strategies and research-based interventions that reflect best practice in reading and writing instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the Virginia Standards of Learning and state assessments.

(5) Knowledge and ability to utilize current assistive and instructional reading and writing technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized reading and writing assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as it relates to the curriculum design and delivery.

(7) Ability to model and directly teach reading and writing instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the general curriculum, and monitor student progress.

e. Instructional strategies in mathematics: (3 semester hours). [Skills in this area include:]

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in mathematics.

(2) Knowledge of the general curriculum mathematics requirements and expectations and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address calculations, reasoning and problem-solving skills. Skills in this area include the ability to understand and use a range of specialized mathematics instructional strategies and research-based

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interventions that reflect best practice in mathematics instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the Virginia Standards of Learning and state assessments.

(5) Knowledge of and ability to utilize current mathematics-related assistive and instructional technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized mathematics assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as they relate to the mathematics curriculum design and delivery.

(7) Ability to model and directly teach mathematics instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the mathematics general curriculum, and monitor student progress.

[3. Completed a practicum of at least 45 instructional hours. This practicum shall include a minimum of 45 instructional hours of successful teaching experiences with students with disabilities accessing the general curriculum in a public or an accredited nonpublic school. In lieu of the practicum, one year of successful, full-time teaching experience with students with disabilities accessing the general curriculum in a public or an accredited nonpublic school may be accepted provided the teacher is assigned a mentor holding a valid license with an endorsement in special education.]

8VAC20-23-580. Special education – general curriculum secondary grades 6-12 (add-on endorsement).

Endorsement requirements: The candidate [~~must~~ shall have]:

1. [~~Hold an earned~~ Earned a] baccalaureate degree from a regionally accredited college or university and hold a license issued by the Virginia Board of Education with an endorsement in English, history and social sciences, mathematics, biology, chemistry, Earth science, or physics.

2. [~~Have completed~~ Completed] 15 semester hours in the education of students with disabilities distributed in each of the following areas:

a. Foundations: 3 semester hours. Characteristics that include knowledge of the foundation for educating students with disabilities; historical, ethical, and legal aspects that include an understanding and application of

the federal and state regulatory requirements; and expectations associated with identification, education, and evaluation of students with disabilities.

b. Individualized education program development and implementation: 3 semester hours. Knowledge of the eligibility process and legal and regulatory requirements of IEP development, including timelines, components, team composition, and roles and responsibilities. Skills in this area include the ability to apply knowledge of assessment and evaluation throughout the K-12 grade levels to construct, use, and interpret a variety of standardized and nonstandardized data collection techniques; to make decisions about student progress, instructional, program, goal development, accommodations, placement, and teaching methodology for students with disabilities who are accessing the general education curriculum and the Virginia Standards of Learning; and to demonstrate the use of assessment, evaluation, and other information to develop and implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels.

c. Transitioning: 3 semester hours. Skills in this area include the ability to prepare students and work with families and community agencies to provide successful student transitions throughout the educational experience to include postsecondary education training, employment, and independent living that addresses an understanding of long-term planning, career development, life skills, community experiences and resources, self-advocacy, and self-determination, guardianship, and legal considerations.

d. Instructional strategies in reading and writing: 3 semester hours. [Skills in this area include:]

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in reading and writing.

(2) Knowledge of the general curriculum, English requirements and expectations, and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address the identified reading needs of the students. Skills in this area include the ability to identify, understand, and implement a range of specialized instructional strategies and research-based interventions that reflect best practice in reading and writing instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the Virginia Standards of Learning and state assessments.

(5) Knowledge and ability to utilize current assistive and instructional reading and writing technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized reading and writing assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as they relate to the curriculum design and delivery.

(7) Ability to model and directly teach reading and writing instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the general curriculum, and monitor student progress.

e. Instructional strategies in mathematics: (3 semester hours). [Skills in this area include:]

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in mathematics.

(2) Knowledge of the general curriculum mathematics requirements and expectations and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address calculations, reasoning, and problem-solving skills. Skills in this area include the ability to understand and use a range of specialized mathematics instructional strategies and research-based interventions that reflect best practice in mathematics instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the Virginia Standards of Learning and state assessments.

(5) Knowledge of and ability to utilize current mathematics-related assistive and instructional technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized mathematics assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as they relate to the mathematics curriculum design and delivery.

(7) Ability to model and directly teach mathematics instructional strategies in a variety of settings, collaborate

and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the mathematics general curriculum, and monitor student progress.

[3. Completed a practicum of at least 45 instructional hours. This practicum shall include a minimum of 45 instructional hours of successful teaching experiences with students with disabilities accessing the general curriculum in a public or an accredited nonpublic school. In lieu of the practicum, one year of successful, full-time teaching experience with students with disabilities accessing the general curriculum in a public or an accredited nonpublic school may be accepted provided the teacher is assigned a mentor holding a valid license with an endorsement in special education.]

8VAC20-23-590. Speech communication (add-on endorsement).

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~An earned~~ Earned a] baccalaureate degree from a regionally accredited college or university and a license issued by the Virginia Board of Education with a teaching endorsement in a teaching area; and

2. [~~A~~ Completed a] minimum of 15 semester hours in speech communication.

8VAC20-23-600. Theatre arts preK-12.

A. Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a] baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in theatre arts; or

2. Earned a baccalaureate degree from a regionally accredited college or university and completed a major in theatre arts or 33 semester hours distributed among the following areas:

a. Directing: 6 semester hours;

b. Technical theatre: 9 semester hours;

c. Cultural context and theatre history: 3 semester hours;

d. Performance: 6 semester hours; and

e. Dramatic literature: 9 semester hours.

B. Add-on endorsement requirements in theatre arts preK-12. The candidate [~~must~~ shall] have:

1. [~~An earned~~ Earned a] baccalaureate degree from a regionally accredited college or university and hold a license issued by the Virginia Board of Education with a teaching endorsement in a teaching area; and

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2. Completed 15 semester hours distributed in the following areas:

- a. Directing: 3 semester hours;
- b. Technical theatre: 3 semester hours;
- c. Cultural context and theatre history: 3 semester hours; and
- d. Performance: 6 semester hours.

8VAC20-23-610. Visual arts preK-12.

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Graduated~~ Earned a baccalaureate degree from a regionally accredited college or university and graduated] from an approved teacher preparation program in visual arts; or
2. Earned a baccalaureate degree from a regionally accredited college or university and completed a major in visual arts or 36 semester hours in art distributed in the following areas:
 - a. Two-dimensional media: 12 semester hours;
 - b. Three-dimensional media: 12 semester hours;
 - c. Cultural context and art history: 6 semester hours;
 - d. Evaluation and criticism and aesthetics: 3 semester hours; and
 - e. Related areas of the fine arts: 3 semester hours.

Part VI

Licensure Regulations Governing Support Personnel

8VAC20-23-620. Administration and supervision preK-12.

A. An endorsement in administration and supervision preK-12 consists of Level I, which is required to serve as a building-level administrator or central office instructional supervisor, and Level II, which is an optional endorsement to which an experienced building-level administrator may aspire. Individuals [~~must~~ shall] meet the requirements for the administration and supervision preK-12 endorsement through one of the four options listed in this section. A school leader's assessment prescribed by the Virginia Board of Education [~~must~~ shall] be [~~met~~ passed] for all individuals who are seeking an initial endorsement authorizing them to serve as principals and assistant principals in the public schools. Individuals seeking an initial administration and supervision endorsement who are interested in serving as central office instructional personnel are not required to take and pass the school leaders assessment prescribed by the Virginia Board of Education.

B. Level I, Option I: Approved program route to Level I administration and supervision preK-12 endorsement. To

become eligible for a Level I endorsement under this option, the candidate [~~must~~ shall] have:

1. Earned a master's degree from a regionally accredited college or university;
2. Completed three years of successful, full-time experience in a public school or accredited nonpublic school in an instructional personnel position that requires licensure in Virginia;
3. Completed an approved program in administration and supervision from a regionally accredited college or university;
4. Completed a deliberately structured and supervised internship that is focused on student academic progress for all students and that:
 - a. Provides significant experiences within a school environment for candidates to synthesize and apply content knowledge and develop professional skills through school-based leadership experiences;
 - b. Shall occur in a public or accredited nonpublic school;
 - c. Provides exposure to five different multiple sites [~~(4-6)~~], [such as] elementary, middle [,] high, central office, [and] agency [,] with diverse student populations; and
 - d. Documents a minimum of 320 clock hours, of which 120 clock hours are embedded as experiential field-based opportunities experienced during coursework; and
5. Satisfied the requirements for the school leaders licensure assessment prescribed by the Virginia Board of Education. Individuals seeking an initial administration and supervision endorsement who are interested in serving as central office instructional personnel are not required to take and pass the school leaders assessment prescribed by the Virginia Board of Education.

C. Level I, Option II: Alternate route to Level I administration and supervision preK-12 endorsement restricted to the Virginia school division in which the superintendent submitted the recommendation for endorsement. This endorsement is valid only in the designated Virginia school division and would not be portable or reciprocal. In order to be eligible for Level I endorsement under this option, the candidate [~~must~~ shall] have:

1. Earned a master's degree from a regionally accredited college or university;
2. Completed graduate coursework in school law, evaluation of instruction, and other areas of study as required by an employing Virginia school superintendent. The graduate coursework [~~must~~ shall] be taken from a regionally accredited college or university that has a state-approved administration and supervision program;

3. Completed three years of successful, full-time experience in a public school or accredited nonpublic school in an instructional personnel position that requires licensure in Virginia;

4. Satisfied the requirements for the school leaders licensure assessment specified by the Virginia Board of Education; and

5. Been recommended by the superintendent in the employing Virginia school division.

D. Level I, Option III: Alternate route to Level I administration and supervision preK-12 endorsement. In order to be eligible for Level I endorsement under this option, the candidate [~~must~~ shall] have:

1. Earned a master's degree from a regionally accredited college or university;

2. Completed graduate coursework in school law, evaluation of instructional personnel, special education, school finance, educational leadership, and other areas of study as required by an employing Virginia school superintendent, and the graduate coursework [~~must~~ shall] be taken from a regionally accredited college or university that has a state-approved administration and supervision program, or the candidate [~~must~~ shall] have completed school law, school finance, and a research-based program approved by the Virginia Department of Education that includes organizational leadership, instructional leadership, instructional practices in content areas, data utilization, evaluation and instructional coaching, and creating positive school cultures;

3. Completed three years of successful, full-time experience in a public school or accredited nonpublic school in an instructional personnel position that requires licensure in Virginia;

4. Satisfied the requirements for the school leaders licensure assessment specified by the Virginia Board of Education; and

5. Been recommended by the superintendent in the employing Virginia school division.

E. Level I, Option IV: Out-of-state administration and supervision endorsement. Virginia does not issue a stand-alone license in administration and supervision. The endorsement is added to a license. The candidate [~~must~~ shall] have:

1. Earned a master's degree from a regionally accredited college or university;

2. Completed three years of successful, full-time experience in a public school or accredited nonpublic school in an instructional personnel position;

3. Satisfied the requirements for the school leaders licensure assessment specified by the Virginia Board of Education; and

4. A current, valid out-of-state license, [~~which is~~ (with) full credential []], with an endorsement in administration and supervision or completed an approved program in administration and supervision from a regionally accredited college or university leading to an endorsement as a building-level administrator.

F. Level II: Principal of Distinction endorsement in administration and supervision preK-12. A building-level administrator may seek the Principal of Distinction, Level II endorsement in administration and supervision preK-12 after successfully serving as a building-level administrator for at least five years in a public school or an accredited nonpublic school and successfully completing a formal induction program as a principal or assistant principal. In order to earn the Principal of Distinction, Level II endorsement, the candidate [~~must~~ shall] meet two or more of the following criteria as specified by the Virginia Board of Education and documented in a Virginia Department of Education approved format and be recommended by the employing Virginia school division superintendent:

1. Evidence of improved student achievement;

2. Evidence of effective instructional leadership;

3. Evidence of positive effect on school climate or culture;

4. Earned doctorate in educational leadership or evidence of formal professional development in the areas of school law, school finance, supervision, human resource management, and instructional leadership; or

5. Evidence of [~~a~~] completion of a high-quality professional development project designed by the division superintendent.

8VAC20-23-630. Division Superintendent License.

An individual may be a candidate for the list of eligible division superintendents and the renewable Division Superintendent License through the completion of the requirements in one of the following four options:

1. Option I. The individual [~~must~~ shall have]:

a. [~~Hold an earned~~ Earned a] doctorate degree in educational administration or educational leadership from a regionally accredited college or university; and

b. [~~Have completed~~ Completed] five years of educational experience in a public or an accredited nonpublic school, two of which [~~must~~ shall] be successful, full-time teaching experience at the preK-12 level and two of which [~~must~~ shall] be in administration and supervision at the preK-12 level.

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2. Option II. The individual [~~must~~ shall have]:

a. [~~Hold an earned~~ Earned a] master's degree from a regionally accredited college or university and [~~successfully~~] completed 30 graduate semester hours beyond the conferral date of the master's degree; and

b. [~~Have completed~~ Completed] requirements for administration and supervision preK-12 endorsement that includes the demonstration of competencies in the following areas:

(1) Knowledge, understanding, and application of planning, assessment, and instructional leadership that builds collective professional capacity, including:

(a) Principles of student motivation, growth, and development as a foundation for age- appropriate and grade-appropriate curriculum, instruction, and assessment;

(b) Collaborative leadership in gathering and analyzing data to identify needs to develop and implement a school improvement plan that results in increased student learning;

(c) Planning, implementation, and refinement of standards-based curriculum aligned with instruction and assessment;

(d) Collaborative planning and implementation of a variety of assessment techniques, including examination of student work that yields individual, class, grade level, and school level data as a foundation for identifying existing competencies and targeting areas in need of further attention;

(e) Incorporation of differentiated and effective instruction that responds to individual learner needs [,] including appropriate response to cultural, ethnic, and linguistic diversity;

(f) Knowledge, understanding, and application of the federal and state regulatory requirements and expectations associated with identification, education, and evaluation of students with disabilities;

(g) Collaboratively working with parents and school personnel to ensure that students with disabilities are included as a valued part of the school community, and that they receive effective and appropriately intensive instruction to assist them in meeting the standards set for all students [,] as well as individual goals outlined in their individualized education programs;

(h) Integration of technology in curriculum and instruction to enhance learner understanding;

(i) Identification, analysis, and resolution of problems using effective problem-solving techniques; and

(j) Development, articulation, implementation, and stewardship of a vision of excellence linked to mission and core beliefs that promote continuous improvement consistent with the goals of the school division.

(2) Knowledge, understanding, and application of leadership and organizations, including:

(a) The change process of systems, organizations, and individuals, using appropriate and effective adult learning models;

(b) Aligning organizational practice, division mission, and core beliefs for developing and implementing strategic plans;

(c) Information sources and processing, including data collection and data analysis strategies;

(d) Using data as a part of ongoing program evaluation to inform and lead change;

(e) Developing a change management strategy for improved student outcomes;

(f) Developing distributed leadership strategies to create personalized learning environments for diverse schools; and

(g) Effective two-way communication skills including consensus building, negotiation, and mediation skills.

(3) Knowledge, understanding, and application of management and leadership skills that achieve effective and efficient organizational operations and sustain an instructional program conducive to student academic progress, including:

(a) Alignment of curriculum and instruction and assessment of the educational program to achieve high academic success at the school and division or district level;

(b) Principles and issues of supervising and leading others to ensure a working and learning climate that is safe, secure, and respectful of a diverse school community;

(c) Management decisions that ensure successful teaching and learning including, human resources management and development, theories of motivation, change in school culture, innovation and creativity, conflict resolution, adult learning, and professional development models;

(d) Knowledge, understanding, and application of Virginia's Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers and Virginia's Guidelines for Uniform Performance Standards and Evaluation Criteria for Principals;

(e) Principles and issues related to fiscal operations of school management;

(f) Principles and issues related to school facilities and use of space and time for supporting high-quality school instruction and student learning;

(g) Legal issues impacting school operations and management;

(h) Technologies that support management functions; and

(i) Application of data-driven decision making to initiate and continue improvement in school and classroom practices and student achievement.

(4) Knowledge, understanding, and application of the conditions and dynamics impacting a diverse school community, including:

(a) Emerging issues and trends within school and community relations;

(b) Working collaboratively with staff, families, and community members to secure resources and to support the success of a diverse population;

(c) Developing appropriate public relations and public engagement strategies and processes for building and sustaining positive relationships with families, caregivers, and community partners; and

(d) Integration of technology to support communication efforts.

(5) Knowledge, understanding, and application of the purpose of education and the role of professionalism in advancing educational goals, including:

(a) Philosophy of education that reflects commitment to principles of honesty, fairness, caring, and equity in day-to-day professional behavior;

(b) Integration of high-quality, content-rich, job-embedded professional learning that respects the contribution of all faculty and staff members in building a diverse professional learning community;

(c) Reflective understanding of moral and legal consequences of decision making in the school setting;

(d) Intentional and purposeful effort to model professional, moral, and ethical standards [,] as well as personal integrity in all interactions; and

(e) Intentional and purposeful effort to model continuous professional learning and to work collegially and collaboratively with all members of the school community to support the school's goals and enhance its collective capacity.

(6) Knowledge, understanding, and application of leadership theories and influences that impact schools, including:

(a) Concepts of leadership including systems theory, change theory, learning organizations, and current leadership theory;

(b) [~~Identify~~ Ability to identify] and respond to internal and external forces and influences on a school;

(c) [~~Identify~~ Ability to identify] and apply the processes of educational policy development at the state, local, and school level; and

(d) [~~Identify~~ Ability to identify] and demonstrate ways to influence educational policy development at the state, local, and school level.

3. Option III. The individual [~~must~~ shall have]:

a. [~~Hold an earned~~ Earned a] master's degree from a regionally accredited college or university;

b. [~~Hold a A~~] current, valid out-of-state license with an endorsement as a division or district superintendent; and

c. [~~Have completed~~ Completed] five years of [~~successful~~] educational experience in a public or an accredited nonpublic school, two of which must be [~~successful~~] full-time teaching experience at the preK-12 level and two of which must be in [~~successful~~] administration and supervision.

4. Option IV. The individual [~~must~~ shall have]:

a. [~~Hold an earned~~ Earned a] master's degree or its equivalent from a regionally accredited college or university;

b. [~~Have held~~ A minimum of three years of successful, full-time experience in] a senior leadership position [,] such as chief executive officer or senior military officer; and

c. Be recommended by a [Virginia] school board interested in employing the individual as superintendent.

8VAC20-23-640. Mathematics specialist for elementary education.

Endorsement requirements. The candidate [~~must~~ shall] have:

~~[1. Earned a baccalaureate degree from a regionally accredited college or university and an endorsement in a teaching area;~~

2. 1.] Completed at least three years of successful, full-time teaching experience in a public or accredited nonpublic school in which the teaching of mathematics was an important responsibility; and

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[~~3-2.~~] Either:

a. Graduated from [~~an~~ a graduate-level] approved mathematics specialist [~~for~~ elementary [education] preparation program - master's [level degree from a regionally accredited college or university required] ; or

b. Completed a [~~master's graduate-~~] level program in mathematics, mathematics education, or related education field [- master's degree from a regionally accredited college or university required -] with at least 21 semester hours undergraduate or graduate mathematics coursework distributed in the following areas: (i) number and operations; (ii) rational numbers; (iii) geometry and measurement; (iv) probability and statistics; (v) algebra and functions; and (vi) at least nine semester hours of graduate coursework pertaining to mathematics education in mathematics instructional leadership, evaluation of mathematics curriculum and instruction, mathematical learning theory, and student assessment for mathematics.

8VAC20-23-650. Mathematics specialist for [elementary and] middle education.

Endorsement requirements. The candidate [~~must~~ shall] have:

[~~1. Earned a baccalaureate degree from a regionally accredited college or university and an endorsement in a teaching area;~~

2-1.] Completed at least three years of successful, full-time teaching experience in a public or accredited nonpublic school in which the teaching of mathematics was an important responsibility;

[~~3-~~Hold~~ 2. A Virginia license with a Mathematics – algebra I (add-on) or mathematics (secondary)] teaching endorsement (6-12); and~~

[~~4. 3.~~] Either:

a. Graduated from [~~an~~ a graduate-level] approved mathematics specialist [~~for~~ elementary and] middle education preparation program - master's [level degree from a regionally accredited college or university required] ; or

b. Completed a [~~master's graduate-~~] level program in mathematics, mathematics education, or related education field [- master's degree from a regionally accredited college or university required -] with at least 21 semester hours of undergraduate or graduate mathematics coursework distributed in the following areas: (i) number and operations; (ii) rational numbers; (iii) geometry and measurement; (iv) probability and statistics; (v) algebra and functions; and (vi) at least nine semester hours of graduate coursework pertaining to mathematics education in mathematics instructional

leadership, evaluation of mathematics curriculum and instruction, mathematical learning theory, and student assessment for mathematics.

8VAC20-23-660. Reading specialist.

Endorsement requirements. The candidate [~~must~~ shall] have:

1. [~~Completed~~ Graduated from] a [state-approved] graduate-level reading specialist [~~state approved~~] preparation program - master's degree [from a regionally accredited college or university] required - that includes course experiences of at least 30 semester hours of graduate coursework in the competencies for the endorsement, as well as a practicum experience in the diagnosis and remediation of reading difficulties [;]

2. Satisfied the requirements for the reading specialist assessment specified by the Virginia Board of Education [; and]

3. At least three years of successful classroom teaching experience in which the teaching of reading was an important responsibility.

8VAC20-23-670. School counselor preK-12.

Endorsement requirements.

1. Option I. The candidate [~~must~~ shall] have:

a. Earned a master's degree from a regionally accredited college or university [~~and completed an approved in a state-approved~~] school counselor preparation program that shall include at least 100 clock hours of internship and practicum experiences in the preK-6 setting and 100 clock hours of internship and practicum experiences in the grades 7-12 setting; and

b. Two years of successful, full-time teaching experience or two years of successful, full-time experience in school counseling in a public or an accredited nonpublic school. Two years of successful, full-time experience in school counseling in a public or an accredited nonpublic school under a [nonrenewable] Provisional License may be accepted to meet this requirement.

2. Option II. The candidate [~~must~~ shall] have:

a. Earned a master's degree from a regionally accredited college or university and completed an approved school counselor preparation program that shall include at least 100 clock hours of internship and practicum experiences in the preK-6 setting and 100 clock hours of internship and practicum experiences in the grades 7-12 setting; and

b. Two years of successful, full-time teaching experience or two years of successful, full-time experience in school counseling in a public or an accredited nonpublic school. Two years of successful, full-time experience in school counseling in a public or an accredited nonpublic school

under a nonrenewable Provisional License may be accepted to meet this requirement.

8VAC20-23-680. School manager license.

A. The school manager license is intended to provide for the differentiation of administrative responsibilities in a school setting. A school manager is licensed to administer noninstructional responsibilities in an educational setting. For example, a school manager is restricted from evaluating teachers, supervising instruction, developing and evaluating curriculum, and serving as a school's student disciplinarian.

B. To earn a school manager license, the candidate [~~must~~ shall]:

1. Have earned a baccalaureate degree from a regionally accredited college or university;
2. Have three years successful, full-time managerial experience; and
3. Be recommended for the license by a Virginia school division superintendent.

8VAC20-23-690. School psychology.

Endorsement requirements:

1. Option I. The candidate [~~must~~ shall]:

- a. Complete an approved program in school psychology;
- b. Earn a baccalaureate degree from a regionally accredited college or university and complete 60 graduate-level hours, 54 of which are academic coursework, exclusive of field-based experiences, that culminate in at least a master's degree; and
- c. Complete an internship that is documented by the degree-granting institution. The internship experience shall occur on a full-time basis over a period of one year or on a half-time basis over a period of two consecutive years. The internship shall occur under conditions of appropriate supervision, that is, the school-based supervisor shall be licensed as either a school or clinical psychologist. The internship shall include experiences at multiple age levels, at least one half of which shall be in [~~an~~ a public or] accredited [nonpublic] school setting.

2. Option II. The candidate [~~must~~ shall] hold a currently valid certificate issued by the National School Psychology Certification Board.

8VAC20-23-700. School social worker.

Endorsement requirements. The candidate [~~must~~ shall] have:

1. Earned a master's of social work degree from a regionally accredited college or university [~~school of social work~~] with a minimum of 60 graduate-level semester hours; [or earned an advanced standing master's

of social work degree from a regionally accredited college or university with a minimum of 30 graduate-level semester hours;]

2. A minimum of six graduate semester hours in education to include six semester hours from two of the following courses:

- a. [~~The~~ Foundations of education and the] teaching profession (3 semester hours);
- b. Characteristics of special education (3 semester hours);
- c. Human development and learning (3 semester hours);
or
- d. Classroom and behavior management (3 semester hours).

3. Completed a supervised practicum or field experience of a minimum of 400 clock hours in a public or an accredited nonpublic school discharging the duties of a school social worker. One year of successful, full-time experience as a school social worker in a public or an accredited nonpublic school may be accepted in lieu of the school social work practicum.

8VAC20-23-710. Vocational evaluator.

Endorsement requirements:

1. Option I. The candidate [~~must~~ shall] be certified as a vocational evaluation specialist by holding a professional vocational evaluator (PVE) credential or a certified vocational evaluator (CVE) specialist credential, meeting all standards and criteria of the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists (CCWAVES).

2. Option II. The candidate [~~must~~ shall] have earned a master's degree in vocational evaluation, career and technical education, special education, or rehabilitation counseling [from a regionally accredited college or university] and completed 15 graduate semester hours distributed in the following areas:

- a. Tests and measurements: 3 semester hours;
- b. Medical and educational aspects of disability: 3 semester hours;
- c. Occupational information and job analysis: 3 semester hours;
- d. Purposes and practices of vocational evaluation: 3 semester hours; and
- e. Career, life planning, and transition services: 3 semester hours.

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Part VII

Revocation, Cancellation, Suspension, Denial, and Reinstatement of [~~Teaching~~] Licenses

8VAC20-23-720. Revocation.

A. A license issued by the Virginia Board of Education may be revoked for the following reasons:

1. Obtaining or attempting to obtain [~~such a~~] license by fraudulent means or through misrepresentation of material facts;

2. Falsification of school records, documents, statistics, or reports;

3. Conviction of any felony;

4. Conviction of any misdemeanor involving moral turpitude;

5. Conviction of any misdemeanor involving a [student or] minor [~~child or drugs, not including alcohol~~];

6. [Conviction of any misdemeanor involving drugs (not alcohol);

7.] Conduct with direct and detrimental effect on the health, welfare, discipline, or morale of [~~students~~ a student or minor];

[~~7- 8.~~] Misapplication of or failure to account for school funds or other school properties with which the licensee has been entrusted;

[~~8- 9.~~] Acts related to secure mandatory tests as specified in subsection A of § 22.1-292.1 of the Code of Virginia;

[~~9- 10.] Knowingly and willfully with the intent to compromise the outcome of an athletic competition procure, sell, or administer anabolic steroids or cause such drugs to be procured, sold, or administered to a student who is a member of a school athletic team, or fail to report the use of such drugs by a student to the school principal and division superintendent as required by clause (iii) of subsection A of § 22.1-279.3:1 of the Code of Virginia. Any person whose license is suspended or revoked by the board pursuant to this section shall be ineligible for three school years for employment in the public schools of the Commonwealth;~~

[~~10- 11.] Revocation, suspension, surrender, cancellation, invalidation, or denial of, or other adverse action against, a teaching, administrator, pupil personnel services, or other education-related certificate or license by another state, territory, or country; [or denial of an application for any such certificate or license;]~~

[~~11- 12.] Founded case of child abuse or neglect after all [~~appeal rights~~ administrative appeals] have been exhausted;~~

[~~12- 13.] Notification of dismissal or resignation pursuant to subsection F of § 22.1-313 of the Code of Virginia; or~~

[~~13- 14.] Other good and just cause in the best interest of the public schools of the Commonwealth of Virginia.~~

B. Procedures.

1. A complaint may be filed by anyone, but it shall be the duty of a division superintendent, principal, or other responsible school employee to file a complaint in any case in which he has knowledge that a [~~holder of a license is guilty of any offense~~ basis for the revocation of a license exists, as] set forth in subsection A of this section. The person making the complaint shall submit the complaint in writing to the appropriate division superintendent. [If the subject of the complaint is the division superintendent, the person making the complaint may submit the complaint to the chair of the local school board.]

2. Upon receipt of the complaint against the holder of a license, a division superintendent or his duly authorized representative shall [immediately and thoroughly] investigate the complaint. If, on the basis of such investigation, the division superintendent finds the complaint to be without merit, he shall so notify the complaining party or parties in writing and then close his file on the matter. This action shall be final unless the local school board, on its own motion, votes to proceed to a hearing on the complaint.

C. Petition for revocation. Should the division superintendent or local school board conclude that there is reasonable cause to believe that a [~~complaint against the holder of a license is well-founded~~ basis for revocation of the license exists], the license holder shall be notified of the complaint by a written petition for revocation of a license signed by the division superintendent. A copy of such petition shall be sent by certified mail, return receipt requested, to the license holder's last known address.

D. Form of petition. The petition for the revocation of a license shall set forth:

1. The name and last known address of the person against whom the petition is being filed;

2. The type of license and the license number held by the person against whom the petition is being filed;

3. The [~~offenses alleged~~ basis for revocation] and the specific [~~underlying alleged~~] actions [~~that comprise the alleged offenses~~];

4. A statement of rights of the person [~~charged under this chapter~~ against whom the petition is being filed]. The statement of rights shall [notify the person that any adverse action against a license, including revocation, will be reported to the division superintendents in Virginia and, through a national clearinghouse, to chief state school

officers of the other states and territories of the United States. The statement also shall include notification to the person of the right to cancel the license if he chooses not to contest the allegations in the petition. The statement ~~must~~ shall notify the individual that he shall receive a notice of cancellation that will include the statement: "The license holder voluntarily returned the license in response to a petition for revocation." The individual also shall be notified that the cancellation of the license will be reported to division superintendents in Virginia and ~~[, through a national clearinghouse,]~~ to chief state school officers of the other states and territories of the United States; and

5. Any other pertinent information.

E. Filing of petition. The original petition shall be entered in the files of the local school board where the license holder is or was last employed.

F. Response to petition. The license holder shall present his written answer to the petition, if any, within 14 days of delivery or attempted delivery of the petition as certified by the United States Postal Service.

1. If the license holder does not wish to contest the allegations in the petition, he may ~~cancel~~ request cancellation of the license by ~~returning the license to the division superintendent with~~ submitting a written, signed statement requesting cancellation in response to a petition for revocation. The division superintendent shall forward the request for cancellation along with the petition for revocation to the Superintendent of Public Instruction within 14 days of receipt. The Superintendent of Public Instruction shall cancel the license and send a notice of cancellation to the person by certified mail within 14 days of receipt of the request for cancellation.

2. If the license holder files a written answer admitting or denying the allegations in the petition or fails to file a written answer within 14 days of delivery or attempted delivery of the petition ~~[,]~~ as certified by the United States Postal Service, the local school board shall ~~promptly~~ proceed to a hearing ~~[within 90 days of mailing the petition to the license holder and provide the Superintendent of Public Instruction a copy of the petition and investigative file at the time the local school board hearing is scheduled]~~. The local school board shall provide a hearing at the time and place of its regular meeting or at such other reasonable time and place it may specify. The license holder or his representative, if any, shall be given at least 14 days' notice of the hearing.

3. At the hearing, the local school board shall receive the recommendation of the division superintendent and then either deny the petition or recommend license revocation or suspension. A decision to deny the petition shall be final, except as specified in subsection G of this section, and the investigative file on the petition shall be closed and

~~maintained as a separate file. Any record or material relating to the allegations in the petition shall be placed in the investigative file. Should the local school board recommend the revocation or suspension of a license, the division superintendent shall forward the recommendation [, petition,] and [the] investigative file to the Superintendent of Public Instruction within 14 days.~~

G. Revocation on motion of the Virginia Board of Education. The Virginia Board of Education reserves the right to act directly to revoke a license when the Virginia Board of Education has reasonable cause to believe that subsection A of this section is applicable. The Superintendent of Public Instruction may send a petition for revocation to the license holder as provided by subsection D of this section. The license holder shall have the opportunity to ~~respond~~ present his written answer, if any, to the petition ~~[or request cancellation of the license]~~ within 14 days of delivery or attempted delivery of the petition, as certified by the United States Postal Service.

1. ~~[If the license holder does not wish to contest the allegations in the petition, he may request the cancellation of the license by submitting a written, signed statement requesting cancellation in response to a petition for revocation. The Superintendent of Public Instruction shall cancel the license and send a notice of cancellation to the person by certified mail within 14 day of receipt of the request for cancellation.~~

2. ~~] If the license holder files a written answer admitting the allegations in the petition or fails to file a written answer within 14 days of delivery or attempted delivery of the petition [,] as certified by the United States Postal Service, the petition shall be forwarded to the Virginia Board of Education for action. No revocation will be ordered without the involved license holder being given the opportunity to appear at a hearing specified in 8VAC20-23-780 C.~~

~~[2. 3.] If the license holder timely files his written answer denying the allegations in the petition, the Superintendent of Public Instruction shall schedule a hearing with the investigative panel provided in 8VAC20-23-780 A. The license holder or his representative, if any, shall be given at least 14 days' notice of the hearing. The investigative panel shall take action on the petition as specified in 8VAC20-23-780 A. No revocation will be ordered without the involved license holder being given the opportunity to appear at a hearing specified in 8VAC20-23-780 C.~~

H. Reinstatement of license. A license that has been revoked may be reinstated by the Virginia Board of Education after five years if the board is satisfied that reinstatement is in the best interest of the public schools of the Commonwealth of Virginia. The individual seeking reinstatement ~~[must shall]~~ submit a written request and completed application to the board. ~~[The request for reinstatement will be reviewed by the~~

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~~Superintendent of Public Instruction's investigative panel pursuant to 8VAC20-23-780.~~] Notification to all appropriate parties will be communicated in writing by the Virginia Department of Education.

8VAC20-23-730. Cancellation.

A. A license may be canceled by the voluntary return of the license by the license holder [in response to a petition for revocation or suspension or pursuant to a court order]. ~~Reasons for cancellation are the same as those listed under 8VAC20-23-720 A.~~

B. The individual may voluntarily return the license to the division superintendent or the Superintendent of Public Instruction with a written, signed statement requesting cancellation. The individual shall acknowledge in the request that he understands that the notice of cancellation will include the statement: "The license holder voluntarily [~~returned~~ surrendered] his teaching license and requested cancellation. ~~Reasons for cancellation are the same as those for revocation.~~" [~~However, if the request for cancellation is in response to a petition for revocation, the~~ The] individual shall [also] acknowledge that he understands that the notice of cancellation will include the statement: "The license holder voluntarily [~~returned~~ surrendered] the license in response to a petition for revocation [or suspension or a court order]." The individual also shall acknowledge that he understands that the cancellation of the license will be reported to division superintendents in Virginia and [, through a national clearinghouse,] to chief state school officers of the other states and territories of the United States. The division superintendent shall forward any request for cancellation and, if applicable, the petition for revocation [or suspension] to the Superintendent of Public Instruction within 14 days of receipt. The Superintendent of Public Instruction shall cancel the license and send the person a notice of cancellation by certified mail within 14 days of receipt of the request for cancellation.

C. A license that has been canceled may be reinstated by the Virginia Board of Education if the board is satisfied that reinstatement is in the best interest of the public schools of the Commonwealth of Virginia. The individual seeking reinstatement [~~must~~ shall] submit a written request and completed application to the board. [~~The request for reinstatement will be reviewed by the Superintendent of Public Instruction's investigative panel pursuant to 8VAC20-23-780 A.~~] Notification to all appropriate parties will be communicated in writing by the Virginia Department of Education.

8VAC20-23-740. Suspension.

A. A license may be suspended for the following reasons:

1. Physical, mental, or emotional incapacity as shown by a competent medical authority;

2. Incompetence or neglect of duty;

3. Failure or refusal to comply with school laws and regulations, including willful violation of contractual obligations;

4. Acts related to secure mandatory tests as specified in subsection A of § 22.1-292.1 of the Code of Virginia;

5. Knowingly and willfully with the intent to compromise the outcome of an athletic competition procure, sell, or administer anabolic steroids or cause such drugs to be procured, sold, or administered to a student who is a member of a school athletic team, or fail to report the use of such drugs by a student to the school principal and division superintendent as required by clause (iii) of subsection A of § 22.1-279.3:1 of the Code of Virginia. Any person whose license is suspended or revoked by the board pursuant to this section shall be ineligible for three school years for employment in the public schools of the Commonwealth; or

6. Other good and just cause in the best interest of the public schools of the Commonwealth of Virginia.

B. Procedures.

1. A complaint may be filed by anyone, but it shall be the duty of a division superintendent, principal, or other responsible school employee to file a complaint in any case in which he has knowledge that [~~the license holder has committed any offense~~ a basis for suspension exists, as] set forth in subsection A of this section. The person making the complaint shall submit the complaint in writing to the appropriate division superintendent. [If the subject of the complaint is the division superintendent, the person making the complaint may submit the complaint to the chair of the local school board.]

2. Upon receipt of the complaint against the holder of a license, a division superintendent or his duly authorized representative shall [immediately and thoroughly] investigate the complaint. If, on the basis of such investigation, the division superintendent finds the complaint to be without merit, he shall so notify the complaining party or parties in writing and then close his file on the matter. This action shall be final unless the local school board on its own motion votes to proceed to a hearing on the complaint.

C. Petition for suspension. Should the division superintendent or local school board conclude that there is reasonable cause to believe that a [~~complaint against the holder of a license is well-founded~~ basis for suspension of the license exists], the license holder shall be notified of the complaint by a written petition for suspension of a license signed by the division superintendent. A copy of such petition shall be sent by certified mail, return receipt requested, to the license holder's last known address.

D. Form of petition. The petition for the suspension of a license shall set forth:

1. The name and last known address of the person against whom the petition is being filed;
2. The type of license and the license number held by the person against whom the petition is being filed;
3. The ~~[offenses alleged basis for suspension]~~ and the specific ~~[underlying alleged]~~ actions ~~[that comprise the alleged offenses]~~;
4. A statement of the rights of the person against whom the petition is being filed. The statement of rights shall notify the person [that the license may be suspended for up to five years with the period of suspension, as determined by the Virginia Board of Education. In addition, the statement shall notify the person that any adverse action against a license, including suspension, will be reported to the division superintendents in Virginia and, through a national clearinghouse, to chief state school officers of the other states and territories of the United States. The statement also shall notify the person] of the right to cancel the license if he chooses not to contest the allegations in the petition [. The statement also shall notify the individual that the license may be suspended for up to five years and that and notify the individual that if he cancels the license,] he shall receive a notice of cancellation that will include the statement: "The license holder voluntarily returned the license in response to a petition for suspension." The individual also shall be notified that the cancellation ~~[and period of suspension]~~ will be reported to division superintendents in Virginia and [, through a national clearinghouse,] to chief state school officers of the other states and territories of the United States; and
5. Any other pertinent information.

E. Filing of petition. The original petition shall be entered in the files of the local school board where the license holder is or was last employed.

F. Response to petition. The license holder shall present his written answer to the petition, if any, within 14 days of delivery or attempted delivery of the petition, as certified by the United States Postal Service.

1. If the license holder does not wish to contest the allegations in the petition, he may ~~[cancel request cancellation of]~~ the license by ~~[returning the license to the division superintendent with]~~ submitting a written and signed statement requesting cancellation ~~[in response to a petition for suspension to the division superintendent]~~. The division superintendent shall forward the request for cancellation along with the petition for suspension to the Superintendent of Public Instruction within 14 days of receipt. The Superintendent of Public Instruction shall cancel the license and send the person a notice of

cancellation [to the person] by certified mail within 14 days of receipt of the request for cancellation.

2. If the license holder files a written answer admitting or denying the allegations in the petition or fails to file a written answer within 14 days of delivery or attempted delivery of the petition [,] as certified by the United States Postal Service, the local school board shall promptly proceed to a hearing. The local school board shall provide a hearing at the time and place of its regular meeting or at such other reasonable time and place it may specify. The license holder or his representative, if any, shall be given at least 14 days' notice of the hearing.

3. At its hearing, the local school board shall receive the recommendation of the division superintendent and then either deny the petition or recommend suspension. A decision to deny the petition shall be final, except as specified in subsection G of this section, and the investigative file on the petition shall be closed and maintained as a separate file. Any record or material relating to the allegations in the petition shall be placed in the investigative file. Should the local school board recommend the suspension of a license, the division superintendent shall forward the recommendation and the investigative file to the Superintendent of Public Instruction within 14 days.

G. Suspension on motion of the Virginia Board of Education. The Virginia Board of Education reserves the right to act directly to suspend a license when the Virginia Board of Education has reasonable cause to believe that subsection A of this section is applicable. The Superintendent of Public Instruction may send a petition for suspension to the license holder as specified in subsection D of this section. The license holder shall have the opportunity to ~~[respond present his written answer]~~ to the petition ~~[or request cancellation of the license, if any,]~~ within 14 days of delivery or attempted delivery of the petition, as certified by the United States Postal Service.

1. [If the license holder does not wish to contest the allegations in the petition, he may request cancellation of the license by submitting a written, signed statement requesting cancellation in response to a petition for suspension. The Superintendent of Public Instruction shall cancel the license and send a notice of cancellation to the person by certified mail within 14 days of receipt of their request for cancellation.

2.] If the license holder files a written answer admitting the allegations in the petition or fails to file a written answer within 14 days of delivery or attempted delivery of the petition [,] as certified by the United States Postal Service, the petition shall be forwarded to the Virginia Board of Education for action. No suspension will be ordered without the involved license holder being given the

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opportunity to appear at a hearing specified in 8VAC20-23-780 C.

[2. 3.] If the license holder timely files his written answer denying the allegations in the petition, the Superintendent of Public Instruction shall schedule a hearing with the investigative panel provided in 8VAC20-23-780 A. The license holder or his representative, if any, shall be given at least 14 days' notice of the hearing. The investigative panel shall take action on the petition as specified in 8VAC20-23-780 A. No suspension will be ordered without the involved license holder being given the opportunity to appear at a hearing specified in 8VAC20-23-780 C.

H. Reinstatement of license. A license may be suspended for a period of time not to exceed five years. The license may be reinstated by the Superintendent of Public Instruction, upon written request and application, with verification that all [requirements for license renewal all conditions for licensure] have been satisfied. Notification to all appropriate parties will be communicated in writing by the Virginia Department of Education.

8VAC20-23-750. Denial.

[A.] A license may be denied for the following reasons:

1. Attempting to obtain [such a] license by fraudulent means or through misrepresentation of material facts;
2. Falsification of records or documents;
3. Conviction of any felony;
4. Conviction of any misdemeanor involving moral turpitude;
5. Conviction of any misdemeanor involving a [minor child or drugs, not including alcohol student or minor];
6. [Conviction of any misdemeanor involving drugs (not alcohol);
7.] Conduct with [a] direct and detrimental effect on the health, welfare, discipline, or morale of [students a student or minor];

[7. 8.] Revocation, suspension, surrender, cancellation, invalidation, or denial of, or other adverse action against, a teaching, administrator, pupil personnel services, or other education-related certificate or license by another state, territory, or country [, or denial of an application for any such certificate or license];

[8. 9.] Founded case of child abuse or neglect, after all [appeal rights administrative appeals] have been exhausted; or

[9. 10.] Other good and just cause in the best interest of the public schools of the Commonwealth of Virginia.

[B. Any denial of a license for a reason set forth in 8VAC20-23-750 A shall be reported to division

superintendents in Virginia and, through a national clearinghouse, to chief state school officers of the other states and territories of the United States.]

8VAC20-23-760. Expired [licenses license].

[A. The holder of a license that has expired must apply for a license according to the procedures set forth in 8VAC20-23-40 or 8VAC20-23-110. Such application may be denied renewal by the Superintendent of Public Instruction for any of the reasons specified in 8VAC20-23-750. No such denial will be ordered unless the license holder is given the opportunity for the hearing specified in 8VAC20-23-780 C.

B. A Action against a] license issued by the Virginia Board of Education may be [revoked or suspended taken] for any of the reasons listed in 8VAC20-23-720 A [or,] 8VAC20-23-740 A, [or 8VAC20-23-750 A] even if the license is expired, as long as the basis for action occurred prior to the issuance of the license or while the license was active.

8VAC20-23-770. Right to counsel and transcript.

A license holder or applicant shall have the right, at his own expense, to be represented by an attorney or other representative at (i) any local school board hearing provided for in 8VAC20-23-720 F 2 or 8VAC20-23-740 F 2, (ii) [the] investigative panel hearing provided for in 8VAC20-23-780 A, or (iii) [in] proceedings before the Virginia Board of Education as specified in 8VAC20-23-780 C. The hearing before the local school board provided for in 8VAC20-23-720 F 2 or 8VAC20-23-740 F 2 and the investigative panel hearing provided for in 8VAC20-23-780 A shall be recorded, and [,] upon written request [,] the license holder or applicant shall be provided a transcript of the hearing at his own expense. Any such hearing before the Virginia Board of Education shall be recorded, and [,] upon written request [,] the license holder or applicant shall be provided a transcript of the hearing at no charge.

8VAC20-23-780. Action by the Superintendent of Public Instruction and the Virginia Board of Education.

A. Upon receipt of a petition, the Superintendent of Public Instruction will ensure that an investigative panel at the state level reviews the petition. The panel shall consist of three to five members selected by the Superintendent of Public Instruction. The applicant or license holder shall be given at least 14 days' notice of the date, time, and location of the investigative panel hearing when his case will be considered. The Virginia Department of Education shall ensure that the applicant or license holder receives all documentation that will be used during the investigative panel hearing prior to the hearing. Representatives of the local school division and the applicant or license holder are entitled to be present with counsel and witnesses if so desired. The investigative panel hearing shall be recorded. The recommendation of the investigative panel is made to the Superintendent of Public Instruction who will forward his recommendation and the

documentation used during the investigative panel hearing to the Virginia Board of Education or its duly designated committee [for consideration] at one of its scheduled meetings. The applicant or license holder shall be given at least 14 days' notice of the Virginia Board of Education meeting when his case will be considered. Following the investigative panel hearing, the Virginia Department of Education shall forward the recommendation of the investigative panel to the applicant or license holder as soon as practicable, but no later than 14 days prior to the scheduled Virginia Board of Education meeting when his case will be considered.

B. The Superintendent of Public Instruction is authorized to approve the issuance of licenses for individuals who have a misdemeanor [~~convictions~~ conviction] related to drugs, not including alcohol, based on a review of the cases. No individual [~~would~~ will] be denied a license without a hearing of the Virginia Board of Education as required in this section.

C. [The applicant or license holder and representatives of the local school division are entitled to be present with counsel and witnesses, if so desired, at the hearing of the Virginia Board of Education.] The Virginia Board of Education, or its duly designated committee, shall consider the recommendation of the Superintendent of Public Instruction and such relevant and material evidence as the applicant or license holder [and representative of the local school division] may desire to present at the hearing. At its discretion, the Virginia Board of Education may ask the applicant or license holder questions. At the conclusion of the hearing, the Virginia Board of Education will announce its decision.

D. The decision of the Virginia Board of Education shall be recorded in the minutes of the meeting, and the applicant or license holder and principal complainants will receive written notice of the decision.

8VAC20-23-790. Right of applicant or license holder to appear at hearing.

An applicant or a license holder shall have the right to appear in person at the hearings held by the local school board, [the Superintendent's Investigative Panel,] Virginia Board of Education, or board committee described in this part unless he is confined to jail or a penal institution. The local school board or Virginia Board of Education, at its discretion, may continue such hearings for a reasonable time if the applicant or license holder is prevented from appearing in person for reasons such as [a] documented medical [condition] or mental impairment.

8VAC20-23-800. Notification.

Notification of the revocation, suspension, cancellation, denial, or reinstatement of a license shall be made by the Superintendent of Public Instruction, or his designee, to division superintendents in Virginia and [, through a national

clearinghouse,] to chief state school officers of the other states and territories of the United States.

VA.R. Doc. No. R13-3476; Filed July 3, 2018, 11:22 a.m.

Final Regulation

Titles of Regulations: 8VAC20-542. Regulations Governing the Review and Approval of Education Programs in Virginia (repealing 8VAC20-542-10 through 8VAC20-542-600).

8VAC20-543. Regulations Governing the Review and Approval of Education Programs in Virginia (adding 8VAC20-543-10 through 8VAC20-543-640).

Statutory Authority: §§ 22.1-16 and 22.1-298.2 of the Code of Virginia.

Effective Date: August 23, 2018.

Agency Contact: Patty S. Pitts, Assistant Superintendent for Teacher Education and Instruction, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 371-2522, or email patty.pitts@doe.virginia.gov.

Summary:

The regulatory action repeals existing regulations (8VAC20-542) and adopts new regulations (8VAC20-543) regarding educational programs that prepare instructional personnel to be accredited and approved for licensure by the Board of Education.

Substantive elements of the regulations focus on (i) revision of selected definitions to conform with changes in the regulations; (ii) modifications in administration of the regulations, including national accreditation for all approved Virginia professional education programs, increased rigor in biennial measures of accountability, and a new appeal process for programs falling below biennial standards to address areas of stipulation; (iii) addition of new educational program endorsement areas in mathematics, engineering, and special education; and (iv) increased rigor in professional studies requirements for selected education program endorsement areas.

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.

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CHAPTER 543 REGULATIONS GOVERNING THE REVIEW AND APPROVAL OF EDUCATION PROGRAMS IN VIRGINIA

Part I Definitions

8VAC20-543-10. Definitions.

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

"Accreditation" means a process for assessing and improving academic and educational quality through voluntary peer review. This process informs the public that an institution has a professional education program that has met national standards of educational quality.

"Accredited institution" means an institution of higher education accredited by a regional accrediting agency recognized by the United States Department of Education.

"Accredited program" means a Virginia professional education program [nationally] accredited by the Council for the Accreditation of Educator Preparation (CAEP) [~~including CAEP/National Council for the Accreditation of Teacher Education (NCATE) and CAEP/Teacher Education Accreditation Council (TEAC)].~~

"Annual [~~report card~~:" education preparation program profile"] means the Virginia Department of Education yearly data [~~report card~~ education preparation program profile] required of all professional education programs in Virginia that offer approved programs for the preparation of school personnel.

"Biennial accountability measures" means those specific benchmarks set forth in 8VAC20-543-40 to meet the standards required to obtain or maintain education endorsement program approval status.

"Biennial accountability measurement report" means the compliance report submitted to the Virginia Department of Education every two years by an accredited professional education program.

"Candidates" means individuals enrolled in education programs.

"Department" means the Virginia Department of Education.

"Diversity" means the wide range of differences among groups of people and individuals based on ethnicity, race, socioeconomic status, gender, exceptionalities, language, religion, and geographical area.

"Education endorsement program" means a state-approved course of study, the completion of which signifies that an enrollee has met all the state's educational and training requirements for initial licensure in a specified endorsement area.

"Field experiences" means program components that are (i) conducted in off-campus settings or on-campus settings dedicated to the instruction of children who would or could otherwise be served by school divisions in Virginia or accredited nonpublic schools and (ii) accredited for this purpose by external entities such as regional accrediting agencies. Field experiences include classroom observations, tutoring, assisting teachers and school administrators, and supervised clinical experiences (i.e., practica, student teaching, and internships). [Field experiences are required for all programs.]

"Indicators" means operational definitions that suggest the kinds of evidence that professional education programs shall provide to demonstrate that a standard is met.

"Instructional technology" means the theory and practice of design, development, utilization, management, and evaluation of processes and resources for learning and the use of computers and other technologies.

"Licensing" means the official recognition by a state governmental agency that an individual has met state requirements and is, therefore, approved to practice as a licensed professional.

"Professional education program" means the Virginia institution, college, school, department or other administrative body within a Virginia institution of higher education, or another Virginia entity, for a defined education program that is primarily responsible for the preparation of teachers and other professional school personnel.

"Professional studies" means courses and other learning experiences designed to prepare candidates to demonstrate competence in the areas of human development and learning, curriculum and instruction, assessment of and for learning, classroom and behavior management, the [foundations of education and the] teaching profession, reading, and supervised clinical experiences.

"Program approval" means the process by which a state governmental agency reviews an education program to determine if it meets the state's standards for the preparation of school personnel.

"Program completers" means individuals who have successfully completed all coursework, required licensure assessments, including those prescribed by the Board of Education, and supervised student teaching or [the] required internship.

"Program noncompleters" means individuals who have been officially admitted into an education program and who have taken, regardless of whether the individuals passed or failed, required licensure assessments and [~~who exit the program prior to completion~~ have successfully completed all coursework, but who have not completed supervised student teaching or the required internship]. Program noncompleters

shall have been officially released in writing from an education endorsement program by an authorized administrator of the program. Program noncompleters who did not take required assessments are not included in biennial reporting pass rates.

"Regional accrediting agency" means one of the six accrediting associations recognized by the United States Department of Education as follows: New England Association of Schools and Colleges, Middle States Association of Colleges and Schools, North Central Association of Colleges and Schools, Northwest Commission on Colleges and Universities, Southern Association of Colleges and Schools, and Western Association of Schools and Colleges.

"[Virginia] Standards of Learning for Virginia public schools" means the Commonwealth's expectations for student learning and achievement in grades K-12 in English, mathematics, science, history/social science, technology, fine arts, foreign language, health and physical education, and driver education.

Part II

Accreditation and Administering this Chapter

8VAC20-543-20. Accreditation and administering this chapter.

A. Institutions of higher education seeking approval of an education endorsement program shall be accredited by a regional accrediting agency.

B. Professional education programs in Virginia shall obtain and maintain national accreditation from the Council for the Accreditation of Educator Preparation (CAEP) [~~including CAEP/National Council for the Accreditation of Teacher Education (NCATE) and CAEP/Teacher Education Accreditation Council (TEAC)~~]. Professional education programs in Virginia seeking accreditation through CAEP shall adhere to procedures and timelines established by CAEP and the CAEP/Virginia Partnership Agreement. Professional education programs shall ensure and document that programs are aligned with standards set forth in 8VAC20-543-40 through 8VAC20-543-50 and meet competencies outlined in 8VAC20-543-60 through 8VAC20-543-640.

C. If a professional education program fails to maintain accreditation, enrolled candidates shall be permitted to complete their programs of study. Professional education programs that fail to maintain accreditation shall not admit new candidates. Candidates shall be notified of the education endorsement program's approval status.

D. Teacher candidates shall complete academic degrees in the arts and sciences, or equivalent, except in health, physical, and career and technical education. Candidates in early/primary education [() preK-3 ()], elementary education (preK-6), middle education (6-8), and special

education programs may complete a major in interdisciplinary studies or its equivalent. Candidates seeking a secondary endorsement area must have earned a major, or the equivalent, in the area sought.

E. Professional studies coursework and methodology, including field experiences, required in this chapter shall be designed for completion within [~~a baccalaureate degree~~ an approved] program.

F. Professional education programs shall ensure that candidates demonstrate proficiency in the use of educational technology for instruction; complete study in child abuse recognition and intervention; and complete training or certification in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. [Candidates in education endorsement programs must demonstrate an understanding of competencies, including the core concepts and facts of the disciplines and the Virginia Standards of Learning, for the content areas they plan to teach. Professional education programs shall ensure that candidates demonstrate skills needed to help preK-12 students achieve college and career performance expectations.]

G. Standards and procedures for the review and approval of each education endorsement program shall adhere to procedures for administering the chapter as defined in this section and in 8VAC20-543-40, 8VAC20-543-50, and 8VAC20-543-60. These procedures shall result in biennial recommendations to the Board of Education for one of the following three ratings: "approved," "approved with stipulations," or "approval denied."

H. Education endorsement programs shall be approved under this chapter biennially based on compliance with the criteria described in 8VAC20-543-40, 8VAC20-543-50, and 8VAC20-543-60.

I. The Department of Education will determine the timeline and procedures for applying for education endorsement program approval.

J. Education endorsement programs in Virginia shall address the competencies set forth in this chapter, and the curriculum for each program must be documented and submitted to the Department of Education for approval.

K. Professional education programs shall submit to the Department of Education on behalf of each education endorsement program under consideration a biennial accountability measurement report and an annual [~~report card~~ education preparation program profile] to include data prescribed by the Board of Education on education endorsement programs in accordance with department procedures and timelines.

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L. The professional education program authorized administrator shall maintain copies of approved education endorsement programs and required reports.

M. The Department of Education may conduct onsite visits to review education endorsement programs and verify data.

N. The Advisory Board on Teacher Education and Licensure (ABTEL) is authorized to review and make recommendations to the Board of Education on approval of Virginia education endorsement programs for school personnel. The Board of Education has final authority on education endorsement program approval.

O. [In administering this chapter, licensure requirements for Virginia are outlined in the Licensure Regulations for School Personnel (8VAC20-23) This document should be referenced for detailed information regarding requirements for Virginia licensure. An individual must meet licensure requirements set forth in the Code of Virginia.

P.] Modifications may be made by the Superintendent of Public Instruction in the administration of this chapter. Proposed modifications shall be made in writing to the Superintendent of Public Instruction, Commonwealth of Virginia.

[Q. Upon the effective date of this chapter, the Board of Education grants colleges and universities two years to align their existing approved programs with this chapter and allows only college and universities that on the effective date of this chapter are accredited by the Board of Education process four years to become accredited by the Council for the Accreditation of Educator Preparation (CAEP) with the option of submitting a progress report to the Superintendent of Public Instruction to request an additional year, if needed.]

Part III

Application for New Education Endorsement Programs

8VAC20-543-30. Application for new education endorsement programs.

A. Requests for new education endorsement programs shall be approved by the Virginia Board of Education.

B. The professional education program shall submit a request for the new program in a format provided by the Department of Education that shall address the following requirements:

1. Rationale for the new education endorsement program, to include local division or service area demand data and statements of support from the institution's dean, provost, president, or designee and Virginia school divisions. A summary of the stakeholders' involvement in the development of the education endorsement program must be included.

2. Capacity of the institution to offer the education endorsement program.

3. List of the requirements for the education endorsement program, to include the degree, major, and the curriculum.

4. Matrices demonstrating that the competencies set forth in this chapter have been incorporated in the education endorsement program.

5. Description of structured and integrated field experiences to include early clinical experiences and a summative supervised student teaching experience.

6. Description of the partnerships and collaborations based on preK-12 school needs.

Part IV

Standards for Biennial Approval of Education Endorsement Programs

8VAC20-543-40. Standards for biennial approval of education endorsement programs.

Education endorsement programs in Virginia shall be approved by the Board of Education and demonstrate achievement biennially of the accountability measures in this section. The institution of higher education must report evidence of the standards for Board of Education review biennially.

1. Candidate progress and performance on prescribed Board of Education licensure assessments. Candidate passing rates, reported by percentages, shall not fall below 80% biennially for program completers and program noncompleters. Program completers are individuals who have successfully completed all coursework, required licensure assessments, and supervised student teaching or required internship. Program noncompleters are those individuals who have been officially admitted into the education program and who have taken, regardless of whether the individual passed or failed, required licensure assessments, and [~~who exit the program prior to completion~~ have successfully completed all coursework, but who have not completed supervised student teaching or the required internship]. Program noncompleters shall have been officially released (in writing) from an education endorsement program by an authorized administrator of the program.

2. Candidate progress and performance on an assessment of basic skills as prescribed by the Board of Education for individuals seeking entry into an approved education endorsement program.

Indicators of the achievement of this standard shall include the following:

a. Results on Board of Education prescribed entry-level assessments;

b. Documentation that candidates enrolled in the program who fail to achieve a minimum score established by the

Board of Education have the opportunity to address deficiencies; and

c. Documentation of the number of candidates admitted into the program who did not meet the prescribed admission assessment and the opportunities provided to the candidates to address deficiencies.

3. Structured and integrated field experiences to include early clinical experiences and a summative supervised student teaching experience.

Indicators of the achievement of this standard shall include the following:

a. Evidence that candidates receive quality clinically-based structured and integrated field experiences that prepare them to work in diverse educational environments; and

b. Evidence that supervised clinical experiences are continuous and systematic and comprised of early field experiences with a minimum of 10 weeks of [successful] full-time student teaching under the supervision of a cooperating teacher with demonstrated effectiveness in the classroom, as indicated by a proficient or exemplary evaluation rating. The supervised student teaching experience shall include at least 150 clock hours spent in direct teaching at the level of endorsement.

4. Evidence of opportunities for candidates to participate in diverse school settings that provide experiences with populations that include racial, [gender, exceptionality, religion, geographic,] economic, linguistic, and ethnic diversity throughout the program experiences.

The indicator of the achievement of this standard shall include evidence that the professional education program provides opportunities for candidates to have program experiences in diverse school settings that provide experiences with populations that include racial, [gender, exceptionality, religion, geographic,] economic, linguistic, and ethnic diversity within each biennial period.

5. Evidence of contributions to preK-12 student achievement by candidates completing the program.

Indicators of the achievement of this standard shall include the following:

a. Evidence to show that candidates know about, create, and use appropriate and effective data-driven assessments in teaching that shall provide dependable information about student achievement;

b. Evidence to document that faculty have made provisions for evaluating the effects that candidates have on preK-12 student learning in the context of teaching as they design unit assessment systems and assessments for each program; and

c. Evidence that the education program assesses candidates' mastery of exit criteria and performance proficiencies, including the ability to affect student learning, through the use of multiple sources of data such as a culminating experience, portfolios, interviews, videotaped and observed performance in schools, standardized tests, and course grades.

6. Evidence of employer job satisfaction with [candidates graduates] completing the program.

Indicators of the achievement of this standard shall include:

a. Documentation that the professional education program has two years of evidence regarding [candidate graduates] performance based on employer surveys.

b. Documented evidence of teacher effectiveness, including student academic progress.

7. Partnerships and collaborations based on preK-12 school needs.

Indicators of the achievement of this standard shall include the following:

a. Documented evidence that the education endorsement program has established partnerships reflecting collaboratively designed program descriptions based on identified needs of the preK-12 community.

b. Documented evidence that the administration and supervision program collaborates with partnering schools to identify and select candidates for school leadership programs who meet local needs, demonstrate both potential for and interest in school leadership, and meet the qualifications for admission to advanced programs.

Part V

Application of Standards for Biennial Approval of Education Endorsement Programs

8VAC20-543-50. Application of the standards.

A. As a prerequisite to education endorsement program approval, professional education programs in Virginia shall have national accreditation. Failure to do so will result in the education endorsement program being designated as "approval denied."

B. The education endorsement program's candidate passing rates, reported by percentages, shall not fall below 80% biennially for program completers and program noncompleters. Program completers are individuals who have successfully completed all coursework, required licensure assessments, and supervised student teaching or [the] required internship. Program noncompleters are those individuals who have been officially admitted into the education program and who have taken, regardless of whether the individual passed or failed, required licensure

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assessments, and ~~[who exit the program prior to completion have successfully completed all coursework, but who have not completed supervised student teaching or the required internship]~~. Program noncompleters shall have been officially released (in writing) from an education endorsement program by an authorized administrator of the program.

C. The professional education program's authorized administrator is responsible to certify documented evidence that the following standards as set forth in 8VAC20-543-40 have been met by the education endorsement program:

1. The professional education program shall demonstrate candidate progress and performance on an assessment of basic skills as prescribed by the Board of Education for individuals seeking entry into an approved education endorsement program.
2. The professional education program shall provide structured and integrated field experiences.
3. The professional education program shall provide evidence of opportunities for candidates to participate in diverse school settings that provide experiences with populations that include racial, ~~[gender, exceptionality, religion, geographic,]~~ economic, linguistic, and ethnic diversity throughout the program experiences.
4. The professional education program shall provide evidence of contributions to preK-12 student achievement by candidates completing the program.
5. The professional education program shall provide evidence of employer job satisfaction with ~~[candidates graduates]~~ completing the program.
6. The professional education program shall develop and provide evidence of biennial accountability measures for partnerships and collaborations based on preK-12 school needs.

D. After submitting to the Department of Education the information contained in 8VAC20-543-40, education endorsement programs in Virginia shall receive one of the following three ratings:

1. Approved. The education endorsement program has met all standards set forth in 8VAC20-543-40.
2. Approved with stipulations. The education endorsement program has met standards in subsections A and B of this section and is making documented progress toward meeting standards in subsection C of this section. ~~[Biennial]~~ Institutions with education endorsements programs that fall below the 80% biennial requirement shall submit to the Board of Education for approval an improvement plan to address the areas of stipulation, including measurable goals and timelines. Semiannual reports must be submitted to the Director of Teacher Education to document the progress in addressing the goals

toward elimination of the stipulation until the next biennial review period. The biennial] passing rates that fall below the 80% requirement for program completers and noncompleters shall result in the education endorsement program receiving a rating of "approved with stipulations." The passing rate for program completers and noncompleters must meet the 80% passing rate requirement by the end of the next biennial period for the program to be approved; if the 80% pass rate is not achieved, the program will be denied. ~~[However, if the education endorsement program has less than 10 program completers and noncompleters, the institution must submit an annual report attesting to continued progress in meeting the requirements.]~~

3. Approval denied. Approval may be denied if:

- a. The education endorsement program has not met standards in subsection A of this section;
- b. The education endorsement program has met standards in subsection A of this section but has not met requirements in subsection B of this section for two consecutive biennial reporting periods. The program shall be denied and the public notified. The program may resubmit a request for approval at the end of the next biennial period.

Part VI

Professional Education Program Accountability

8VAC20-543-60. Biennial accountability measurement report.

The accredited professional education program shall report, every two years, in accordance with Virginia Department of Education procedures, those specific criteria set forth in 8VAC20-543-40 to meet the standards required to obtain or maintain education endorsement program approval status.

8VAC20-543-70. Annual ~~[report—card]~~ education preparation program profile]

The accredited professional education program shall submit to the Virginia Department of Education a yearly ~~[data report card]~~ education preparation program profile] on the preparation of professional school personnel. The ~~[report card]~~ education preparation program profile] shall be published on the department's website. The information required on the ~~[report—card]~~ education preparation program profile] shall be approved by the Board of Education and ~~[will shall]~~ include the following:

1. Institution's accreditation status;
2. Education endorsement program status;
3. Number of candidates admitted in education endorsement programs;

- 4. ~~[Number of candidates admitted in education endorsement programs who are in the top quartile of the college or university population. Comparison of candidates, admitted to education endorsement programs to overall college or university population;]~~
- 5. ~~Number of program completers [,including number of program completers in critical shortage teaching areas for each endorsement program];~~
- 6. ~~Number of program noncompleters [for each endorsement program];~~
- 7. Biennial accountability data results;
- 8. ~~[Number of candidates admitted into the program for the reporting year who did not meet the prescribed admission assessment requirement;~~
- 9. ~~Number of program completers for the reporting year who were admitted without meeting the prescribed admission assessment requirement;~~
- 10. ~~Number of program noncompleters for the reporting year who were admitted to the program without meeting the prescribed admission assessment requirement;~~
- 14. ~~]~~ Satisfaction ratings by school administrators and clinical experience supervisors ~~[on of]~~ student teachers;
- ~~[12. 9.]~~ Satisfaction ratings by employers of program ~~[completers graduates];~~
- ~~[13. 10.]~~ Satisfaction ratings of program ~~[completers graduates]~~ within two years of employment; ~~[and~~
- 11. Recognition of other program achievements; and
- 14. 12.] Other data as required by the Board of Education.

Part VII

Competencies for Endorsement Areas

Article 1

General Competencies

8VAC20-543-80. Competencies and requirements for endorsement areas.

A. The professional education program develops, maintains, and continuously evaluates high quality education endorsement programs that are collaboratively designed and based on identified needs of the preK-12 community. Candidates in education endorsement programs shall demonstrate competence in the areas in which they plan to practice and complete professional studies requirements and applicable assessments, in addition to meeting requirements for specific licenses, pursuant to the Licensure Regulations for School Personnel ~~[(8VAC20-22) (8VAC20-23)]~~. The Licensure Regulations for School Personnel set forth the required degrees from regionally accredited colleges or universities for licenses, endorsements, and prerequisite licenses or endorsements for add-on endorsements.

B. All education endorsement programs in early/primary education preK-3, elementary education preK-6, middle education 6-8, and history and social sciences must include local government and civics instruction specific to Virginia.

C. Candidates in education endorsement programs demonstrate an understanding of competencies, including the core concepts and facts of the disciplines and the Virginia Standards of Learning, for the content areas in which they plan to teach where required.

D. Candidates in early/primary education preK-3, elementary education preK-6, and special education complete a minimum of six semester hours of reading coursework as outlined in the reading competencies.

E. Candidates seeking an early/primary education preK-3 or an elementary education preK-6 endorsement must complete [a minimum of] 12 [~~15~~] semester hours each in English, history and social sciences, mathematics, and science addressing competencies set forth in this chapter or complete the following:

1. English: complete six semester hours in English and pass a rigorous assessment in elementary English prescribed by the Board of Education.

2. History and social sciences: complete six semester hours in history and social sciences [, complete a methods of teaching elementary history and social sciences course,] and pass a rigorous assessment in elementary history and social sciences prescribed by the Board of Education.

3. Mathematics: complete six semester hours in mathematics, complete a methods of teaching elementary mathematics course, and pass a rigorous assessment in elementary mathematics prescribed by the Board of Education.

4. Science: complete six semester hours in laboratory sciences in two science disciplines, complete a methods of teaching elementary science course, and pass a rigorous assessment in elementary science prescribed by the Board of Education.

~~[F. Candidates seeking an endorsement in special education general curriculum K-12 must have one area of specialization in English, history and social sciences, mathematics, or science with 12-15 semester hours in the specialization area.~~

G. F.] Candidates seeking a middle education endorsement must have an area of concentration in English, history and social sciences, mathematics, or science with 21 [~~24~~] semester hours in the concentration area.

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Article 2

Early/Primary Education, Elementary Education, and Middle Education Endorsements

8VAC20-543-90. Professional studies requirements for early/primary education, elementary education, and middle education.

Professional studies requirements for early/primary education, elementary education, and middle education:

1. Human development and learning (birth through adolescence).

a. Skills in this area shall contribute to an understanding of the physical, social, emotional, speech and language, and intellectual development of children and the ability to use this understanding in guiding learning experiences and relating meaningfully to students.

b. The interaction of children with individual differences - economic, social, racial, ethnic, religious, physical, and ~~mental~~ cognitive -] should be incorporated to include skills contributing to an understanding of developmental disabilities and developmental issues related [,] but not limited to [,] low socioeconomic status [;] attention deficit disorders [;] developmental disorders [;] gifted education, including the use of multiple criteria to identify gifted students [;] substance abuse [~~child abuse~~; trauma, including child abuse, and neglect and other adverse childhood experiences;] and family disruptions.

2. Curriculum and instruction.

a. Early/primary education preK-3 or elementary education preK-6 curriculum and instruction.

(1) Skills in this area shall contribute to an understanding of the principles of learning; the application of skills in discipline-specific methodology; [varied and] effective [methods of] communication with and among students; selection and use of materials, including media and contemporary technologies; [and] selection, development, and use of appropriate curricula, methodologies, and materials that support and enhance student learning and reflect the research on unique, age-appropriate, and culturally relevant curriculum and pedagogy.

(2) Understanding of the principles of online learning and online instructional strategies and the application of skills to deliver online instruction [~~must shall~~] be included.

(3) Instructional practices that are sensitive to culturally and linguistically diverse learners, including [~~limited English proficient students~~ English learners], gifted and talented students, and students with disabilities [;] and appropriate for the level of endorsement (preK-3 or preK-6) sought shall be included.

(4) Teaching methods shall be tailored to promote student engagement and student academic progress and effective preparation for the [Virginia] Standards of Learning assessments.

(5) Study in (i) methods of improving communication between schools and families, (ii) communicating with families regarding social and instructional needs of children, (iii) ways of increasing family [involvement engagement] in student learning at home and in school, (iv) the Virginia Standards of Learning, and (v) Virginia Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds prepared by the department's Office of Humanities and Early Childhood shall be included.

(6) Early childhood educators must understand the role of families in child development and in relation to teaching educational skills.

(7) Early childhood educators must understand the role of the informal and play-mediated settings for promoting students' skills and development and must demonstrate knowledge and skill in interacting in such situations to promote specific learning outcomes as reflected in Virginia's Foundation Blocks for Early Learning [; Comprehensive Standards for Four-Year-Olds].

(8) Demonstrated proficiency in the use of educational technology for instruction shall be included. [~~Persons seeking initial licensure as teachers and persons seeking licensure renewal as teachers for the first time shall complete study~~ Study] in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services [~~that are relevant to the specific teacher licensure routes~~ and training or certification in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators must be included.

(9) Pre-student teaching experiences (field experiences) should be evident within these skills.

b. Middle education 6-8 curriculum and instruction.

(1) Skills in this area shall contribute to an understanding of the principles of learning; the application of skills in discipline-specific methodology; effective communication with and among students, selection and use of materials, including media and contemporary technologies [; and] evaluation of pupil performance [; and the relationships among assessment, instruction, and monitoring student progress to include student performance measures in grading practices, the ability to construct and interpret valid assessments using a variety of formats in order to measure student attainment of essential skills in a standards based environment, and the

~~ability to analyze assessment data to make decisions about how to improve instruction and student performance~~].

(2) Understanding of the principles of online learning and online instructional strategies and the application of skills to deliver online instruction [~~must shall~~] be included.

(3) Instructional practices that are sensitive to culturally and linguistically diverse learners including [~~limited English proficient students~~ English learners], gifted and talented students, and students with disabilities, and must be appropriate for the middle education endorsement shall be included.

(4) Teaching methods shall be tailored to promote student engagement and student academic progress and effective preparation for the [Virginia] Standards of Learning assessments.

(5) Study in methods of improving communication between schools and families, ways of increasing family [~~involvement~~ engagement] in student learning at home and in school, and the [Virginia] Standards of Learning shall be included.

(6) Demonstrated proficiency in the use of educational technology for instruction shall be included. [~~(7) Persons seeking initial licensure as teachers and persons seeking licensure renewal as teachers for the first time shall complete study~~ Study] in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services [~~that are relevant to the specific teacher licensure routes and training or certification in emergency first aid cardiopulmonary resuscitation and the use of automatic external defibrillators shall be included.~~].

(7)] Pre-student teaching experiences (field experiences) should be evident within these skills.

3. Classroom and behavior management. Skills in this area shall contribute to an understanding and application of research-based classroom and behavior management techniques, classroom community building, positive behavior supports, and individual interventions, including techniques that promote emotional well-being and teach and maintain behavioral conduct and skills consistent with norms, standards, and rules of the educational environment. This area shall address diverse approaches based upon [~~culturally responsive~~] behavioral, cognitive, affective, social, and ecological theory and practice. Approaches should support professionally appropriate practices that promote positive redirection of behavior, development of social skills, and [~~self-discipline~~ development of self-discipline]. Knowledge and an understanding of various school crisis management and

safety plans and the demonstrated ability to create a safe, orderly classroom environment [~~must shall~~] be included. The link between classroom management and students' ages must be understood and demonstrated in techniques used in the classroom.

4. Assessment of and for learning.

a. Skills in this area shall be designed to develop an understanding and application of creating, selecting, and implementing valid and reliable classroom-based assessments of student learning, including formative and summative assessments. Assessments designed and adapted to meet the needs of diverse learners [~~must shall~~] be addressed.

b. Analytical skills necessary to inform ongoing planning and instruction, as well as to understand, and help students understand their own progress and growth [~~must shall~~] be included.

c. Skills also include the ability to understand the relationships among assessment, instruction, and monitoring student progress to include student performance measures in grading practices; the ability to interpret valid assessments using a variety of formats in order to measure student attainment of essential skills in a standards-based environment; and the ability to analyze assessment data to make decisions about how to improve instruction and student performance.

d. Understanding of state assessment programs and accountability systems, including assessments used for student achievement goal setting as related to teacher evaluation and determining student academic progress [~~including knowledge of legal and ethical aspects of assessment~~] must be included].

e. [~~Skills include~~ Knowledge of legal and ethical aspects, and skills for] developing familiarity with assessments used in preK-12 education [~~e.g.,~~ (including) diagnostic, college admission exams, industry certifications, placement assessments).

5. [~~The~~ Foundations of education and the] teaching profession.

a. Skills in this area shall be designed to develop an understanding of the historical, philosophical, and sociological foundations underlying the role, development, and organization of public education in the United States.

b. Attention must be given to the legal status of teachers and students, including federal and state laws and regulations; school as an organization and culture; and contemporary issues and current trends in education, including the impact of technology on education. Local, state, and federal governance of schools, including the

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roles of teachers and schools in communities, [~~must~~ shall] be included.

c. Professionalism and ethical standards [,] as well as personal integrity [~~must~~ shall] be addressed.

d. Knowledge and understanding of Virginia's Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers [~~must~~ shall] be included.

6. Reading Language and Literacy].

a. Early/primary education preK-3 and elementary education preK-6 [-] language acquisition and reading and writing. Skills listed for these endorsement areas represent the minimum competencies that a beginning teacher must be able to demonstrate. These skills are not intended to limit the scope of a beginning teacher's program. Additional knowledge and skills that add to a beginning teacher's competencies to deliver instruction and improve student achievement should be included as part of a quality learning experience.

(1) Language acquisition: Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning [,] as well as the complex nature of language acquisition as a precursor to literacy. Language acquisition shall follow the typical development of linguistic competence in the areas of phonetics, semantics, syntax, morphology, phonology, and pragmatics.

(2) Reading and writing: Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning [,] as well as the reciprocal nature of reading and writing. Reading shall include phonemic [and other phonological] awareness, concept of print, phonics, fluency, vocabulary development, and comprehension strategies. Writing shall include writing strategies and conventions as supporting the composing and [~~writing~~ written] expression and usage and mechanics domains. Additional skills shall include proficiency in understanding the stages of spelling development, [and] the writing process [,] as well as the ability to foster appreciation of a variety of fiction and nonfiction text and independent reading.

b. Middle education - language acquisition and reading development and literacy in the content areas.

(1) Language acquisition and reading development: Skills in this area shall be designed to impart a thorough understanding of the complex nature of language acquisition and reading, to include phonemic [and other phonological] awareness, phonics, fluency, vocabulary development, and comprehension strategies for adolescent learners. Additional skills shall include proficiency in writing strategies, as well as the ability to

foster appreciation of a variety of fiction and nonfiction text and independent reading for adolescent learners.

(2) Literacy in the content areas: Skills in this area shall be designed to impart an understanding of vocabulary development and comprehension skills in areas of English, mathematics, science, history and social science, and other content areas. Strategies include teaching students how to ask effective questions, summarize and retell both verbally and in writing, and to listen effectively. Teaching strategies include literal, interpretive, critical, and evaluative comprehension, as well as the ability to foster appreciation of a variety of fiction and nonfiction text and independent reading for adolescent readers.

7. Supervised clinical experiences. The supervised clinical experiences shall be continuous and systematic and comprised of early field experiences with a minimum of 10 weeks of [successful] full-time student teaching [in the endorsement area sought] under the supervision of a cooperating teacher with demonstrated effectiveness in the classroom. The summative supervised student teaching experience shall include at least 150 clock hours spent in direct teaching at the level of endorsement [in a public or accredited nonpublic school]. One year of successful full-time teaching experience in the endorsement area in any public school or accredited nonpublic school may be accepted in lieu of the supervised student teaching experience. A fully licensed, experienced teacher shall be available in the school building to assist a beginning teacher employed through the alternate route.

8VAC20-543-100. Early childhood for three-year-olds and four-year-olds (add-on endorsement).

The program in early childhood education for three-year-olds and four-year-olds shall ensure that the candidate holds an active license with an endorsement in elementary education [(4)] such as preK-3 or preK-6 [(3)] or special education early childhood issued by the Virginia Board of Education and has demonstrated the following competencies:

1. Understanding child growth and development from birth through age five, with a specific focus on three-year-olds and four-year-olds, including:

a. Knowledge of characteristics and developmental needs of three-year-olds and four-year-olds, including the ability to recognize indicators of typical and atypical development, in the domains of language, social, emotional, cognitive, physical, and gross and fine motor development;

b. Understanding of the multiple interacting influences on child development (biological and environmental), interconnectedness of developmental domains, the wide range of ages at which developmental skills are

- manifested, and the individual differences in behavioral styles; and
- c. Knowledge of child development within the context of family, culture, and society.
2. Understanding principles of developmental practice, with a focus on three-year-olds and four-year-olds, including practices that are:
- a. [~~Appropriate to the~~ Effective in supporting each] child's age and stage of development;
- b. Appropriate for children with a wide range of individual differences in abilities, interests, and [~~learning styles~~ approaches to learning]; and
- c. Appropriate for the child's cultural background and experience.
3. Understanding health and nutritional practices that impact early learning including:
- a. Practices and procedures that support health status conducive to optimal development [~~e.g.~~], [such as] health assessment, prevention of the spread of communicable disease, oral hygiene, reduction of environmental hazards, [protection from toxic stress] injury prevention, and emergency preparedness [~~]~~;
- b. Indicators of possible child abuse or neglect and the appropriate response if such indicators are observed;
- c. Nutritional and dietary practices that support healthy growth and development while remaining sensitive to each family's preferences, dietary restrictions, and culture;
- d. Skills for communicating with families about health and dietary concerns;
- e. Community resources that support [~~healthy living~~ child and family health and well-being]; and
- f. Practices that allow children to become independent and knowledgeable about healthy living.
4. Understanding and application of formal and informal assessment procedures for documenting development and knowledge of how to use assessment to plan curriculum, including:
- a. Age-appropriate and stage-appropriate methods for documenting, assessing, and interpreting development and learning;
- b. Identifying and documenting children's interests, strengths, and challenges; and
- c. Communicating with families to acquire and to share information relevant to assessment.
5. Understanding effective strategies for (i) facilitating positive reciprocal relationships with children for teachers, families, and communities through mutual respect, communication strategies, collaborative linkages among families, and community resources and (ii) nurturing the capacity of family members to serve as advocates on behalf of children.
6. Understanding strategies for planning, implementing, assessing, and modifying physical and psychological aspects of the learning environment to support language, physical, cognitive, and social, as well as emotional, well-being in children with a broad range of developmental levels, special needs, individual interests, and cultural backgrounds, including the ability to:
- a. Utilize learning strategies that stimulate curiosity, promote thinking, and encourage participation in exploration and play;
- b. Provide curriculum that facilitate learning goals in content areas [of the Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds] and provide opportunities to acquire concepts and skills that are precursors to academic content taught in elementary school;
- c. Adapt tasks [~~to the~~ and interactions to maximize language development, conceptual understanding, and skill competences within each] child's zone of proximal development;
- d. Nurture children's development through firsthand experiences and opportunities to explore, examine, and investigate real materials in authentic context and engage in social interactions with peers and adults;
- e. Select materials and equipment, arrange physical space, and plan schedules and routines to stimulate and facilitate development; and
- f. Collaborate with families, colleagues, and members of the broader community to construct learning environments that promote a spirit of unity, respect, and service in the interest of the common good.
7. Understanding strategies that create positive and nurturing relationships with each child based on respect, trust, and acceptance of individual differences in ability levels, temperament, and other characteristics, including the ability to:
- a. Emphasize the importance of supportive verbal and nonverbal communication;
- b. Establish classroom and behavior management practices that are respectful, meet children's emotional needs, clearly communicate expectations for appropriate behavior, promote [self-regulation and] pro-social behaviors, prevent or minimize behavioral problems through careful planning of the learning environment,

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teach conflict resolution strategies, and mitigate or redirect challenging behaviors; and

c. Build positive, collaborative relationships with children's families with regard to behavioral guidance.

[8. The program shall include a practicum that shall include a minimum of 45 instructional hours of successful teaching experience in a public or accredited nonpublic school with children from three years old to age five.]

8VAC20-543-110. Early/primary education preK-3.

The program for early/primary education preK-3 shall ensure that the candidate has demonstrated the following competencies:

1. Methods.

a. Understanding of the knowledge, skills, [dispositions] and processes to support learners in achievement of Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Standards of Learning in English, mathematics, history and social science, science, and computer [and] technology;

b. The ability to integrate English, mathematics, science, health, history and social sciences, art, music, drama, movement, and technology in learning experiences;

c. The use of differentiated instruction and flexible groupings to meet the needs of learners at different stages of development, [approaches to learning] abilities, and achievement;

d. The use of appropriate methods [,] including those in visual and performing arts, to help learners develop knowledge and basic skills, sustain intellectual curiosity, and problem-solve;

e. The ability to utilize effective classroom management skills through methods that build responsibility and self-discipline [, promote self-regulation,] and maintain a positive learning environment;

f. The ability to modify and manage learning environments and experiences to meet the individual needs of children, including children with disabilities, gifted children, children [~~with limited proficiency in English~~ who are English learners], and children with diverse cultural needs;

g. The ability to use formal and informal assessments to diagnose needs, plan and modify instruction, and record student progress;

h. A commitment to professional growth and development through reflection, collaboration, and continuous learning;

i. The ability to analyze, evaluate, and apply quantitative and qualitative research; [and]

j. The ability to use technology as a tool for teaching, learning, research, and communication [; and

k. The ability to adapt task and interactions to maximize language development, conceptual understanding, and skill competence within each child's zone of proximal development].

2. Knowledge and skills.

a. Reading and English. Understanding of the content, knowledge, skills, [dispositions,] and processes for teaching Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Standards of Learning for English [,] including oral language (speaking and listening), reading, and writing, and how these standards provide the core for teaching English in grades preK-3 (early/primary licensure).

(1) Assessment and diagnostic teaching. The individual shall:

(a) Be proficient in the use of both formal and informal assessment as screening, diagnostic, and progress monitoring measures for the component of reading: [~~phoneme~~ phonemic] awareness, letter recognition, decoding, fluency, vocabulary, reading levels, and comprehension; and

(b) Be proficient in the ability to use diagnostic data to inform instruction for acceleration, intervention, remediation, and differentiation.

(2) Oral communication. The individual shall:

(a) Be proficient in the knowledge, skills, and processes necessary for teaching oral language [~~and~~, such as] speaking and listening [and];

(b) Be proficient in developing students' phonological awareness skills;

(c) Demonstrate effective strategies for facilitating the learning of standard English by speakers of other languages and dialects; and

(d) Demonstrate the ability to promote creative thinking and expression, such as through storytelling, drama, and choral and oral reading [~~and~~].

(3) Reading and literature. The individual shall [demonstrate the following competencies]:

(a) Be proficient in explicit phonics instruction, including an understanding of sound and symbol relationships, syllables, phonemes, morphemes, word analysis, and decoding skills;

(b) Be proficient in strategies to increase vocabulary and concept development;

(c) Be proficient in the structure of the English language, including an understanding of syntax;

(d) Be proficient in reading comprehension strategies for (i) fiction and nonfiction text predicting, retelling, and summarizing and (ii) guiding students to make connections beyond the text;

(e) Demonstrate the ability to develop comprehension skills in all content areas;

(f) Demonstrate the ability to foster the appreciation of a variety of literature;

(g) Understand the importance of promoting independent reading by selecting fiction and nonfiction texts of appropriate yet engaging topics and reading levels; and

(h) Demonstrate effective strategies for teaching students to view, interpret, analyze, and represent information and concepts in visual form with or without the spoken or written word.

(4) Writing. The individual shall:

(a) Be proficient in the knowledge, skills, and processes necessary for teaching writing, including the domains of composing, written expression, [and] usage and mechanics and the writing process of planning, drafting, revising, editing, and publishing;

(b) Understand the stages of spelling development, promoting the generalization of spelling study to writing, and be proficient in systematic spelling instruction, including awareness of the purpose and limitations of "invented spelling"; and

(c) Demonstrate the ability to teach students to write cohesively for a variety of purposes and to provide instruction on the writing process [÷ of] planning, drafting, revising, editing, and publishing in the narrative, descriptive, persuasive, and explanative modes.

(5) Technology. The individual shall demonstrate the ability to guide students in their use of technology for both process and product as they work with reading and writing.

b. Mathematics.

(1) Understanding of the mathematics relevant to the content identified in Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Standards of Learning and how the standards provide the foundation for teaching mathematics in grades preK-3. Experiences with practical applications and the use of appropriate technology and manipulatives should be used within the following content:

(a) Number systems and their structure, basic operations, and properties;

(b) Elementary number theory, ratio, proportion, and percent;

(c) Algebra: fundamental idea of equality; operations with monomials and polynomials; algebraic fractions; linear and quadratic equations and inequalities and linear systems of equations and inequalities; radicals and exponents; arithmetic and geometric sequences and series; algebraic and trigonometric functions; and transformations among graphical, tabular, and symbolic forms of functions;

(d) Geometry: geometric figures, their properties, relationships, [and] the Pythagorean Theorem; deductive and inductive reasoning; perimeter, area, and surface area of two-dimensional and three-dimensional figures; coordinate and transformational geometry; and constructions; and

(e) Probability and statistics: permutations and combinations; experimental and theoretical probability; prediction; data collection and graphical representations including box-and-whisker plots; and measures of center, spread of data, variability, range, and normal distribution.

(2) Understanding of the sequential nature of mathematics and vertical progression of mathematical standards.

(3) Understanding of the multiple representations of mathematical concepts and procedures.

(4) Understanding of and the ability to use the five processes - reasoning mathematically, solving problems, communicating mathematics effectively, making mathematical connections, and using mathematical models and representations [-] at different levels of complexity.

(5) Understanding of the contributions of different cultures toward the development of mathematics and the role of mathematics in culture and society.

(6) Understanding of the appropriate use of calculators and technology in the teaching and learning of mathematics, including virtual manipulatives.

(7) Understanding of and the ability to use strategies to teach mathematics to diverse learners.

c. History and social sciences.

(1) Understanding of the knowledge, skills, and processes of history and the social science disciplines as defined in Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Standards of Learning and how the

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standards provide the necessary foundation for teaching history and social sciences, including in:

(a) History.

(i) The contributions of ancient civilizations to American social and political institutions;

(ii) Major events in Virginia history from 1607 to the present;

(iii) Key individuals, documents, and events in United States history; and

(iv) The evolution of America's constitutional republic and its ideas, institutions, and practices.

(b) Geography.

(i) The use of maps and other geographic representations, tools, and technologies to acquire, process, and report information;

(ii) The relationship between human activity and the physical environment in the community and the world; and

(iii) Physical processes that shape the surface of the earth.

(c) Civics.

(i) The privileges and responsibilities of good citizenship and the importance of the rule of law for the protection of individual rights;

(ii) The process of making laws in the United States and the fundamental ideals and principles of a republican form of government;

(iii) The understanding that Americans are a people of diverse ethnic origins, customs, and traditions, who are united by the basic principles of a republican form of government and a common identity as Americans; and

(iv) Local government and civics instruction specific to Virginia.

(d) Economics.

(i) The basic economic principles that underlie the United States market economy;

(ii) The role of the individual and how economic decisions are made in the market place; and

(iii) The role of government in the structure of the United States economy.

(2) Understanding of the nature of history and the social sciences, and how the study of the disciplines assists students in developing [~~critical thinking skills in helping them to understand~~ historical thinking, geographical analysis, economic decision-making, and responsible citizenship by:]

(a) [~~The relationship between past and present~~ Using artifacts and primary and secondary sources to understand events in history];

(b) [~~The use of primary sources such as artifacts, letters, photographs, and newspapers~~ Using geographic skills to explain the interaction of people, places, and events to support an understanding of events in history];

(c) [~~How events in history are shaped both by the ideas and actions of people~~ Using charts, graphs, and pictures to determine characteristics of people, places, or events in history];

(d) [~~Diverse cultures and shared humanity~~ Asking appropriate questions and summarizing points to answer a question];

(e) [~~Civic participation in a democracy; and~~ Comparing and contrasting people, places, and events in history;]

(f) [~~The relationship between history, literature, art, and music~~ Recognizing direct cause and effect relationships in history;

(g) Explaining connections across time and place;

(h) Using a decision-making model to identify costs and benefits of a specific choice made;

(i) Practicing good citizenship skills and respect for rules and laws, and participating in classroom activities; and

(j) Developing fluency in content vocabulary and comprehension of verbal, written, and visual sources].

d. Science.

(1) Understanding of the knowledge, skills, and [~~processes~~ practices] of the four core science disciplines [of Earth sciences, biology, chemistry, and physics] as defined in Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Science Standards of Learning and how these standards provide a sound foundation for teaching science in the early/primary grades.

(2) Understanding of the nature of [~~the theory~~ science] and scientific inquiry, including the following:

(a) Function of research design and experimentation;

(b) Role and nature of [~~science~~ the theory] in explaining and predicting events and phenomena;

(c) Practices required to provide empirical answers to research questions, including data collection and analysis, modeling, argumentation with evidence, and constructing explanations;

(d) Reliability of scientific knowledge and its constant scrutiny and refinement;

(e) Self-checking mechanisms used by science to increase objectivity, including peer review; and

(f) Assumptions, influencing conditions, and limits of empirical knowledge.

(3) Understanding of the knowledge, skills, and practices for conducting an active elementary science program, including the ability to:

(a) Design instruction reflecting the goals of the Virginia Science Standards of Learning;

(b) Implement classroom [, field,] and laboratory safety rules and procedures, and ensure that students take appropriate safety precautions;

(c) Conduct research projects and experiments, including applications of the design process and technology;

(d) Conduct systematic field investigations using the school grounds, the community, and regional resources;

(e) Organize key science content, skills, and practices into meaningful units of instruction that actively engage students in learning;

(f) Design instruction to meet the needs of diverse learners using a variety of techniques;

(g) Evaluate instructional materials, technologies, and teaching practices;

(h) Conduct formative and summative assessments of student learning;

(i) Incorporate instructional technology to enhance student performance in science; and

(j) Ensure student competence in science.

(4) Understanding of the content, [~~processes, and~~] skills [, and practices] of the four core science areas, including Earth sciences, biology, chemistry, and physics supporting the teaching of [~~elementary school preK-3~~] science as defined by the Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and Virginia Science Standards of Learning and equivalent to academic course work in each of these four core science areas.

(5) Understanding of the core scientific disciplines of Earth science, biology, chemistry, and physics to ensure:

(a) The placement of the four core scientific disciplines in an appropriate interdisciplinary context;

(b) The ability to teach the processes and crosscutting concepts common to the [~~natural~~ Earth, biological,] and physical sciences;

(c) The application of key science principles to solve practical problems; and

(d) A "systems" understanding of the natural world.

(6) Understanding of the contributions and significance of science, including:

(a) Its social, cultural, and economic significance;

(b) The relationship of science to mathematics, the design process, and technology; and

(c) The historical development of scientific concepts and scientific reasoning.

8VAC20-543-120. Elementary education preK-6.

The program in elementary education preK-6 may require that the candidate has completed an undergraduate major in interdisciplinary studies (focusing on the areas of English, mathematics, history and social sciences, and science) or in Virginia's core academic areas of English, mathematics, history and social sciences [~~(+e)~~], [such as] history, government, geography, and economics [], or science and demonstrated the following competencies:

1. Methods.

a. Understanding of the needed knowledge, skills, [dispositions,] and processes to support learners in achievement of Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Standards of Learning in English, mathematics, history and social science, science, and computer [~~and~~] technology;

b. Understanding of current research on the brain, its role in learning, and implications for instruction;

c. The ability to integrate English, mathematics, science, health, history and social sciences, art, music, drama, movement, and technology in learning experiences;

d. The use of differentiated instruction and flexible groupings to meet the needs of learners at different stages of development, abilities, and achievement;

e. The use of appropriate methods, including those in visual and performing arts, to help learners develop knowledge and basic skills, sustain intellectual curiosity, and problem-solve;

f. The ability to utilize effective classroom and behavior management skills through methods that build responsibility and self-discipline [promote self-regulation,] and maintain a positive learning environment;

g. The ability to modify and manage learning environments and experiences to meet the individual needs of children, including children with disabilities, gifted children, [~~and~~] children [~~with limited proficiency in English~~ who are English learners], and children with diverse cultural needs;

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h. The ability to use formal and informal assessments to diagnose needs, plan and modify instruction, and record student progress;

i. A commitment to professional growth and development through reflection, collaboration, and continuous learning;

j. The ability to analyze, evaluate, and apply quantitative and qualitative research; and

k. Understanding of the Virginia Standards of Learning for Computer Technology and the ability to use technology as a tool for teaching, learning, research, and communication [2]; and

l. The ability to adapt task and interactions to maximize language development, conceptual understanding, and skill competence within each child's zone of proximal development.]

2. Knowledge and skills.

a. Reading and English. Understanding of the content, knowledge, skills, and processes for teaching Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Standards of Learning for English [2] including communication (speaking, listening, and media literacy), reading, writing, and research and how these standards provide the core for teaching English in grades preK-6 [4 or] elementary licensure [3].

(1) Assessment and diagnostic teaching. The individual shall:

(a) Be proficient in the use of both formal and informal assessment as screening diagnostic, and progress monitoring measures for the components of reading: [phoneme phonemic] awareness, letter recognition, decoding, fluency, vocabulary, reading level, and comprehension; and

(b) Be proficient in the ability to use diagnostic data to inform instruction for acceleration, intervention, remediation, and differentiation.

(2) Communication: speaking, listening, and media literacy. The individual shall:

(a) Be proficient in the knowledge, skills, and processes necessary for teaching communication [4, such as] speaking, listening, and media literacy [3];

(b) Be proficient in developing students' phonological awareness skills;

(c) Demonstrate the ability to teach students to identify the characteristics of and apply critical thinking to media messages and to facilitate students' proficiency in using various forms of media to collaborate and communicate;

(d) Demonstrate effective strategies for facilitating the learning of standard English by speakers of other languages and dialects; and

(e) Demonstrate the ability to promote creative thinking and expression, such as through storytelling, drama, choral and oral reading [2-ete].

(3) Reading and literature. The individual shall:

(a) Be proficient in explicit and systematic phonics instruction, including an understanding of sound and symbol relationships, syllables, phonemes, morphemes, word analysis, and decoding skills;

(b) Be proficient in strategies to increase vocabulary and concept development;

(c) Be proficient in the structure of the English language, including an understanding of syntax and semantics;

(d) Be proficient in reading comprehension strategies for both fiction and nonfiction text, including questioning, predicting, inferencing, summarizing, clarifying, evaluating, and making connections;

(e) Demonstrate the ability to support students to read with fluency, accuracy, and meaningful expression (prosody);

(f) Demonstrate the ability to develop comprehension skills in all content areas;

(g) Demonstrate the ability to foster appreciation of a variety of literature;

(h) Understand the importance of promoting independent reading by selecting fiction and nonfiction texts of appropriate yet engaging topics and reading levels; and

(i) Demonstrate effective strategies for teaching students to view, interpret, analyze, and represent information and concepts in visual form with or without the spoken or written word.

(4) Writing. The individual shall:

(a) Be proficient in the knowledge, skills, and processes necessary for teaching writing, including the domains of composing and written expression, [and] usage and mechanics and the writing process of planning, drafting, revising, editing, and publishing;

(b) Understand the stages of spelling development, promoting the generalization of spelling study to writing, and be proficient in systematic spelling instruction, including awareness of the purpose and limitations of "invented spelling";

(c) Demonstrate the ability to teach students to write cohesively for a variety of purposes and to provide instruction on the writing process: planning, drafting,

revising, editing, and publishing in the narrative, descriptive, persuasive, and explanative modes; and

(d) Demonstrate the ability to facilitate student research and related skills such as accessing information, evaluating the validity of sources, citing sources, and synthesizing information.

(5) Technology. The individual shall demonstrate the ability to guide students in their use of technology for both process and product as they work with reading, writing, and research.

b. Mathematics.

(1) Understanding of the mathematics relevant to the content identified in Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Standards of Learning and how the standards provide the foundation for teaching mathematics in grades preK-6. Experiences with practical applications and the use of appropriate technology and concrete materials should be used within the following content:

(a) Number systems and their structure, basic operations, and properties;

(b) Elementary number theory, ratio, proportion, and percent;

(c) Algebra: [fundamental idea of equality;] operations with monomials and polynomials; algebraic fractions; linear and quadratic equations and inequalities and linear systems of equations and inequalities; radicals and exponents; arithmetic and geometric sequences and series; algebraic and trigonometric functions; and transformations among graphical, tabular, and symbolic forms of functions;

(d) Geometry: geometric figures, their properties, relationships, [and] the Pythagorean Theorem; deductive and inductive reasoning; perimeter, area, and surface area of two-dimensional and three-dimensional figures; coordinate and transformational geometry; and constructions; [and]

(e) Probability and statistics: permutations and combinations; experimental and theoretical probability; [~~prediction~~; data collection and] graphical representations including box-and-whisker plots; [~~and~~ data analysis and interpretation for predictions;] measures of center, [spread of data, variability,] range, and normal distribution [~~and~~

(f) Computer science: terminology, simple programming, and software applications].

(2) Understanding of the sequential [~~and developmental~~] nature of mathematics [and vertical progression of mathematical standards].

(3) Understanding of the multiple representations of mathematical concepts and procedures.

(4) Understanding of and the ability to use the five processes - reasoning mathematically, solving problems, communicating mathematics effectively, making mathematical connections, and using mathematical [models and] representations - at different levels of complexity.

(5) Understanding of the contributions of different cultures toward the development of mathematics and the role of mathematics in culture and society.

(6) Understanding of the [~~role of technology and the ability to~~ appropriate] use [of] calculators and [~~computers~~ technology] in the teaching and learning of mathematics [, including virtual manipulatives].

[(7) Understanding of and the ability to use strategies to teach mathematics to diverse learners.]

c. History and social sciences.

(1) Understanding of the knowledge, skills, and processes of history and the social sciences disciplines as defined in Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Standards of Learning and how the standards provide the necessary foundation for teaching history and social sciences, including in:

(a) History.

(i) The contributions of ancient civilizations to modern social and political institutions;

(ii) Major events in Virginia history from 1607 to the present;

(iii) Key individuals, documents, and events in United States history; and

(iv) The evolution of America's constitutional republic and its ideas, institutions, and practices.

(b) Geography.

(i) The use of maps and other geographic representations, tools, and technologies to acquire, process, and report information;

(ii) The relationship between human activity and the physical environment in the community and the world; and

(iii) Physical processes that shape the surface of the earth.

(c) Civics.

(i) The privileges and responsibilities of good citizenship and the importance of the rule of law for the protection of individual rights;

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(ii) The process of making laws in the United States and the fundamental ideals and principles of a republican form of government;

(iii) The understanding that Americans are a people of diverse ethnic origins, customs, and traditions, who are united by basic principles of a republican form of government and a common identity as Americans; and

(iv) Local government and civics instruction specific to Virginia.

(d) Economics.

(i) The basic economic principles that underlie the United States market economy;

(ii) The role of the individual and how economic decisions are made in the market place; and

(iii) The role of government in the structure of the United States economy.

(2) Understanding of the nature of history and social sciences and how the study of the disciplines assists students in developing [~~critical thinking skills in helping them to understand~~ historical thinking, geographical analysis, economic decision-making, and responsible citizenship by]:

(a) [~~The relationship between past and present~~ Using artifacts and primary and secondary sources to understand events in history];

(b) [~~The use of primary sources such as artifacts, letters, photographs, and newspapers~~ Using geographic skills to explain the interaction of people, places, and events to support an understanding of events in history];

(c) [~~How events in history are shaped both by the ideas and actions of people~~ Using charts, graphs, and pictures to determine characteristics of people, places, and events in history];

(d) [~~Diverse cultures and shared humanity~~ Asking appropriate questions and summarizing points to answer a question];

[~~(e) Civic participation in a democracy; and~~

(f) ~~The relationship between history, literature, art, and music.~~

(e) Comparing and contrasting people, places, and events in history;

(f) Recognizing direct cause and effect relationships in history;

(g) Explaining connections across time and place;

(h) Using a decision-making model to identify costs and benefits of a specific choice made;

(i) Practicing good citizenship skills and respect for rules and laws, and participating in classroom activities; and

(j) Developing fluency in content vocabulary and comprehension of verbal, written, and visual sources.]

d. Science.

(1) Understanding of the knowledge, skills, and [~~processes practices~~] of the four core science disciplines [of Earth science, biology, chemistry, and physics] as defined in Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Science Standards of Learning and how these standards provide a sound foundation for teaching science in the elementary grades.

(2) Understanding of the nature of science and scientific inquiry, including the [following]:

(a) Function of research design and experimentation;

(b) Role and nature of the theory in explaining and predicting events and phenomena;

(c) Practices required to provide empirical answers to research questions, including data collection and analysis, modeling, argumentation with evidence, and constructing explanations;

(d) Reliability of scientific knowledge and its constant scrutiny and refinement;

(e) Self-checking mechanisms used by science to increase objectivity, including peer review; and

(f) Assumptions, influencing conditions, and limits of empirical knowledge.

(3) Understanding of the knowledge, skills, and [~~processes practices~~] for [~~conducting~~] an active elementary science program including the ability to:

(a) Design instruction reflecting the goals of the Virginia Science Standards of Learning;

(b) Implement classroom [, field,] and laboratory safety rules and procedures and ensure that students take appropriate safety precautions;

(c) Conduct research projects and experiments, including applications of the design process and technology;

(d) Conduct systematic field investigations using the school grounds, the community, and regional resources;

(e) Organize key science content, skills, and practices into meaningful units of instruction that actively engage students in learning;

(f) Design instruction to meet the needs of diverse learners using a variety of techniques;

(g) Evaluate instructional materials, technologies, and teaching practices;

(h) Conduct formative and summative assessments of student learning;

(i) Incorporate instructional technology to enhance student performance in science; and

(j) Ensure student competence in science.

(4) Understanding of the content, [~~processes, and~~] skills [, and practices] of the four [core] science areas, including Earth sciences, biology, chemistry, and physics supporting the teaching of preK-6 science as defined by the Virginia Science Standards of Learning and equivalent course work reflecting each of the four core science areas.

(5) Understanding of the core scientific disciplines of Earth science, biology, chemistry, and physics to ensure:

(a) The placement of the four core scientific disciplines in an appropriate interdisciplinary context;

(b) The ability to teach the [~~processes~~ skills, practices,] and crosscutting concepts common to the natural and physical sciences;

(c) The application of key science principles to solve practical problems; and

(d) A "systems" understanding of the natural world.

(6) Understanding of the contributions and significance of science including:

(a) Its social, cultural, and economic significance;

(b) The relationship of science to mathematics, the design process, and technology; and

(c) The historical development of scientific concepts and scientific reasoning.

8VAC20-543-130. Middle education 6-8.

The program in middle education 6-8 with at least one area of academic preparation shall ensure that the candidate has demonstrated the following competencies:

1. Methods.

a. Understanding of the required knowledge, skills, and processes to support learners in achievement of the Virginia Standards of Learning for grades 6-8;

b. The use of appropriate methods, including direct instruction and inquiry-based instructional methods, to help learners develop knowledge and skills, sustain intellectual curiosity, and solve problems;

c. The ability to plan and teach collaboratively to facilitate interdisciplinary learning;

d. The use of differentiated instruction and flexible groupings to meet the needs of preadolescents at different stages of development, abilities, and achievement;

e. The ability to utilize effective classroom and behavior management skills through methods that build responsibility and self-discipline and maintain a positive learning environment;

f. The ability to modify and manage learning environments and experiences to meet the individual needs of preadolescents, including children with disabilities, gifted children, and children [~~with limited proficiency in the English language~~ who are English learners;]

g. The ability to use formal and informal assessments to diagnose needs, plan and modify instruction, and record student progress;

h. A commitment to professional growth and development through reflection, collaboration, and continuous learning;

i. The ability to analyze, evaluate, apply, and conduct quantitative and qualitative research;

j. The ability to use technology as a tool for teaching, learning, research, and communication;

k. An understanding of how to apply a variety of school organizational structures, schedules, groupings, and classroom formats appropriately for middle level learners;

l. Skill in promoting the development of all students' abilities for academic achievement and continued learning; and

m. The ability to use reading in the content area strategies appropriate to text and student needs.

2. English.

a. [Be proficient in the knowledge, skills, and processes necessary for teaching writing, including the domains of composing and written expression, usage and mechanics, and the writing process of planning, drafting, revising, editing, and publishing;

~~a-~~ b.] Possession of the skills necessary to teach the writing process, to differentiate among the forms of writing (narrative, descriptive, informational, and persuasive), and to use computers and other available technology;

[~~b-~~ c.] Understanding of and knowledge in grammar, usage, and mechanics and its integration in writing;

[~~c-~~ d.] Understanding and the nature and development of language and its impact on vocabulary development and spelling;

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[~~d~~. e.] Understanding of and knowledge in techniques and strategies to enhance reading comprehension and fluency;

[~~e~~. f.] Understanding of and knowledge in the instruction of speaking, listening, collaboration, and media literacy;

[~~f~~. g.] Knowledge of varied works from current and classic young adult literature appropriate for English instruction of fiction, nonfiction, and poetry; and

[~~g~~. h.] Skills necessary to teach research techniques, including evaluating, organizing, crediting, and synthesizing information.

3. History and social sciences.

a. Understanding of the knowledge, skills, and processes of history and the social science disciplines as defined by the Virginia History and Social Sciences Standards of Learning and how the standards provide the foundation for teaching history and social sciences, including in:

(1) United States history.

(a) The evolution of the American constitutional republic and its ideas, institutions, and practices from the colonial period to the present; the American Revolution, including ideas and principles preserved in significant Virginia and United States historical documents as required by § 22.1-201 of the Code of Virginia (the Declaration of American Independence; the general principles of the Constitution of the United States; the Virginia Statute of Religious Freedom; the charters of The Virginia Company of April 10, 1606, May 23, 1609, and March 12, 1612; and the Virginia Declaration of Rights); and historical challenges to the American political system [~~(i.e.)~~, [including] slavery, the Civil War, emancipation, and civil rights [~~]~~];

(b) The influence of religious traditions on the American heritage and on contemporary American society;

(c) The changing role of America around the world; the relationship between domestic affairs and foreign policy; and the global political and economic interactions;

(d) The influence of immigration on American political, social, and economic life;

(e) Origins, effects, aftermath and significance of the two world wars, the Korean and Vietnam conflicts, and the post-Cold War era;

(f) Social, political, and economic transformations in American life during the 20th century; and

(g) Tensions between liberty and equality, liberty and order, region and nation, individualism and the common welfare, and cultural diversity and civic unity.

(2) World history.

(a) The political, philosophical, and cultural legacies of ancient, American, Asian, African, and European civilizations;

(b) Origins, ideas, and institutions of Judaism, Christianity, Hinduism, Confucianism and Taoism, and Shinto, Buddhist, and Islamic religious traditions;

(c) Medieval society and institutions, relations with Islam, feudalism, and the evolution of representative government;

(d) The social, political, and economic contributions of selected civilizations in Africa, Asia, Europe, and the Americas;

(e) The culture and ideas of the Renaissance and the Reformation, European exploration, and the origins of capitalism and colonization;

(f) The cultural ideas of the Enlightenment and the intellectual revolution of the 17th and 18th centuries;

(g) The sources, results, and influence of the American and French revolutions;

(h) The social consequences of the Industrial Revolution and its impact on politics and culture;

(i) The global influence of European ideologies of the 19th and 20th centuries [~~(liberalism, republicanism, social democracy, Marxism, nationalism, Communism, Fascism, and Nazism)~~]; and

(j) The origins, effects, aftermath, and significance of the two world wars.

(3) Civics and economics.

(a) Essential characteristics of limited and unlimited governments;

(b) Importance of the rule of law for the protection of individual rights and the common good;

(c) Rights and responsibilities of American citizenship;

(d) Nature and purposes of constitutions and alternative ways of organizing constitutional governments;

(e) American political culture;

(f) Values and principles of the American constitutional republic;

(g) Structures, functions, and powers of local and state government;

(h) Importance of citizen participation in the political process in local and state government;

(i) Local government and civic instruction specific to Virginia;

(j) Structures, functions, and powers of the national government; and

(k) The structure and function of the United States market economy as compared with other economies.

b. Understanding of the nature of history and social sciences and how the study of these disciplines helps students go beyond critical thinking skills to help them appreciate:

(1) The significance of the past to their lives and to society;

(2) Diverse cultures and shared humanity;

(3) How things happen, how they change, and how human intervention matters;

(4) The interplay of change and continuity;

(5) Historical cause and effect;

(6) The importance of individuals who have made a difference in history and the significance of personal character to the future of society;

(7) The relationship among history, geography, civics, and economics; and

(8) The difference between fact and conjecture, evidence and assertion, and the importance of framing useful questions.

4. Mathematics.

a. Understanding of the knowledge and skills necessary to teach the Virginia Mathematics Standards of Learning and how curriculum may be organized to teach these standards to diverse learners;

b. Understanding of a core knowledge base of concepts and procedures within the discipline of mathematics, including the following strands: number and number sense; computation and estimation; geometry and measurement; statistics and probability; and patterns, functions, and algebra;

c. Understanding of the mathematics relevant to the content identified in the Virginia Standards of Learning and how the standards provide the foundation for teaching mathematics in the middle grades. Experiences with practical applications and the use of appropriate technology and manipulatives should be used within the following content:

(1) Number systems and their structure, basic operations, and properties;

(2) Elementary number theory, ratio, proportion, and percent;

(3) Algebra: fundamental idea of equality; operations with monomials and polynomials; algebraic fractions;

linear and quadratic equations and inequalities and linear systems of equations and inequalities; radicals and exponents; arithmetic and geometric sequences and series; algebraic and trigonometric functions; and transformations among graphical, tabular, and symbolic forms of functions;

(4) Geometry: geometric figures, their properties, relationships, [and] the Pythagorean Theorem; deductive and inductive reasoning; perimeter, area, and surface area of two-dimensional and three-dimensional figures; coordinate and transformational geometry; and constructions;

(5) Probability and statistics: permutations and combinations; experimental and theoretical probability; data collection and graphical representations, including box-and-whisker plots; data analysis and interpretation for predictions; measures of center; spread of data, variability, range, standard deviation, and normal distributions.

d. Understanding of the sequential nature of mathematics, the vertical progression of mathematical standards, [-] and the mathematical structures inherent in the content strands;

e. Understanding of and the ability to use the five processes - becoming mathematical problem solvers, reasoning mathematically, communicating mathematically, making mathematical connections, and representing, modeling and describing mathematical ideas, generalizations, and relationships using a variety of methods [-] at different levels of complexity;

f. Understanding of the contributions of various individuals and cultures toward the development of mathematics and the role of mathematics in culture and society;

g. Understanding of the major current curriculum studies and trends in mathematics;

h. Understanding of the appropriate use of calculators and technology and the ability to use graphing utilities in the teaching and learning of mathematics, including virtual manipulatives;

i. Understanding of and the ability to select, adapt, evaluate and use instructional materials and resources, including professional journals and technology;

j. Understanding of and the ability to use strategies for managing, assessing, and monitoring student learning, including diagnosing student errors; and

k. Understanding of and the ability to use strategies to teach mathematics to diverse adolescent learners.

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5. Science.

a. Understanding of the knowledge, skills, and [processes practices] of the [four core science disciplines of] Earth [, life, and physical sciences science, biology, chemistry, and physics] as defined in the Virginia Science Standards of Learning and how these provide a sound foundation for teaching science in the middle grades.

b. Understanding of the nature of science and scientific inquiry, including:

(1) Function of research design and experimentation;

(2) Role [and nature] of [science the theory] in explaining and predicting events and phenomena; and

(3) [Science skills of data analysis, measurement, observation, prediction, and experimentation. Practices required to provide empirical answers to research questions, including data collection and analysis, modeling, argumentation with evidence, and constructing explanations;

(4) Reliability of scientific knowledge and its constant scrutiny and refinement;

(5) Self-checking mechanisms used by science to increase objectivity, including peer review; and

(6) Assumptions, influencing conditions, and limits of empirical knowledge.]

c. Understanding of the knowledge, skills, and [processes practices] for an active middle school science program, including the ability to:

(1) Design instruction reflecting the goals of the Virginia Science Standards of Learning;

[~~(2) Conduct research projects and experiments;~~

~~(3) (2)] Implement [classroom, field, and laboratory] safety rules and procedures and ensure that students take appropriate safety precautions;~~

[(3) Conduct research projects and experiments, including applications of the design process and technology;

(4) Conduct systematic field investigations using the school grounds, the community, and regional resources;]

[~~(4) (5)] Organize key science content [, skills, and practices] into meaningful units of instruction [that actively engage students in learning];~~

[~~(5) (6)] Adapt instruction to diverse learners using a variety of techniques;~~

[~~(6) (7)] Evaluate instructional materials, [instruction technologies], and [student achievement; and teaching practices;~~

(8) Conduct formative and summative assessments of student learning;]

[~~(7) (9)] Incorporate instructional technology to enhance student performance [in science; and~~

(10) Ensure student competence in middle school science].

d. Understanding of the content, processes, and skills of the [four core areas of science, including] Earth sciences, biology, chemistry, and physics supporting the teaching of middle school science as defined by the Virginia Science Standards of Learning and equivalent to academic course work in each of these [four] core science areas.

e. Understanding of the core scientific disciplines [of Earth science, biology, chemistry, and physics] to ensure:

(1) The placement of science in an appropriate interdisciplinary context;

(2) The ability to teach the [skills,] [processes practices,] and [organize crosscutting] concepts common to the natural and physical sciences; [and]

(3) [Student achievement in science: The application of key principles in science to solve practical problems; and

(4) A "systems" understanding of the natural world.]

f. Understanding of the contributions and significance of science to include:

(1) Its social [and,] cultural [, and economic] significance;

(2) The relationship of science to [mathematics, the design process, and] technology; and

(3) The historical development of scientific concepts and scientific reasoning.

Article 3

PreK-12 Endorsements, Special Education, Secondary Grades 6-12 Endorsements, and Adult Education

8VAC20-543-140. Professional studies requirements for preK-12 endorsements, special education, secondary grades 6-12 endorsements, and adult education.

Professional studies requirements for preK-12 endorsements, special education, secondary grades 6-12 endorsements, and adult education:

1. Human development and learning (birth through adolescence).

a. Skills in this area shall contribute to an understanding of the physical, social, emotional, speech and language, and intellectual development of children and the ability

to use this understanding in guiding learning experiences and relating meaningfully to students.

b. The interaction of children with individual differences - economic, social, racial, ethnic, religious, physical, and ~~mental~~ cognitive - should be incorporated to include skills contributing to an understanding of developmental disabilities and developmental issues related [,] but not limited to [,] low socioeconomic status [;] attention deficit disorders [;] developmental disabilities [;] gifted education including the use of multiple criteria to identify gifted students [;] substance abuse [; trauma, including] child abuse, and [neglect, and other adverse childhood experiences; and] family disruptions.

2. Curriculum and instruction.

a. Skills in this area shall contribute to an understanding of the principles of learning; the application of skills in discipline-specific methodology; [varied and] effective [methods of] communication with and among students; selection and use of materials, including media and contemporary technologies; selection, development, and use of appropriate curricula, methodologies, and materials that support and enhance student learning and reflect the research on unique, age-appropriate, and culturally relevant curriculum and pedagogy.

b. Understanding of the principles of online learning and online instructional strategies and the application of skills to deliver online instruction [~~must shall~~] be included.

c. Instructional practices that are sensitive to culturally and linguistically diverse learners, including [~~limited English proficient students~~ English learners], gifted and talented students, and students with disabilities, and appropriate for the level of endorsement sought shall be included.

d. Teaching methods shall be tailored to promote student academic progress and effective preparation for the [Virginia] Standards of Learning assessments.

e. Methods of improving communication between schools and families and ways of increasing family [~~involvement~~ engagement] in student learning at home and in school and the Virginia Standards of Learning shall be included.

f. Demonstrated proficiency in the use of educational technology for instruction shall be included.

g. [~~Persons seeking initial licensure as teachers and persons seeking licensure renewal as teachers for the first time shall complete study~~ Study] in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services [~~that are relevant to the specific teacher licensure routes~~ and training or

certification in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators must be included].

h. Curriculum and instruction for secondary grades 6-12 endorsements shall include middle and secondary education.

[i] Pre-student teaching experiences [~~or~~] field experiences [] should be evident within these skills. For preK-12, field experiences shall be at the elementary, middle, and secondary levels.

3. Assessment of and for learning.

a. Skills in this area shall be designed to develop an understanding and application of creating, selecting, and implementing valid and reliable classroom-based assessments of student learning, including formative and summative assessments. Assessments designed and adapted to meet the needs of diverse learners [~~must shall~~] be addressed.

b. Analytical skills necessary to inform ongoing planning and instruction, as well as to understand and help students understand their own progress and growth [~~must shall~~] be included.

c. Skills also include the ability to understand the relationships among assessment, instruction, and monitoring student progress to include student performance measures in grading practices, the ability to interpret valid assessments using a variety of formats in order to measure student attainment of essential skills in a standards-based environment, and the ability to analyze assessment data to make decisions about how to improve instruction and student performance.

d. Understanding of state assessment programs and accountability systems, including assessments used for student achievement goal setting as related to teacher evaluation and determining student academic progress [; ~~including knowledge of legal and ethical aspects of assessment~~ shall be included].

e. [~~Skills include~~ Knowledge of legal and ethical aspects of assessment and skills for] developing familiarity with assessments used in preK-12 education [~~e.g.~~ such as], diagnostic, college admission exams, industry certifications, placement assessments).

4. [~~The Foundations of education and the~~] teaching profession.

a. Skills in this area shall be designed to develop an understanding of the historical, philosophical, and sociological foundations underlying the role, development, and organization of public education in the United States.

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b. Attention [~~must~~ shall] be given to the legal status of teachers and students, including federal and state laws and regulations; school as an organization and culture; and contemporary issues and current trends in education, including the impact of technology on education. Local, state, and federal governance of schools, including the roles of teachers and schools in communities, [~~must~~ shall] be included.

c. Professionalism and ethical standards, as well as personal integrity must be addressed.

d. Knowledge and understanding of Virginia's Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers [~~must~~ shall] be included.

5. Classroom and behavior management.

a. Skills in this area shall contribute to an understanding of and application of research-based classroom and behavior management techniques, classroom community building, positive behavior supports, and individual interventions, including techniques that promote emotional well-being and teach and maintain behavioral conduct and skills consistent with norms, standards, and rules of the educational environment.

b. This area shall address diverse approaches based upon [culturally responsive] behavioral, cognitive, affective, social, and ecological theory and practice.

c. Approaches should support professionally appropriate practices that promote positive redirection of behavior, development of social skills, and self-discipline.

d. Knowledge and an understanding of various school crisis management and safety plans and the ability to create a safe, orderly classroom environment must be included. The link between classroom management and the students' ages must be understood and demonstrated in techniques used in the classroom.

6. [~~Reading~~ Language and literacy].

a. Adult education, preK-12, and secondary grades 6-12 [-] literacy in the content areas. Skills in this area shall be designed to impart an understanding of vocabulary development and comprehension skills in English, mathematics, science, history and social sciences, and other content areas. Strategies include teaching students how to ask effective questions, summarize and retell both verbally and in writing, and listen effectively. Teaching strategies include literal, interpretive, critical, and evaluative comprehension, as well as the ability to foster appreciation of a variety of fiction and nonfiction texts and independent reading for adolescent learners.

b. Special education - language acquisition and reading and writing. Skills listed for these endorsement areas represent the minimum competencies that a beginning

teacher must be able to demonstrate. These skills are not intended to limit the scope of a beginning teacher's program. Additional knowledge and skills that add to a beginning teacher's competencies to deliver instruction and improve student achievement should be included as part of a quality learning experience.

(1) Language acquisition [÷] Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning [,] as well as the complex nature of language acquisition as a precursor to literacy. Language acquisition shall follow the typical development of linguistic competence in the areas of phonetics, semantics, syntax, morphology, phonology, and pragmatics.

(2) Reading and writing [÷] Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning [,] as well as the reciprocal nature of reading and writing. Reading shall include phonemic [and other phonological] awareness, concept of print, phonics, fluency, vocabulary development, and comprehension strategies. Writing shall include writing strategies and conventions as supporting the composing and written expression and usage and mechanics domains. Additional skills shall include proficiency in understanding the stages of spelling development [÷ and] the writing process, [as well as] and the ability to foster appreciation of a variety of fiction and nonfiction texts and independent reading.

7. Supervised clinical experiences. The supervised clinical experiences shall be continuous and systematic and comprised of early field experiences with a minimum of 10 weeks of [successful] full-time student teaching under the supervision of a cooperating teacher with demonstrated effectiveness in the classroom. The summative supervised student teaching [experience shall be in the endorsed area sought and under the supervision of a cooperating teacher with demonstrated effectiveness in the classroom. The summative supervised student teaching] experience shall include at least 150 clock hours spent in direct teaching at the level of endorsement [in a public or accredited nonpublic school].

If a preK-12 endorsement is sought, teaching activities shall be at the elementary and middle or secondary levels. Individuals seeking the endorsement in library media shall complete the supervised school library media practicum in a school library media setting. Individuals seeking an endorsement in an area of special education shall complete the supervised student teaching experience requirement in the area of special education for which the endorsement is sought. One year of successful full-time teaching experience in the endorsement area in any public school or accredited nonpublic school may be accepted in lieu of the supervised student teaching experience. A fully licensed,

experienced teacher shall be available in the school building to assist a beginning teacher employed through the alternate route.

8VAC20-543-150. Adult education.

The program in adult education shall ensure that the candidate has demonstrated the following competencies:

- 1. Foundations of adult education;
- 2. Understanding of the nature or psychology of the adult learner or adult development;
- ~~2.~~ 3. Understanding of the knowledge, skills, and processes needed for the selection, evaluation, and instructional applications of the methods and materials for ~~adult basic skills~~ adults to become college and career ready] including:
 - a. Curriculum development in adult basic education or ~~general educational development (GED) high school equivalency~~ instruction;
 - b. ~~Beginning reading for adults~~ Literacy skills for adults];
 - c. ~~Beginning mathematics for adults;~~ Numeracy skills for adults; and]
 - d. ~~Reading comprehension for adult education;~~ Workforce skills for adults.]
 - ~~e.~~ Foundations of adult education; and
 - f. Other adult basic skills instruction.

~~3.~~ 4. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing;

~~4.~~ 5. Understanding of and proficiency in [~~pedagogy andragogy~~] to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes; and

~~5.~~ 6. One semester of supervised successful full-time, or an equivalent number of hours of part-time, experience teaching adults.

8VAC20-543-160. Adult English as a second language (add-on endorsement).

The program in adult English as a second language shall ensure that the candidate holds an active license with a teaching endorsement or endorsements issued by the Virginia Board of Education and has demonstrated the following competencies:

- 1. Knowledge in the growth and development of the adult learner;
- 2. Knowledge [~~of teaching methods and materials in adult English as a second language~~ in methods and materials in

the teaching of English to adult speakers of other languages];

~~3. [Knowledge in adult language acquisition~~ Skills in the teaching of reading and writing to include (i) the five areas of reading instruction: phonemic awareness, phonics, fluency, vocabulary, and text comprehension; (ii) similarities and differences between reading in a first language and reading in a second language; and (iii) a balanced literacy approach;]

4. Knowledge [~~of assessment methods in adult English as a second language instruction~~ in adult second language acquisition];

[~~5.~~ Knowledge of assessment methods in instruction of English to adult speakers of other languages;]

[~~5.~~ 6.] Skills in teaching the adult learner;

[~~6.~~ 7.] Understanding of the effects of sociocultural variables in the instructional setting;

[~~7.~~ 8.] Skills in teaching a variety of adult learning styles;

[~~8.~~ 9.] Proficiency in cross-cultural communication;

[~~9.~~ 10.] Proficiency in speaking, listening, and reading;

[~~10.~~ 11.] Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing; and

[~~11.~~ 12.] Understanding of and proficiency in [~~pedagogy andragogy~~] to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-170. Career and technical education – agricultural education.

The program in agricultural education shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the importance and relationship of and contribution to the agricultural industry to the community, state, nation, and global economy including:

- a. Knowledge of the fundamental historical foundation of the state and national agricultural industry;
- b. Knowledge of contemporary components of the United States food and fiber system; and
- c. Knowledge of the career opportunities in agriculture and related fields.

2. Applying the knowledge, skills, and processes involved in plant and soil sciences, including:

- a. Production, use, and marketing of row crops, specialty crops, forage crops, fruits, small grains, vegetables, and cereal crops; and
- b. Soil and water management.

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3. Applying the knowledge, skills, and processes involved in the production, management, and marketing of animals, including:

- a. Production of cattle, swine, poultry, dairy cows, sheep, aquaculture species, goats, and horses; and
- b. Care and management of horses and small companion animals.

4. Applying knowledge, skills, and processes involved in agricultural mechanics and technology, including:

- a. Set up safe operation, repair, and maintenance of equipment, tools, and measuring devices used in agriculture;
- b. Knowledge of energy transfer systems used in agriculture;
- c. Knowledge of properties of metals used in tools and equipment; and
- d. Knowledge of alternative energy sources, fuels, and lubricants from agricultural and natural resources.

5. Understanding of agricultural economics, including the various markets, international trade, government policies, and the operation and management of various agricultural businesses.

6. Applying the knowledge, skills, and processes involved in natural resources, including:

- a. Care, management, and conservation of soil, air, water, energy, and wildlife; and
- b. Production and management of the forest.

7. Understanding the relationship of agriculture to community resource and partnership development, including:

- a. Local agricultural program advisory committees;
- b. Adult education programs;
- c. Agricultural enterprises;
- d. Student work-based learning opportunities;
- e. Public and private programs and resources; and
- f. Civic organizations.

8. Implementing classroom management techniques and pedagogical knowledge necessary to:

- a. Understand the biological, physical, chemical, and applied sciences to practical solutions of agricultural problems;
- b. Teach agricultural competencies needed by secondary students to be successful in continuing their education and entering a related career pathway;

c. Develop effective leadership skills through the Future Farmers of America (FFA) student organization as an integral part of instruction; and

d. Apply knowledge and skills for the administration of the agricultural program, including managing budgets, maintaining student performance records and equipment inventories.

9. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

10. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

11. Understanding of and proficiency in the use of instructional technologies.

12. Demonstrating and integrating workplace readiness skills in the classroom and real-world activities.

13. Ability to plan, deliver, and manage work-based learning methods of instruction such as internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship.

8VAC20-543-180. Career and technical education – business and information technology.

The program in business and information technology shall ensure that the candidate has demonstrated the following competencies:

1. Knowledge, skills, and principles of manual and automated accounting, including:

- a. Accounting concepts, terminology, and applications;
- b. Accounting systems;
- c. The basic accounting cycle of source documents, verifications, analyzing, recording, posting, trial balances, and preparing financial statements; and
- d. Use of accounting computer software to automate accounting tasks.

2. Knowledge and skills in economics, including:

- a. Basic economic concepts and structures;
- b. The role of producers and consumers in a market economy;
- c. The price system;
- d. The many factors that may affect income;
- e. [~~A~~ The] nation's economic goals, including full employment, stable prices, and economic growth;
- f. The nation's finance system;

g. How monetary and fiscal policy influence employment, output, and prices;

h. The role of government in a market economy;

i. The global economy; and

j. Distinguishing between trade deficit and trade surplus.

3. Knowledge of the foundations of business selected from the following areas:

a. Business law.

(1) Ability to recognize the legal requirements affecting business organization; and

(2) Ability to apply legal principles to business situations.

b. Business principles.

(1) Ability to identify, explain, and apply contemporary business principles;

(2) Ability to identify and explain the advantages and disadvantages of various business organizational structures; and

(3) Knowledge of the foundations of international business, the global business environment, international business communications, and global business ethics.

c. Management. Understanding and analyzing of basic management functions, tools, theories, and leadership styles to explore and solve problems in business organizations, economics, international business, and human relations issues.

d. Marketing and entrepreneurship.

(1) Understanding of basic marketing concepts in sales techniques, advertising, display, buying, wholesale and retail, distribution, service occupations, market analysis, warehousing, and inventory control; and

(2) Understanding of the unique characteristics of an entrepreneur and the knowledge and skills necessary for an entrepreneurial venture.

e. Finance.

(1) Knowledge about and skills in the areas of managing personal finance and budgeting, saving and investing, buying goods and services, banking and financial institutions, and earning and reporting income needed for sound financial decision making; and

(2) Understanding of the basic concepts of economics, insurance, credit, consumer skills, and other related topics.

4. Knowledge and skills in all of the following communications and information technologies:

a. Communications.

(1) Ability to communicate in a clear, courteous, concise, and correct manner for personal and professional purposes through the foundations of listening, writing, reading, speaking, nonverbal cues, and following written and oral directions;

(2) Ability to use information systems and technology to expedite and enhance the effectiveness of communications and telecommunications; and

(3) Ability to gather, evaluate, use, and cite information from information technology sources.

b. Impact of technology on society and the individual [(or) digital citizenship [}]. Knowledge to assess the impact of information technology on society.

c. Computer architecture. Ability to describe current and emerging computer architecture; configure, install, and upgrade hardware; and diagnose and repair hardware problems.

d. Operating systems, environments, and utilities. Ability to identify, evaluate, select, install, use, upgrade, customize, and diagnose and solve problems with various types of operating systems, environments, and utilities.

e. Application software [(e.g.), [such as] word processing; database; spreadsheet; graphics; web design; desktop, presentation, multimedia, and imaging; and emerging technologies [}].

(1) Ability to identify, evaluate, select, install, use, upgrade, and customize application software; and

(2) Ability to diagnose and solve problems resulting from an application software's installation and use.

f. Input technologies. Ability to use input devices and technologies [(e.g.), [such as] touch keyboarding, speech recognition, handwriting recognition, hand-held devices, touch screen or mouse, scanning, and other emerging input technologies [}] to enter, manipulate, and format text and data.

g. Database management systems. Ability to use, plan, develop, and maintain database management systems. Ability to diagnose and solve problems using database management systems.

h. Programming and application development. Ability to help students design, develop, test, and implement multi-platform [(e.g.), [such as] mobile, different operating systems [}] programs that solve business problems.

i. Networking and communications infrastructures.

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(1) Facilitate students' development in the skills to design, deploy, and administer networks and communications systems;

(2) Facilitate students' ability to use, evaluate, and deploy communications and networking applications; and

(3) Facilitate students' ability to analyze networks for security vulnerabilities and develop and deploy appropriate security plans and applications.

j. Information management.

(1) Ability to plan the selection and acquisition of information technologies (hardware and software);

(2) Ability to instruct students in the development of technical and interpersonal skills and knowledge to support the user community; and

(3) Ability to describe, analyze, develop, and follow policies for managing privacy and ethical issues in organizations and in a technology-based society.

k. Web development and multimedia;

(1) Ability to instruct students in the design and development of web applications based on industry standards and principles of good design;

(2) Ability to instruct students in the design and development of multimedia applications; and

(3) Ability to design and develop multimedia and web-based applications for multiple operating systems and environments [e.g., such as] mobile, desktop, cloud [e.g.,].

l. Project management.

(1) Understand the components of project management and its importance to business and information technology [e.g., and]

(2) Use project management tools to coordinate information technology, business, or related projects and manage teamwork.

5. Knowledge and skills necessary to teach leadership skills, organize and manage an effective co-curricular student organization, and implement the organization's activities as an integral part of instruction.

6. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

7. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8. Knowledge and skills necessary to apply basic mathematical operations to solve business problems.

9. Demonstration and integration of workplace readiness skills in the classroom and real-world activities.

10. Ability to plan, deliver, evaluate, and manage work-based learning methods of instruction such as internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship.

8VAC20-543-190. Career and technical education – family and consumer sciences.

The program in family and consumer sciences shall ensure that the candidate has demonstrated the following competencies:

1. Knowledge of the human growth and developmental processes throughout the lifespan, including infancy, childhood, preadolescence, adolescence, adulthood and aging, and in creating and maintaining an environment in which family members develop and interact as individuals and as members of a group;

2. Knowledge of the decision-making processes related to housing, furnishings, and equipment for individuals and families with attention given to special needs and the diversity of individuals;

3. The ability to plan, purchase, and prepare food choices that promote nutrition and wellness and safety and sanitation;

4. Knowledge of the management of resources to achieve individual and family goals at different stages of the life span and the family life cycle;

5. Knowledge of the sociological, psychological, and physiological aspects of apparel and textiles for individuals and families;

6. Knowledge of the management of families, community, work, and their interrelationships;

7. Knowledge of occupational skill development and career planning;

8. Knowledge of the use of critical science and creative skills to address problems in diverse family, community, and work environments;

9. Knowledge and skills necessary to teach leadership, communication, interpersonal problem-solving, and ethical decision-making skills;

10. The ability to plan, develop, teach, supervise, and evaluate programs in occupational programs at the secondary, postsecondary, and adult levels;

11. The ability to organize and implement Family, Career, and Community Leaders of America (FCCLA) programs as an integral part of classroom instruction;

12. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing;

13. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes;

14. Demonstrate and integrate workplace readiness skills in the classroom and real-world activities; and

15. Ability to plan, deliver, and manage work-based learning methods of instruction such as internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship.

8VAC20-543-200. Career and technical education – health and medical sciences.

The program in health and medical sciences shall ensure that the candidate has demonstrated the following competencies:

1. Knowledge of teaching methods.
 - a. Instructional planning - ability to determine the needs and interests of students;
 - b. Organizing instruction - ability to prepare teacher-made instructional materials for clinical laboratory experience;
 - c. Instructional execution - ability to use techniques for simulating patient care and demonstrating manipulative skills;
 - d. Application of technology in the classroom; and
 - e. Instructional evaluation - ability to determine grades for students in classroom and clinical settings.
2. Knowledge of program management.
 - a. Planning - ability to organize an occupational advisory committee;
 - b. Curriculum development - ability to keep informed of current curriculum content and patient care practices;
 - c. Planning and organizing teaching and occupational laboratory for laboratory simulations and demonstrations;
 - d. Understanding of the process for issuing credentials for health workers;
 - e. Understanding of the health care industry; and
 - f. Evaluation - ability to conduct a student follow-up study.
3. Knowledge and skills necessary to teach leadership skills, organize and manage an effective co-curricular student organization, and implement the organization's activities as an integral part of instruction.
4. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

5. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

6. Demonstrate and integrate workplace readiness skills in the classroom and real-world activities.

7. Ability to plan, deliver, evaluate, and manage work-based learning methods of instruction such as internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship.

8VAC20-543-210. Career and technical education – marketing education.

The program in marketing shall ensure that the candidate has demonstrated the following competencies:

1. Knowledge of marketing processes and the environment; management and supervision; economics; merchandising and operations; advertising and promotion; sales and selling; communication theory and techniques; consumer behavior; international [() or] global [()] marketing; finance; accounting or marketing mathematics; and technology applications through a variety of educational and work experiences;
2. Knowledge of skills and principles common across the marketing pathways: channel management; marketing-information management; market planning; pricing; product and service management promotion; and selling;
3. Ability to plan, develop, and administer a comprehensive marketing program for high school students and adults;
4. Ability to organize and use a variety of instructional methods and techniques for teaching youths and adults;
5. Ability to conduct learning programs that include a variety of career objectives and recognize and respond to individual differences in students;
6. Ability to assist learners of different abilities in developing skills needed to qualify for further education and employment;
7. Knowledge of occupational skill development and career planning for opportunities in marketing, merchandising, hospitality, and management;
8. Knowledge and skills necessary to teach leadership skills, organize and manage an effective co-curricular student organization [() , such as] DECA [()] and implement the organization's activities as an integral part of instruction;
9. Application of and proficiency in grammar, usage, and mechanics and their integration in writing;

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10. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes;

11. Application of and proficiency in instructional technology and current technological applications as these relate to marketing functions;

12. Demonstration and integration of workplace readiness skills in the classroom and real-world activities;

13. Ability to plan, deliver, and manage work-based learning methods of instruction, such as [] internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship; and

14. Ability to apply mathematical operations to solve marketing problems.

8VAC20-543-220. Career and technical education – technology education.

The program in technology education shall ensure that the candidate has demonstrated the following competencies:

1. Understanding the nature of technology, including knowledge of the [following]:

- a. Characteristics and scope of technology;
- b. Core concepts of physical, biological, and informational technologies; and
- c. Relationships among technologies, including the natural intersects between science, technology, engineering, and mathematics (STEM) and other fields.

2. Understanding the relationships between technology and society, including the [following]:

- a. Sociocultural, political, and economic influences of technology;
- b. Local and global effects of technological products and systems on the environment;
- c. Role that society plays in the use and development of technology; and
- d. Influence of technology on human history.

3. Comprehension and utilization of engineering design, including the [following]:

- a. Attributes of technological design;
- b. Role of constraints, optimization, and predictive analysis in engineering design;
- c. Requirement of problem-solving, critical thinking, and technical writing skills; and

d. Intentional integration of mathematics and science concepts and practices.

4. Ability to succeed in a technological world, including a capacity to:

- a. Employ the design process in the engineering of technological products and systems;
- b. Determine and control the behavior of technological products and systems;
- c. Use and maintain technological products and systems; and
- d. Assess the impacts and consequences of technological products and systems.

5. Ability to select and use the major physical, biological, and informational technologies of the designed world, including the [following]:

- a. Principles and processes characteristic of contemporary and emerging transportation, manufacturing, and construction technologies, inclusive of research, engineering design and testing, planning, organization, resources, and modes of distribution;
- b. Range of enabling technologies that utilize fundamental biological principles and cellular processes characteristic of traditional and modern biotechnical technologies, including research, design-based engineering and testing of agricultural products, biotechnical systems, and associated medical technologies;
- c. Purpose, processes, and resources involved with creating, encoding, transmitting, receiving, decoding, storage, retrieval, and understanding of information data using communication systems in a global information society; and
- d. Concept, laws, forms, and characteristics of energy as a fundamental requirement of the technological world, inclusive of the resultant power and work requisites, both renewable and nonrenewable, of the tools, machines, products, and systems within.

6. Knowledge, skills, and processes required for teaching in a STEM laboratory environment, including:

- a. Laboratory safety rules, regulations, processes, and procedures;
- b. Ability to organize content and practices into effective instructional units;
- c. Ability to deliver instruction to diverse learners;
- d. Ability to evaluate student achievement, curriculum materials, instructional strategies, and teaching practices;

e. Ability to incorporate new and emerging instructional technologies to enhance student performance across the varied domains of knowledge - cognitive, affective, and psychomotor; and

f. Ability to convey the concepts and procedures for developing a learner's technological literacy specifically and integrative STEM literacy in general.

7. Demonstration of the knowledge, abilities, and capacity necessary to teach leadership skills, organize and manage an effective co-curricular student organization, and implement the organization's activities as an integral part of instruction.

8. Understanding of and proficiency in grammar, usage, and mechanics and their integration in formal technical writing.

9. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

10. Demonstrate and integrate workplace readiness skills in the classroom and real-world activities.

11. Ability to plan, deliver, evaluate, and manage work-based learning methods of instruction such as internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship.

8VAC20-543-230. Career and technical education – trade and industrial education.

The program in trade and industrial education shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of industrial education and its role in the development of technically competent, socially responsible, and culturally sensitive individuals with potential for leadership in skilled technical work and professional studies;

2. Understanding of and the ability to relate experiences designed to develop skills in the interpretation and implementation of industrial education philosophy in accordance with changing demand;

3. The knowledge and experience of systematically planning, executing, and evaluating individual and group instruction;

4. Knowledge of the competencies necessary for effective organization and management of laboratory instruction;

5. Knowledge of the competencies necessary for making physical, social, and emotional adjustments in multicultural student-teacher relationships;

6. Knowledge of the competencies necessary for developing and utilizing systematic methods and instruments for appraising and recording student progress in the career and technical educational classroom;

7. Knowledge of the ability to provide technical work experience through cooperative education or provide a method of evaluating previous occupational experience commensurate with the minimum required standard;

8. Knowledge of the competencies and industry credentials necessary to assist students in job placement and in otherwise bridging the gap between education and work;

9. Understanding of the awareness of the human relations factor in industry, with emphasis on the area of cooperation among labor, management, and the schools;

10. Knowledge of the teacher's role in the school and community;

11. Understanding of the content, skills, and techniques necessary to teach a particular trade area;

12. Knowledge of the competencies necessary to organize and manage an effective student organization;

13. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing;

14. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes;

15. Demonstration and integration of work place readiness skills in the classroom and real-world activities; and

16. Understanding of the planning, delivery, and management of work-based learning methods of instruction such as internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship.

8VAC20-543-240. Career and technical education – transition and special needs (add-on endorsement).

The transition and special needs (add-on endorsement) shall ensure that the candidate holds an active license with a teaching endorsement or endorsements issued by the Virginia Board of Education and has demonstrated the following competencies:

1. Knowledge of special needs and transition programs and services, characteristics of students who are disadvantaged, disabled, [and] gifted, and individuals with barriers to educational achievement and employment, including individuals with [~~limited English proficiency~~ who are English learners].

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2. Knowledge of program development, implementation, and evaluation.

3. Basic understanding of cultural issues pertaining to employment and postsecondary education and training.

4. Understanding of the federal and state laws and regulations pertaining to special education, rehabilitation, and the American with Disabilities Act (42 USC § [-] 12101 et seq.).

5. Understanding and demonstration of the integration of instructional methods, resources, and transition programs for targeted populations in career and technical education, including:

a. Use of learning and teaching styles to plan and deliver differentiated instruction and differentiated assessment;

b. Knowledge of age appropriate assessments;

c. Use of assessment results to plan individual instruction strategies and assist with long-range and short-term planning;

d. Understanding of required skills that demonstrate college and career readiness;

e. Ability to plan and manage a competency-based education system;

f. Ability to adapt and modify curriculum materials and utilize Universal Design for Learning Principles to meet special student needs;

g. Use of a variety of classroom and behavior management techniques to develop an enhanced learning environment, behavior change techniques, and individual and group instruction;

h. Use of different processes to improve collaboration and develop partnerships with colleagues, parents, and the community to include service agencies and businesses; and

i. Ability to plan learning experiences that prepare individuals for transition to more advanced education and career development options.

6. Ability to develop, plan, deliver, and manage work-based learning methods of instruction such as community-based instruction, internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship.

7. Understanding and application of strategies for enabling students to learn all aspects of particular industries - planning, management, finances, technical and production skills, labor and community issues, health and safety, environmental issues, and the technology associated with the specific industry.

8. Ability to articulate career and life planning procedures, transitioning processes and procedures, and career-search techniques.

9. Application of and proficiency in grammar, usage, and mechanics and their integration in writing.

10. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

11. Ability to use a variety of technologies to deliver instruction and media to students, parents, teachers, and community partners.

12. Demonstration and integration of workplace readiness skills in the classroom and real-world activities.

13. Demonstrate person-centered planning skills.

8VAC20-543-250. Computer science.

The program in computer science shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of mathematical principles that are the basis of many computer applications;

2. Knowledge of the functions, capabilities, and limitations of computers and computer systems;

3. Knowledge of the ethical, moral, and legal issues associated with applications in programming and computer science;

4. Knowledge of programming in at least two widely used programming languages, including definition, structure, and comparison;

[5. Knowledge of programming languages including definition, design, comparison, and evaluation;

~~6.~~ 5.] Knowledge of computers and computer systems and their applications;

[~~7.~~ 6.] Knowledge of data structures and algorithms;

[~~8.~~ 7.] Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing; and

[~~9.~~ 8.] Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-260. Dance arts preK-12.

The program in dance arts shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of the dance arts discipline as defined in the Virginia

Standards of Learning and how they provide a foundation needed to teach dance arts.

2. Understanding of the knowledge, skills, and processes for teaching dance arts to meet the developmental levels and academic needs of students in preK-12, including the following:

a. Knowledge of and experience in planning, developing, administering, and evaluating a program of dance arts education;

b. Knowledge and understanding for teaching dance arts, including performance, creation, and production; dance history and cultural context; analysis, evaluation, and critique; and aesthetics;

c. Ballet, folk, jazz, and modern dance with an area of concentration in one of these areas;

d. Scientific foundations, including human anatomy, kinesiology, and injury prevention and care for dance arts;

e. The relationship of dance arts and culture and the influence of dance on past and present cultures;

f. Knowledge and understanding of technological and artistic copyright laws;

g. Knowledge and understanding of classroom management and safety, including performance and studio [and use of toxic art materials in various aspects of dance arts production, performance, and the classroom];

h. Knowledge of a variety of instructional and assessment strategies to foster, support, and enhance student dance arts learning;

i. Knowledge and understanding of technology, with applications for instruction, resources, artistic expression, administration, assessment, and communication;

j. Knowledge and understanding of appropriate and sensitive attention to diversity and cultural understanding;

k. Knowledge of related areas of the fine arts, such as music, theatre arts, and the visual arts; and

l. Observation and student teaching experiences at the elementary, middle, and secondary levels.

3. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

4. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-270. Driver education (add-on endorsement).

The program in driver education shall ensure that the candidate holds an active license with a teaching endorsement or endorsements issued by the Virginia Board of Education and has demonstrated the following competencies:

1. Basic understanding of the administration of a driver education program as required by § 22.1-205 of the Code of Virginia and the Administrative Guide for Driver Education in Virginia 2010 (http://www.doe.virginia.gov/instruction/driver_education/curriculum_admin_guide/index.shtml) including:

a. [~~Coordination~~ Coordinating] and scheduling of classroom and in-car instruction;

b. [~~The Understanding the~~] Board of [~~Education Education's~~] and the Department of Motor Vehicle's regulations governing driver education programs;

c. [~~Student safety and other legal liability issues~~ Managing student safety using route and lesson planning, appropriate training techniques, driving environments, speed, driving experiences, and constant monitoring];

d. [~~The Administering the~~] juvenile licensing process;

e. Highway traffic safety and the driver licensing laws in the Code of Virginia;

f. Vehicle procurement [,] maintenance and safety equipment requirements;

g. The Department of Education's and the Department of Motor Vehicle's juvenile licensing forms;

h. Monitoring and oversight procedures that ensure the approved program meets state curriculum objectives, goals, and learning outcomes; the classroom and in-car hour requirements; and teachers have valid Virginia driver's licenses, acceptable driving records, and meet teacher licensure [~~and/or~~ and] in-car instructor training requirements;

i. Promoting parent involvement;

j. Providing opportunities for ongoing professional development; and

k. Integrating classroom and in-car instruction when possible to maximize transfer of skills.

2. Understanding of knowledge, skills, and processes of classroom driver education instruction including:

a. Traffic laws, signs, signals, pavement markings, and right-of-way rules;

b. Licensing procedures and other legal responsibilities associated with the driving privilege and vehicle ownership;

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c. ~~[The Ability to explain the]~~ effect of speed and steering on vehicle balance and control;

d. ~~[Communicating and interacting with Knowledge of performance characteristics of]~~ other highway users [and ability to apply problem-solving skills to minimize risks with] (pedestrians, animals, motorcycles, bicycles, trucks, buses, trains, trailers, motor homes, ATVs, and other recreational users) ~~[in a positive manner]~~;

e. ~~[Managing of Facilitating students' ability to manage]~~ time, space, and visibility, [and] using perceptual skills [in the, and a] risk management process;

f. ~~[Alcohol Ability to identify and analyze the physiological, psychological, cognitive, and economic consequences associated with alcohol]~~ and other drug use;

g. ~~[Passive Understanding proper use of vehicle occupant]~~ protective devices and [active restraint systems analyzing how they can reduce injury severity and increase collision survival];

h. ~~[Vehicle controls, vehicle maintenance, vehicle functions, and vehicle malfunctions Recognizing how regular preventive maintenance reduces vehicle malfunctions and the warning signs that indicate the need for maintenance, repair, or replacement]~~;

i. ~~[Consequences Recognizing the consequences]~~ of aggressive driving, [road rage,] fatigue, distracted driving, and other physical, social, and psychological influences that affect [the] driver [behavior and performance];

j. ~~[Natural laws and environmental factors that influence the decision making process Understanding of]~~ the effects of momentum, gravity, and inertia on vehicle control and balance, and the relationship between kinetic energy and force of impact];

k. ~~[Adverse driving conditions and handling emergencies Ability to evaluate emergency-response strategies to avoid or reduce the severity of a collision in high-risk driving situations, and how technological advancements in intelligent handling and stability control systems affect driving practices]~~;

l. ~~[Planning a safe trip Knowledge about map-reading and trip planning technologies and evaluating personal transportation needs and their impact on the environment]~~;

m. ~~[Differentiating Ability to differentiate]~~ instruction based on a continuous learning cycle;

n. ~~[Using Knowledge of]~~ assessments that foster student learning to inform decisions about instruction; and

o. Using new and emerging instructional technology and media effectively to enhance learning.

3. Understanding of knowledge, skills, and processes of the laboratory phase of instruction including:

a. ~~[Simulation Utilizing simulation]~~ and other instructional technologies;

b. ~~[Multiple car Managing a multiple-car]~~ range;

c. ~~[Route planning and preparing for Designing]~~ sequential instructional performances that lead to effective habit formation;

d. Providing clear, concise instructions when describing the critical elements of a driving skill;

e. Correctly using occupant restraints and protective devices;

f. ~~[The Understanding the]~~ role of the driver and the observer;

g. Using commentary driving to determine visual search skills needed to identify and make risk-reducing decisions for safe speed and position;

h. Using reference points to gauge vehicle position and execute maneuvers with precision;

i. Selecting vehicle position to communicate or establish line of sight to targets;

j. Balancing vehicle movement through precise and timely steering, braking, and accelerating to manage vehicle weight transfer;

k. Applying visual search skills to manage risks in low, moderate, and high-risk driving environments;

l. Adjusting speed and space to communicate and reduce risks to avoid conflicts;

m. Preventing, detecting, and managing vehicle traction loss in simulated and adverse driving conditions;

n. Using vehicle braking, traction, and stability technologies;

o. Recognizing environmental factors that influence vehicle control;

p. Applying space management strategies to the front and sides and monitoring space to the rear;

q. Understanding the consequences of speed selection;

r. Dividing mental attention between intended path of travel and other tasks;

s. Demonstrating basic and evasive maneuvers and off-road recovery;

t. Recognizing understeer and oversteer, and the effects of traction, gravity, inertia and momentum on vehicle handling and control;

u. Controlling vehicle from instructor's seat;

v. Interacting with other roadway users in a positive manner;

w. Using manual transmission;

x. Developing precision in the use of skills, processes, and habits for approach to intersection, curves, turns, parking, turnabouts, backing, lane change, passing and being passed, getting on and off highways, and responding to emergencies;

y. Administering the driver's license road skills test and issuing the six-month temporary provisional license; and

z. Completing a debriefing with a parent or guardian that includes a reminder that the parent must ultimately determine readiness for a driver's license.

4. Guiding parents to provide meaningful guided practice including:

a. Understanding the juvenile licensing laws and the parents' role in the juvenile licensing process;

b. Determining the readiness of the child to begin learning how to drive in a car;

c. Planning and supervising the learner's permit experience;

d. Keeping a record of the meaningful supervised driving hours; and

e. Adopting a written agreement with the child that reflects expectations, defines rules and consequences, and allows the parents to progressively grant broader driving privileges.

5. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

6. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-280. Engineering.

The program in engineering shall ensure that the candidate [demonstrates has demonstrated] the following competencies:

1. Understanding of the knowledge, skills, and processes of the engineering discipline as defined in Virginia's high school engineering courses and how these provide a sound foundation for teaching engineering.

2. Understanding the nature of engineering design and analysis, including the [following]:

a. Function of the engineering design process;

b. Methods used by engineers to generate, develop, and test ideas to meet design requirements; [and]

c. Role of failure in the engineering design process.

3. Understanding of the knowledge, skills, and processes for teaching engineering, including the ability to:

a. Formulate instruction reflecting the goals of the engineering courses that are taught in Virginia high schools;

b. Design, prototype, test, analyze, and operate solutions to engineering challenges;

c. Implement laboratory and field safety rules and procedures and ensure that students take appropriate safety precautions;

d. Organize key engineering content and skills into meaningful units of instruction;

e. Adapt instruction to diverse learners using a variety of techniques;

f. Evaluate student achievement, instructional materials, and teaching materials; and

g. Incorporate instructional technology to enhance student performance.

4. Understanding of content, processes, and skills of engineering, equivalent to an undergraduate degree in engineering, with course work in principles of engineering, engineering design, statics and dynamics, circuits, fluid mechanics, thermodynamics, materials, ordinary differential equations, and linear algebra.

5. Understanding of basic chemistry, biology, Earth and space sciences, physics, and mathematics, including statistics and calculus, to ensure:

a. The placement of engineering in an appropriate science, technology, engineering, and mathematics (STEM) and interdisciplinary context;

b. The ability to teach the processes and organizing concepts of the natural and physical sciences to analyze successful and failed engineering designs; and

c. Student achievement in engineering.

6. Understanding of the contributions and significance of engineering, including:

a. Its social and cultural significance;

b. The relationship of engineering and its sub-fields [e.g.], [such as] electrical engineering, mechanical

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engineering, bio-engineering, [etc.] to the sciences, mathematics and technology; and

c. The historical development of engineering concepts and reasoning.

7. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing, oral, and multi-media presentations.

8. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-290. English.

The program in English shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of English as defined in the Virginia Standards of Learning;

2. Skills necessary to teach the writing process and the different modes of writing [{ such as } narrative, descriptive, expository, persuasive, and analytical [}] and to employ available technology;

3. Knowledge of grammar, usage, and mechanics and their integration in writing;

4. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes;

5. Understanding of the nature and development of language including vocabulary appropriate to the topic, audience, and purpose;

6. Knowledge of reading strategies and techniques used to enhance reading comprehension skills in both fiction and nonfiction texts;

7. Knowledge of communication skills including speaking and listening skills and media literacy;

8. Knowledge of varied fiction and nonfiction from young adult, British, American, world, and ethnic and minority texts appropriate for English instruction;

9. The ability to provide experiences in communication arts, such as journalism, dramatics, debate, forensics, radio, television, films, and other media production;

10. Skills necessary to teach the analysis and production of media literacy;

11. Skills necessary to teach research including ethical accessing, evaluating, organizing, crediting, and synthesizing information; and

12. Knowledge of the [Virginia] Computer Technology Standards of Learning and their integration into English Language Arts.

8VAC20-543-300. English as a second language preK-12.

The program in English as a second language shall ensure that the candidate has demonstrated the following competencies:

1. Skills in methods of teaching English as a second language to include [~~the understanding of the~~ instruction based on the] World-Class Instructional [~~and~~] Design Assessment (WIDA) English Language Development (ELD) Standards;

2. Skills in [~~student assessment for English as a second language to include the Assessing Comprehension and Communication in English State to State for English Language Learners (Access for ELLs®) test~~ designing and administering formative or classroom-based assessments and interpreting results of both formative and summative assessments, including the WIDA Access test. Using the results of a variety of formative assessments, including performance-based assessments of oral language and writing, to direct instruction. Ensuring that formative assessments reflect high validity and reliability for the purposes for which they are used and are appropriate for the targeted students. Teaching test-taking skills in preparation for standardized tests];

3. Skills in the teaching of reading [~~and writing~~] to include [(i) ~~the five areas of reading instruction~~]; phonemic awareness [~~phonics, fluency, vocabulary and text comprehension~~; (ii) ~~similarities and differences between reading in a first language and reading in a second language~~; and (iii) ~~a balanced literacy approach~~; pre-reading, during-reading, and post-reading strategies; vocabulary development; and guided reading. Ability to structure interactive tasks that engage students in using oral language to develop reading skills. Ability to determine students' reading levels and design instruction for multi-level classrooms by incorporating appropriate scaffolding or language supports];

4. [~~Skills in teaching grammar and syntax in the context of writing. Ability to model and teach editing skills and organization of writing using predominant text structures in the content areas~~;

5.] ~~Knowledge of the effects of sociocultural variables in the instructional setting~~;

[~~5-6.~~] Proficiency in spoken and written English;

[~~6. Understanding of second language acquisition~~ 7. Skills in providing language and cognitive support or scaffolding bases on the various stages of the second language acquisition process];

- [7. 8.] Knowledge of another language and its structure;
- [8. 9.] Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing; [and]
- ~~[9. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes; and]~~
- 10. Knowledge of [both general linguistics and] English linguistics.

8VAC20-543-310. Foreign language preK-12.

A. The specific language of the endorsement shall be noted on the license.

B. Foreign language preK-12 - languages other than Latin [and American Sign Language]. The program in the foreign language shall ensure that the candidate has:

- 1. Demonstrated the following competencies:
 - a. Understanding of authentic speech at a normal tempo;
 - b. Ability to speak with a command of vocabulary, pronunciation, and syntax adequate for expressing thoughts to a native speaker not used to dealing with foreigners;
 - c. Ability to read and comprehend authentic texts of average difficulty and of mature content;
 - d. Ability to write a variety of texts including description and narration with clarity and correctness in vocabulary and syntax;
 - e. Knowledge of geography, history, social structure, and artistic and literary contributions of the target societies;
 - f. Ability to interpret contemporary lifestyles, customs, and cultural patterns of the target societies;
 - g. Understanding of the application of basic concepts of phonology, syntax, and morphology to the teaching of the foreign language;
 - h. Knowledge of the national standards for foreign language learning, current proficiency-based and performance-based objectives of the teaching of foreign languages at the elementary and secondary levels, elementary and secondary methods and techniques for attaining these objectives, the use of technology and media in teaching languages, current curricular developments, the relationship of language study to other areas of the curriculum, and the professional literature of foreign language teaching;
 - i. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing;

j. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes;

k. Knowledge of the assessment of foreign language skills in listening, speaking, reading, and writing, and the differing types of assessments and their uses, including portfolio-based assessments, integrated performance assessments, and oral proficiency interviews; and

l. Knowledge of the characteristics of effective foreign language teaching, including the standards and key elements related to foreign language teaching as outlined in the Virginia Standards for the Professional Practice of Teachers.

2. Participated in opportunities for significant foreign language study or living experiences in this country or abroad, or both.

C. Foreign language preK-12 - Latin. The program in Latin shall ensure that the candidate has demonstrated the following competencies:

- 1. Ability to read and comprehend Latin in the original;
- 2. Ability to pronounce Latin with consistent classical [ː] or ecclesiastical [ɜː] pronunciation;
- 3. Knowledge of the vocabulary, [phonetics phonology], morphology, and syntax of Latin and the etymological impact of Latin;
- 4. Ability to discuss the culture and civilization of Greco-Roman society, including history, daily life, art, architecture, and geography;
- 5. Ability to explain the relationship of Greco-Roman culture and civilization to subsequent cultures and civilizations;
- 6. Knowledge of major literary masterpieces and their relationship to the historical and social context of the society;
- 7. Competency in current methodologies for teaching Latin at the elementary and secondary levels; lesson planning; scope and sequencing of material; instructional strategies and assessment under the guidance of an experienced Latin teacher;
- 8. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing;
- 9. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes; and

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10. Knowledge of the characteristics of effective foreign language teaching, including the standards and key elements related to foreign language teaching as outlined in the Virginia Standards for the Professional Practice of Teachers.

D. Foreign language preK-12 - American Sign Language. The program in American Sign Language shall ensure that the candidate has:

1. Demonstrated the following competencies:

a. Understanding of native users of American Sign Language at a normal tempo;

b. Ability to sign with a command of vocabulary, nominal behaviors, and syntax adequate for expressing thoughts to an American Sign Language user not accustomed to dealing with individuals who do not use American Sign Language;

c. Knowledge of history, social structure, and artistic and literary contributions of the deaf culture;

d. Ability to interpret contemporary lifestyles, customs, and cultural patterns of the deaf culture;

e. Understanding of the application of basic concepts of phonology [~~e.g.~~], [including] hand shapes, location, palm orientation, and sign movements [~~]~~], syntax, and morphology to the teaching of the American Sign Language;

f. Knowledge of the national standards for foreign language learning, current proficiency-based and performance-based objectives of the teaching of foreign languages at the elementary and secondary levels, elementary and secondary methods and techniques for attaining these objectives, the assessment of foreign language skills, the use of technology and media in teaching languages, current curricular developments, the relationship of language study to other areas of the curriculum, and the professional literature of foreign language teaching;

g. Understanding of and proficiency in English grammar, usage, and mechanics and their integration in writing;

h. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes; and

i. Knowledge of the characteristics of effective foreign language teaching, including the standards and key elements related to foreign language teaching as outlined in the Virginia Standards for the Professional Practice of Teachers.

2. Participated in opportunities for significant study of the linguistics of American Sign Language and immersion experiences in the deaf culture.

8VAC20-543-320. Gifted education (add-on endorsement).

The program in gifted education shall ensure that the candidate holds an active license with a teaching endorsement or endorsements issued by the Virginia Board of Education and has demonstrated the following competencies:

1. Understanding of principles of the integration of gifted education and general education, including:

a. Strategies to facilitate the interaction of gifted students with students of similar and differing intellectual and academic abilities;

b. Development of activities to encourage parental and community involvement in the education of the gifted;

c. Strategies to encourage collaboration among professional colleagues, especially in the areas of curriculum and professional development; and

d. Strategies to collaborate and consult with general education teachers and other resource specialists on behalf of gifted students.

2. Understanding of the characteristics of gifted students, including:

a. Varied expressions of advanced aptitudes, skills, creativity, and conceptual understandings;

b. Varied expressions of the affective [~~€~~, such as] social-emotional [~~]~~] needs of gifted students; and

c. Gifted behaviors in special populations [~~i.e.~~], [including] those who are culturally and linguistically diverse, economically disadvantaged, highly gifted, or have special needs or disabilities, including twice-exceptional students [~~]~~];

3. Understanding of specific techniques to identify gifted students using diagnostic and prescriptive approaches to assessment, including:

a. The selection, use, and interpretation of multiple standardized, norm-referenced aptitude and achievement assessment instruments;

b. The selection, use, and evaluation of multiple identification criteria and strategies;

c. The use of both formal and informal nonbiased measures to provide relevant information regarding the aptitude and ability or achievement of potentially gifted students;

d. The use of authentic assessment tools such as portfolios to determine performance, motivation, interest, and other characteristics of potentially gifted students;

- e. The use and interpretation of reliable rating scales, checklists, and questionnaires by parents, teachers, and others;
 - f. The evaluation of data collected from student records such as grades, honors, and awards;
 - g. The use of case study reports providing information [~~concerning~~ regarding] exceptional conditions; and
 - h. The roles and responsibilities of the identification and placement committee.
4. Understanding and application of a variety of curricular and instructional models, methodologies, and strategies that ensure:
- a. The use of the Virginia Standards of Learning as a foundation to develop a high level of proficiency, academic rigor, and complexity for gifted learners in all curricular academic areas;
 - b. The acquisition of knowledge and development of products that demonstrate creative and critical thinking as applied to student learning both in and out of the classroom, including inquiry-based instruction, questioning strategies, and problem-solving skills;
 - c. The development of learning environments that guide students to become self-directed, reflective, independent learners;
 - d. The acquisition of tools to enable students to contribute to a multicultural, diverse society, including preparation for college and careers; and
 - e. The development of learning environments that recognize and support the affective needs of the gifted students.
5. Understanding and application of theories and principles of appropriately differentiating curriculum specifically designed to accommodate the accelerated learning aptitudes of gifted students, including:
- a. Accelerated and enrichment opportunities that recognize gifted students' needs for advanced content and pacing of instruction, original research or production, problem-finding and problem-solving, higher level thinking that leads to the generation of products, and a focus on issues, themes, and ideas integrated within and across disciplines;
 - b. Opportunities for students to explore, develop, and research their areas of interest, talent, or strength using varied modes of expression;
 - c. Emphasis on advanced and complex content that is paced and sequenced to respond to gifted students' persistent intellectual, artistic, or technical curiosity; exceptional problem-solving abilities; rapid acquisition and mastery of information; conceptual thinking processes; and imaginative expression across a broad range of disciplines;
 - d. Evaluation of student academic growth and learner outcomes through appropriate multiple criteria, including a variety of pre-assessments and post-assessments; and
 - e. Use of current and advanced technologies to enhance student performance and academic growth.
6. [Understanding the fundamental principles of differentiated curricula for effective program planning and evaluation, including:
- a. Program design and development for gifted learners;
 - b. Research and topics for effective administrative arrangements, supervision, and program implementation;
 - c. Activities to encourage parental and community involvement in gifted education; and
 - d. Strategies for building an effective advisory committee.
7.] Understanding of contemporary issues and research in gifted education, including:
- a. The systematic gathering, analyzing, and reporting of formative and summative data from local, state, and national perspectives; and
 - b. Current local, state, and national policies, trends, and issues.
- [~~7.~~ 8.] Understanding of and proficiency in grammar, usage, and mechanics and their integration in all forms of communication.
- [~~8.~~ 9.] Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.
- [~~9.~~ 10.] The program shall include a practicum that shall include a minimum of 45 instructional hours of successful teaching experiences with gifted students [in a public or accredited nonpublic school].
- 8VAC20-543-330. Health and physical education preK-12.**
- The program in health and physical education preK-12 shall ensure that the candidate has demonstrated the following competencies:
- 1. Understanding of the knowledge, skills, and processes of health and physical education as defined in the Virginia Standards of Learning [including the following:].
- [a. Competence in motor skills and movement patterns needed to perform a variety of physical activities;

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b. Knowledge of structures and functions of the body and how they relate to and are affected by human movement to learning and developing motors skills and specialized movement forms;

c. Demonstrate the aptitude, attitude, and skills to lead responsible, fulfilling, and respectful lives; and

d. Understand the importance of energy balance and nutritional needs of the body to maintain optimal health and prevent chronic disease.]

2. Understanding basic human anatomy, physiology, [~~and~~] kinesiology [, and exercise physiology] needed to apply discipline-specific biomechanical concepts critical to the development of physically educated individuals.

3. Understanding of the basic scientific principles of human movement as they apply to:

a. Health-related fitness [~~is~~, such as] flexibility, muscular strength and endurance, cardio respiratory endurance, and body composition [~~is~~];

b. Skill-related fitness [~~is~~, such as] coordination, agility, power, balance, speed, and reaction time [~~is~~]; and

c. Analyzing and correcting critical elements of motor skills and performance concepts related to skillful movement and fitness.

4. Basic understanding of the administration and planning for a health and physical education program, including:

a. Differentiated instruction based on a continuous learning cycle;

b. Student safety, classroom management, injury prevention, and liability issues;

c. Standards-based curriculum and assessments that foster student learning and inform decisions about instruction;

d. The role of coordinated school and community health.

e. Utilizing school health advisory boards, local health departments, and other representative stakeholders for support for best practice; and

f. Increasing physical activity behaviors before, during, and after school.

5. [Understanding of the knowledge, skills, and processes of health education as defined in the Virginia Standards of Learning, including:

a. Demonstrate the knowledge and skills to make healthy decisions that reduce health risks and enhance the health of self and others;

b. Demonstrate the ability to access, evaluate, and use health information, products, and services that influence health and wellness in a positive manner; and

c. Demonstrate the use of appropriate health practices and behaviors to promote a safe and healthy community when alone, with family, at school, and in other group settings.

6.] Understanding of the essential health knowledge, skills, and processes for teaching developmentally and culturally appropriate health education content standards, including:

a. Health promotion and chronic disease prevention;

b. Mental, social, and emotional health;

c. Nutrition, body image, eating disorders, energy balance, and weight management;

d. Tobacco, alcohol, and other drug use prevention;

e. Safety and emergency care [~~is~~, including] first aid, CPR, AED, universal precautions [~~is~~];

f. Injury and violence prevention;

g. Consumer health and information access;

h. Communicable and noncommunicable [~~diseases~~ disease] prevention and treatment;

i. Environmental health;

j. Personal, family, and community health;

k. Bullying prevention, resistance skills, and conflict mediation; and

l. Theories and models of behavior change and goal-setting.

[~~6- 7.~~] Understanding of the knowledge, skills, and processes for teaching physical education, including:

a. Articulated, sequential preK-12 instruction in a variety of movement forms that include:

(1) Functional fitness;

(2) Developmentally appropriate movement skills; and

(3) Movement principles and concepts.

b. Activities that meet the needs of the diverse learner;

c. [~~Design~~ Ability to design] learning activities to help students understand, develop, value and achieve personal fitness;

d. Knowledge of human growth, development, and motor learning;

e. The relationship between a physically active lifestyle and health;

f. Knowledge of the cognitive, social, and emotional development through physical activity;

g. [~~Incorporate~~ Ability to incorporate] strategies that promote effective physical activity learning environments;

h. Use of authentic, traditional, psychomotor, and fitness assessment methods;

i. The cultural significance of dance, leisure, competition, and sportsmanship; and

j. [~~Demonstrate~~ Demonstration of] personal competence in motor skill performance for a variety of movement patterns, modeling healthy behaviors, and maintaining health-enhancing level of fitness.

[~~7.~~ 8.] Understanding of and ability to design developmentally appropriate curriculum, instruction, and performance-based assessment that is aligned with the Virginia Standards of Learning for Health and Physical Education [including the following]:

a. Develop a developmentally appropriate scope and sequence plan of essential health and physical education concepts, information, and skills based on the Virginia Standards of Learning;

b. Use the scope and sequence plan to develop performance indicators that describe the essential concepts and skills;

c. Use new and emerging instructional technology and media effectively to enhance learning;

d. Use research-based educational strategies to meet diverse learning styles and needs;

e. Adapt and create strategies best suited for delivering instruction in diverse settings;

f. Employ individual and cooperative group learning strategies;

g. Connect instruction to prior student learning, and to other curricular areas; and

h. Use evaluation to plan a continuous cycle of learning strategies that reinforce mastery of performance indicators.

[~~8.~~ 9.] Obtaining, analyzing and applying health-related and fitness-related data to meet the cultural, social, growth, and development needs of the students and community:

a. Select valid and current sources of information and data;

b. Use computerized sources of information and appropriate data-gathering instruments; and

c. Analyze and interpret data and determine priority areas of focused instruction.

[~~9.~~ 10.] Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

[~~10.~~ 11.] Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-340. History and social sciences.

The program in history and social sciences shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of history and the social science disciplines as defined by the Virginia History and Social Sciences Standards of Learning and how the standards provide the foundation for teaching history and the social sciences, including in:

a. United States history.

(1) The evolution of the American constitutional republic and its ideas, institutions, and practices from the philosophical origins in the Enlightenment through the debates of the colonial period to the present; the American Revolution, including ideas and principles preserved in significant Virginia and United States historical documents as required by § 22.1-201 of the Code of Virginia (the Declaration of American Independence; the general principles of the Constitution of the United States; the Virginia Statute of Religious Freedom; the charters of The Virginia Company of April 10, 1606, May 23, 1609, and March 12, 1612; and the Virginia Declaration of Rights); Articles of Confederation; and historical challenges to the American political system;

(2) The influence of religious traditions on American heritage and contemporary American society;

(3) The influence of immigration on American political, social, cultural, and economic life;

(4) The origins, effects, aftermath, and significance of the two world wars, the Korean and Vietnam conflicts, and the post-Cold War era;

(5) The social, political, and economic transformations in American life during the 20th century;

(6) The tensions between liberty and equality, liberty and order, region and nation, individualism and the common welfare, and cultural diversity and national unity; and

(7) The difference between a democracy and a republic and other types of economic and political systems.

b. World history.

(1) The political, philosophical, and cultural legacies of ancient American, Asian, African, and European civilizations;

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(2) The origins, ideas, and institutions of Judaism, Christianity, Hinduism, Confucianism and Taoism, and Shinto, Buddhist, and Islamic religious traditions;

(3) Medieval society, institutions, and civilizations; feudalism; and the evolution of representative government;

(4) The social, political, cultural, and economic innovations of selected civilizations in Africa, Asia, Europe, and the Americas;

(5) The ideas of the Renaissance and the Reformation, European exploration, and the origins of capitalism and colonization;

(6) The cultural ideas of the Enlightenment and the intellectual and political revolution of the 17th and 18th centuries;

(7) The sources, results, and influences of the American, French, and Latin American revolutions;

(8) The social and economic consequences of the Industrial Revolution and its impact on politics, culture, and the lives of everyday people;

(9) The influence of global ideologies of the 19th and 20th centuries [~~(liberalism, republicanism, social democracy, Marxism, nationalism, Communism, Fascism, Nazism, and post-colonialism)~~];

(10) The origins, effects, aftermath, and significance of the two world wars, the Korean and Vietnam conflicts, and the post-Cold War era; and

(11) The development of globalization and the growing interdependence and inter-relationship among countries and cultures in the world.

c. Civics, government, and economics.

(1) The essential characteristics of governments;

(2) The importance of the rule of law for the protection of individual rights and the common good;

(3) The rights and responsibilities of American citizenship;

(4) The nature and purposes of constitutions and alternative ways of organizing constitutional governments;

(5) American political culture;

(6) Principles of the American constitutional republic;

(7) The idea of federalism and states' rights;

(8) The structures, functions, and powers of local and state government;

(9) Importance of citizen participation in the political process in local and state government;

(10) Local government and civics instruction specific to Virginia;

(11) The structures, functions, and powers of the national government;

(12) The role of the United States government in foreign policy and national security;

(13) The structure [~~of the~~ and role of the local, state, and] federal judiciary;

(14) The structure and function of the United States market economy as compared with other economies;

(15) Knowledge of the impact of the government role in the economy and individual economic and political freedoms;

(16) Knowledge of economic systems in the areas of productivity and key economic indicators;

(17) The analysis of global economic trends; and

(18) Knowledge of international organizations, both political and economic, such as the United Nations, International Court in the Hague, and the International Monetary Fund.

d. Geography.

(1) Relationship between human activity and the physical environment, the ways in which geography governs human activity, and the effects of human activity on geographic features;

(2) Use of maps and other geographic representations, tools, and technologies to acquire, process, and report information;

(3) Physical and human characteristics of places;

(4) Physical processes that shape the surface of the earth;

(5) Characteristics, distribution, and migration of human populations;

(6) Patterns and networks of economic interdependence;

(7) Processes, patterns, and functions of human settlement;

(8) How the forces of conflict and cooperation influence the division and control of the earth's surface;

(9) Changes that occur in the meaning, use, distribution, and importance of resources;

(10) Applying geography to interpret the past and the present and to plan for the future; and

(11) Impact of geospatial technologies on the study of geography, physical and human.

2. Understanding of history and social sciences to appreciate the significance of:

- a. Diverse cultures and shared humanity;
- b. How things happen, how they change, and how human intervention matters;
- c. The interplay of change and continuity;
- d. How people in other times and places have struggled with fundamental questions of truth, justice, and personal responsibility;
- e. The importance of individuals and groups who have made a difference in history and the significance of personal character to the future of society;
- f. The relationship among history, geography, civics, and economics;
- g. The difference between fact and conjecture, evidence and assertion, and the importance of framing useful questions;
- h. How ideas have real consequences; and
- i. The importance of primary documents and the potential problems with second-hand accounts.

3. Understanding of the use of the content and processes of history and social sciences instruction, including:

- a. Fluency in historical thinking and geographic analysis skills;
- b. Skill in debate, discussion, and persuasive writing;
- c. The ability to organize key social science content into meaningful units of instruction based on historical thinking skills;
- d. The ability to provide instruction using a variety of instructional techniques;
- e. The ability to evaluate primary and secondary instructional resources, instruction, and student achievement;
- f. The ability to incorporate appropriate technologies into social science instruction; and
- g. The development of digital literacy skills while recognizing the influence of the media.

4. Understanding of the content, processes, and skills of one of the social sciences disciplines at a level equivalent to an undergraduate major, along with proficient understanding of [~~the three~~] supporting disciplines to ensure:

- a. The ability to teach the processes and organizing concepts of social science;

b. An understanding of the significance of the social sciences; and

c. Student achievement in the social sciences.

5. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing and communications.

6. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

7. Skills necessary to teach research including use of primary and secondary sources, ethical accessing, evaluating, organizing, crediting, and synthesizing information.

8VAC20-543-350. Journalism (add-on endorsement).

The program in journalism (add-on endorsement) shall ensure that the candidate holds an active license with a teaching endorsement or endorsements issued by the Virginia Board of Education and has demonstrated the following competencies:

1. Understanding the history and functions of journalism in American culture including the value of freedom of speech and of the press and the complexity of legal and ethical issues;

2. Understanding press law and ethics as it applies to scholastic media, including First Amendment-related rights and responsibilities;

3. Understanding of and experience in theory and practice of both print and nonprint media including design and layout production and the use of technology;

4. Possession of skills in teaching journalistic writing, interviewing, and editing for a variety of purposes, audiences, and formats;

5. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing and communications;

6. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes; and

7. Skills to lead student media and production, including an understanding of fiscal responsibility, conflict resolution, and time management.

8VAC20-543-360. Keyboarding (add-on endorsement).

The program in keyboarding (add-on endorsement) shall ensure that the candidate holds an active license with a

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teaching endorsement or endorsements issued by the Virginia Board of Education and has demonstrated the following competencies:

1. Possession of skills in fingering and keyboard manipulation techniques to model and provide touch keyboarding instruction;
2. Ability to provide instruction that allows students to develop touch fingering techniques in a kinesthetic response to the keyboard required for rapid, accurate entry of data and information;
3. Ability to provide instruction for current procedures in formatting documents;
4. Ability to provide instruction that allows students to develop proper keyboarding techniques based on ergonomics research to minimize future repetitive strain injuries;
5. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing and communications; and
6. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-370. Library media preK-12.

The program in library media preK-12 shall ensure that the candidate has demonstrated the following competencies:

1. Proficiency in teaching for learning, including knowledge of learners and learning; effective and knowledgeable teaching; collaborative instructional partners; integration of 21st century skills, learning standards, and technologies; assessment of and for student learning; and the design and implementation of instruction that engages students' interests and develops their ability to inquire, think critically, and gain and share knowledge.
2. Proficiency in literacy and reading, including familiarity with children's, young adult, and professional literature in multiple formats; use of a variety of strategies to promote reading for enjoyment and information; collection development to support diverse learning needs; and collaboration to reinforce reading instructional strategies.
3. Proficiency in information and knowledge, including efficient and ethical information-seeking behavior, ethical and equitable access to information, design and delivery of authentic learning through current and emerging technology, and the use of evidence-based action research to create and share knowledge.
4. Proficiency in advocacy and leadership, including networking with the library community, commitment to

professional development, leadership in articulating the role of the school library program in the educational community and in student learning, and advocacy for school library programs, resources, and services.

5. Proficiency in program management and administration, including planning, developing, implementing, and evaluating library programs, collections, and facilities; personnel; funding; organization of materials; professional ethics; and strategic planning and program assessment.

6. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing in multiple formats.

7. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-380. Mathematics.

The program in mathematics shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of the Virginia Mathematics Standards of Learning and how curriculum may be organized to teach these standards to diverse learners;

2. Understanding of a core knowledge base of concepts and procedures within the discipline of mathematics, including the following strands: number systems and number theory, geometry and measurement, analytic geometry, statistics and probability, functions and algebra, multivariate calculus, discrete mathematics, and linear and abstract algebra;

3. Understanding of the sequential and interrelated nature of mathematics, the vertical progression of mathematical standards, and the mathematical structures inherent in the content strands;

4. Understanding of the connections among mathematical concepts and procedures and their practical applications;

5. Understanding of and the ability to use the five processes - becoming mathematical problem-solvers, reasoning mathematically, communicating mathematically, making mathematical connections, and using mathematical models and representations - at different levels of complexity;

6. Understanding [~~of the history of mathematics, including~~] the contributions of different individuals and cultures toward the development of mathematics and the role of mathematics in culture and society;

7. Understanding of major current curriculum studies and trends in mathematics;

8. Understanding how to utilize appropriate technologies for teaching and learning mathematics, including graphing utilities, dynamic software, spreadsheets, and virtual manipulatives;

9. Understanding of and the ability to select, adapt, differentiate, evaluate, and use instructional materials and resources, including professional journals and technology;

10. Understanding of and the ability to use strategies for managing, assessing, and monitoring student learning, including diagnosing student errors;

11. Understanding of and the ability to use strategies to teach mathematics to diverse learners;

12. [Knowledge of programming in at least two widely used programming languages, including definition, structure, and comparison;

13.] Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing; and

[13- 14.] Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-390. Mathematics – [Algebra algebra] I (add-on endorsement).

The program in Algebra I shall ensure that the candidate holds an active license with a teaching endorsement or endorsements issued by the Virginia Board of Education and has demonstrated the following competencies:

1. Understanding of the mathematics relevant to the content identified in the Mathematics Standards of Learning and how the standards provide the foundation for teaching middle level mathematics through Algebra I, including:

a. The structure of real numbers and subsets, basic operations, and properties;

b. Elementary number theory, ratio, proportion, and percent;

c. Algebra, trigonometry, and analytic geometry; operations with monomials and polynomials; rational expressions; linear, quadratic, and higher degree equations and inequalities; linear systems of equations and inequalities; nonlinear systems of equations; radicals and exponents; complex numbers; arithmetic and geometric sequences and series; algebraic, trigonometric, logarithmic, exponential, absolute value, and step functions; domain and range of functions; composite and inverse functions; one-to-one mapping; transformations between graphical, tabular, and symbolic forms of functions; direct and inverse variation; line and curve of

best fit; conics; and recognition and application of trigonometric identities;

d. Calculus: applications of limits, differentiation, and integration;

e. Linear algebra: matrices, vectors, and linear transformations;

f. Geometry: geometric figures, their properties, relationships, and application of the Pythagorean Theorem; using deductive axiomatic methods of proof and inductive reasoning; perimeter, area, and surface area of two-dimensional and three-dimensional figures; coordinate and transformational geometry; constructions and applications of algebra in geometry;

g. Probability and statistics: experimental and theoretical probability; prediction; graphical representations, including box-and-whisker plots; and measures of center, range, standard deviation, z-scores, and simple and normal distributions; and

h. Discrete mathematics: symbolic logic, sets, permutations and combinations, functions that are defined recursively, and linear programming.

2. Understanding of varied pedagogical approaches to teaching algebraic concepts and their connected procedures.

3. Understanding of the connections among algebraic concepts, procedures, models, and practical applications.

4. Understanding of the sequential and interrelated nature of mathematics and the mathematical structures inherent in algebra.

5. Understanding of and the ability to use the five processes - becoming mathematical problem-solvers, reasoning mathematically, communicating mathematically, making mathematical connections, and using mathematical models and representations - at different levels of complexity.

6. Understanding how to utilize appropriate technologies for teaching and learning algebra, including graphing utilities, dynamic software, spreadsheets, and virtual manipulatives.

7. Understanding of and the ability to use strategies for managing, assessing, and monitoring student learning, including diagnosing student errors.

8. Understanding of and the ability to use strategies to teach algebra to diverse learners.

9. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

10. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool

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for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-400. Music education – instrumental preK-12.

The program in music education - instrumental preK-12 shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of the music discipline as defined in the Virginia Standards of Learning and how they provide a necessary foundation integral to teaching instrumental music.

2. Understanding of the common elements of music - rhythm, melody, harmony, timbre, texture, dynamics, and form - and their relationship with each other and student academic needs and employing this understanding in the analysis of music.

3. Effective musicianship through the development of:

a. Basic skills in conducting, score reading, teaching musical courses, and rehearsal techniques for choral and instrumental music;

b. Skills in composing, arranging, and adapting music to meet the classroom needs and ability levels of school performing groups;

c. Skills in providing and directing creative experiences and improvising when necessary;

d. Proficiency, sufficient for classroom instruction, on keyboard or other accompanying instrument; and

e. The ability to perform in ensembles.

4. Knowledge and understanding of teaching music, including music theory; performance; music history and cultural context; analysis, evaluation, and critique; and aesthetics.

5. Knowledge of music history and literature with emphasis on the relationship of music to culture and the ability to place compositions in historical and stylistic perspective.

6. Knowledge of a comprehensive program of music education based upon sound philosophy, content, and methodology for teaching in elementary, middle, and secondary schools.

7. Specialization on a musical instrument and functional teaching knowledge on each of the string, brass, woodwind, and percussion instruments.

8. Competency in teaching rehearsing and conducting combined instrumental and vocal groups. In addition, the program shall provide instruction in business procedures,

organization, and management of large and small instrumental ensembles.

9. Knowledge of vocal techniques in teaching, rehearsing, and conducting combined instrumental and vocal groups.

10. Knowledge and understanding of technological and artistic copyright laws.

11. Knowledge and understanding of classroom management and safety, including performance and studio.

12. Knowledge of a variety of instructional and assessment strategies to foster, support, and enhance student music learning.

13. Knowledge and understanding of technology, with applications for instruction, resources, artistic expression, administration, business procedures, assessment, and communication.

14. Knowledge and understanding of appropriate and sensitive attention to diversity and cultural understanding.

15. Knowledge of related areas of the fine arts, such as dance arts, theatre arts, and the visual arts.

16. Observation and professional laboratory experiences with pupils in elementary, middle, and secondary schools, including instruction of instrumental groups.

17. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

18. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-410. Music education – vocal/choral preK-12.

A. The program in music education - vocal/choral preK-12 shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of the music discipline as defined in the Virginia Standards of Learning and how they provide a necessary foundation integral to teaching instrumental music.

2. Understanding of the common elements of music - rhythm, melody, harmony, timbre, texture, dynamics, and form - and their relationship with each other and student academic needs and to employ this understanding in the analysis of music.

3. Effective musicianship through the development of:

a. Basic skills in conducting, score reading, teaching musical courses, and rehearsal techniques for choral and instrumental music;

- b. Skills in composing, arranging, and adapting music to meet the classroom needs and ability levels of school performing groups;
- c. Skills in providing and directing creative experiences and improvising when necessary;
- d. Proficiency, sufficient for classroom instruction, on keyboard or other accompanying instrument; and
- e. The ability to perform in ensembles.
- 4. Knowledge and understanding of teaching music, including music theory; performance; music history and cultural context; analysis, evaluation, and critique; and aesthetics.
- 5. Knowledge of music history and literature with emphasis on the relationship of music to culture and the ability to place compositions in historical and stylistic perspective.
- 6. Knowledge of a comprehensive program of music education based upon sound philosophy, content, and methodology for teaching in elementary, middle, and secondary schools.
- 7. Specialization in the methods, materials, and media appropriate to the teaching of vocal/choral and general music at elementary, middle, and secondary levels.
- 8. Competency in teaching, rehearsing, and conducting choral ensembles and combined vocal and instrumental school groups. In addition, the program shall provide instruction in business procedures, organization, and management of large and small choral ensembles.
- 9. Knowledge of instrumental techniques in teaching, rehearsing, and conducting combined vocal and instrumental school groups.
- 10. Knowledge and understanding of technological and artistic copyright laws.
- 11. Knowledge and understanding of classroom management and safety, including performance and studio.
- 12. Knowledge of a variety of instructional and assessment strategies to foster, support, and enhance student music learning.
- 13. Knowledge and understanding of technology, with applications for instruction, resources, artistic expression, administration, business procedures, assessment, and communication.
- 14. Knowledge and understanding of appropriate and sensitive attention to diversity and cultural understanding.
- 15. Knowledge of related areas of the fine arts, such as dance arts, theatre arts, and the visual arts.

16. Observation and professional laboratory experiences with pupils at elementary, middle, and secondary levels, including instruction of choral groups.

17. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

18. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-420. Science – biology.

The program in biology shall ensure that the candidate [~~demonstrates~~ has demonstrated] the following competencies:

1. Understanding of the knowledge, skills, and [~~processes~~ practices] of the four core science disciplines [, including Earth science, biology, chemistry, and physics] as defined in the Virginia Science Standards of Learning and how these provide a sound foundation for teaching biology.

2. Understanding of the nature of science and scientific inquiry, including the [following]:

- a. Function of research design and experimentation;
- b. Role and nature of the theory in explaining and predicting events and phenomena;
- c. Practices required to provide empirical answers to research questions, including data collection and analysis, modeling, augmentation with evidence, and constructing explanations;
- d. Reliability of scientific knowledge and its constant scrutiny and refinement;
- e. Self-checking mechanisms used by science to increase objectivity including peer review; and
- f. Assumptions, influencing conditions, and limits of empirical knowledge.

3. Understanding of the knowledge, skills, and processes for teaching laboratory science, including the ability to:

- a. Design instruction reflecting the goals of the Virginia Science Standards of Learning;
- b. Implement [classroom, field, and] laboratory safety rules and procedures and ensure that students take appropriate safety precautions;
- c. Conduct research projects and experiments including applications of the design process and technology;
- d. Conduct systematic field investigations using the school grounds, the community, and regional resources;

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e. Organize key biological content, skills, and practices into meaningful units of instruction that actively engage students in learning;

f. Design instruction to meet the needs of diverse learners using a variety of techniques;

g. Evaluate instructional materials [technologies,] and teaching practices;

h. Conduct formative and summative assessments of student learning;

i. Incorporate instructional technology to enhance student performance; and

j. Ensure student competence in biology.

4. Understanding of the content, [processes, and] skills [, and practices] of biology, equivalent to an undergraduate degree in biology, with course work in genetics, biochemistry/molecular biology, cell biology, botany, zoology, anatomy/physiology, ecology, and evolutionary biology.

5. Understanding of basic physics, chemistry [ξ] including organic chemistry [η], the Earth sciences, and mathematics [ξ] including statistics [η] to ensure:

a. The placement of biology in an appropriate interdisciplinary context;

b. The ability to teach the [processes skills, practices,] and crosscutting concepts common to the [natural Earth, biological,] and physical sciences;

c. The application of key principles in biology to solve practical problems; and

d. A "systems" understanding of the natural world.

6. Understanding of the contributions and significance of biology, including:

a. Its social, cultural, and economic significance;

b. The relationship of biology and other sciences to mathematics, the design process, and technology; and

c. The historical development of scientific concepts and scientific reasoning.

7. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

8. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-430. Science – chemistry.

The program in chemistry shall ensure that the candidate [demonstrates has demonstrated] the following competencies:

1. Understanding of the knowledge, skills, and [processes practices] of the four core science disciplines [of Earth and space sciences, biology, chemistry, and physics] as defined in the Virginia Science Standards of Learning and how they provide a sound foundation for teaching chemistry.

2. Understanding of the nature of science and scientific inquiry including the:

a. Function of research design and experimentation;

b. Role and nature of the theory in explaining and predicting events and phenomena;

c. Practices required to provide empirical answers to research questions, including data collection and analysis, modeling, [augmentation argumentation] with evidence, and constructing explanations;

d. Reliability of scientific knowledge and its constant scrutiny and refinement;

e. Self-checking mechanisms used by science to increase objectivity including peer review; and

f. Assumptions, influencing conditions, and limits of empirical knowledge.

3. Understanding of the knowledge, skills, and [processes practices] for teaching laboratory science, including the ability to:

a. Design instruction reflecting the goals of the Virginia Science Standards of Learning;

b. Implement [classroom, field, and] laboratory safety rules and procedures and ensure that students take appropriate safety precautions;

c. Conduct research projects and experiments including applications of the design process and technology;

d. Conduct systematic field investigations using the school grounds, the community, and regional resources;

e. Organize key chemistry content, skills, and practices into meaningful units of instruction that actively engage students in learning;

f. Design instruction to meet the needs of diverse learners using a variety of techniques;

g. Evaluate instructional materials [, technologies,] and teaching practices;

h. Conduct formative and summative assessments of student learning;

i. Incorporate instructional technology to enhance student performance; and

j. Ensure student competence in chemistry.

4. Understanding of content, [~~processes, and~~] skills [, and practices] of chemistry, equivalent to an undergraduate degree in chemistry, with course work in biochemistry, inorganic chemistry, organic chemistry, physical chemistry, and analytical chemistry.

5. Understanding of basic physics, Earth science, biology, and mathematics to ensure:

a. The placement of chemistry in an appropriate interdisciplinary context;

b. The ability to teach the [~~processes~~ skills, practices,] and crosscutting concepts common to the [~~natural~~ Earth, biological,] and physical sciences;

c. The application of key principles in chemistry to solve practical problems; and

d. A "systems" understanding of the natural world.

6. Understanding of the contributions and significance of chemistry, including:

a. Its social, cultural, and economic significance;

b. The relationship of chemistry and other sciences to mathematics, the design process and technology; and

c. The historical development of scientific concepts and scientific reasoning.

7. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

8. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-440. Science – Earth science.

The program in Earth science shall ensure that the candidate [~~demonstrates~~ has demonstrated] the following competencies:

1. Understanding of the knowledge, skills, and [~~processes~~ practices] of the four core science disciplines [of Earth and space sciences, biology, chemistry, and physics] as defined in the Virginia Science Standards of Learning and how these provide a sound foundation for teaching Earth science.

2. Understanding of the nature of science and scientific inquiry, including the:

a. Function of research design and experimentation;

b. Role and nature of the theory in explaining and predicting events and phenomena;

c. Practices required to provide empirical answers to research questions, including data collection and analysis, modeling, [~~augmentation~~ argumentation] with evidence, and constructing explanations;

d. Reliability of scientific knowledge and its constant scrutiny and refinement;

e. Self-checking mechanisms used by science to increase objectivity including peer review; and

f. Assumptions, influencing conditions, and limits of empirical knowledge.

3. Understanding of the knowledge, skills, and practices for teaching laboratory science, including the ability to:

a. Design instruction reflecting the goals of the Virginia Science Standards of Learning;

b. Implement [classroom, field, and] laboratory safety rules and procedures and ensure that students take appropriate safety precautions;

c. Conduct research projects and experiments including applications of the design process and technology;

d. Conduct systematic field investigations using the school grounds, the community, and regional resources;

e. Organize key Earth science content, skills, and practices into meaningful units of instruction that actively engage students in learning;

f. Design instruction to meet the needs of diverse learners using a variety of techniques;

g. Evaluate instructional materials [technologies,] and teaching practices;

h. Conduct formative and summative assessments of student learning;

i. Incorporate instructional technology to enhance student performance; and

j. Ensure student competence in Earth science.

4. Understanding of the content, [~~processes, and~~] skills [, and practices] of Earth science, equivalent to an undergraduate degree in geology, or a related area, with course work in structural geology, paleontology, petrology, oceanography, meteorology, and astronomy/space science.

5. Understanding of basic physics, chemistry [{ } including organic chemistry [}], biology, and mathematics to ensure:

a. The placement of Earth science in an appropriate interdisciplinary context;

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b. The ability to teach the [processes skills, practices,] and crosscutting concepts common to the [natural Earth, biological,] and physical sciences;

c. The application of key principles in Earth science to solve practical problems; and

d. A "systems" understanding of the natural world.

6. Understanding of the contributions and significance of Earth science, including:

a. Its social, cultural, and economic significance;

b. The relationship of Earth science and other sciences to mathematics, the design process, and technology; and

c. The historical development of scientific concepts and scientific reasoning.

7. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

8. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-450. Science – physics.

The program in physics shall ensure that the candidate [demonstrates has demonstrated] the following competencies:

1. Understanding of the knowledge, skills, and [processes practices] of the four core science disciplines [of Earth sciences, biology, chemistry, and physics] as defined in the Virginia Science Standards of Learning and how these provide a sound foundation for teaching physics.

2. Understanding of the nature of science and scientific inquiry, including the [following:]

a. Function of research design and experimentation;

b. Role and nature of the theory in explaining and predicting events and phenomena;

c. Practices required to provide empirical answers to research questions, including data collection and analysis, modeling, [augmentation argumentation] with evidence, and constructing explanations;

d. Reliability of scientific knowledge and its constant scrutiny and refinement;

e. Self-checking mechanisms used by science to increase objectivity including peer review; and

f. Assumptions, influencing conditions, and limits of empirical knowledge.

3. Understanding of the knowledge, skills, and processes for teaching laboratory science, including the ability to:

a. Design instruction reflecting the goals of the Virginia Science Standards of Learning;

b. Implement [classroom, field, and] laboratory safety rules and procedures and ensure that students take appropriate safety precautions;

c. Conduct research projects and experiments including applications of the design process and technology;

d. Conduct systematic field investigations using the school grounds, the community, and regional resources;

e. Organize key physics content, skills, and practices into meaningful units of instruction that actively engage students in learning;

f. Design instruction to meet the needs of diverse learners using a variety of techniques;

g. Evaluate instructional materials [technologies,] and teaching practices;

h. Conduct formative and summative assessments of student learning;

i. Incorporate instructional technology to enhance student performance; and

j. Ensure student competence in physics.

4. Understanding of content, processes, and skills of physics, equivalent to an undergraduate degree in physics, with course work in mechanics, electricity and magnetism, optics, and modern physics.

5. Understanding of basic Earth science, chemistry (including organic chemistry), biology, and mathematics to ensure:

a. The placement of physics in an appropriate interdisciplinary context;

b. The ability to teach the [processes skills, practices,] and crosscutting concepts common to the [natural Earth, biological,] and physical sciences; [and

c. The application of key principles in physics to solve practical problems; and]

[e. d.] A "systems" understanding of the natural world.

6. Understanding of the contributions and significance of physics, including:

a. Its social, cultural, and economic significance;

b. The relationship of physics and other sciences to mathematics, the design process, and technology; and

c. The historical development of scientific concepts and scientific reasoning.

7. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

8. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-460. Special education adapted curriculum K-12.

A. The program in special education is designed to ensure through coursework and field experiences in a variety of settings that the candidate has demonstrated the core competencies in this section to prepare children and youth for participation in the general education curriculum and within the community to the maximum extent possible. The candidate also shall complete the competencies in at least one of the endorsement areas of Special Education Adapted Curriculum K-12, in addition to those required under professional studies, including reading and language acquisition. [The program shall ensure that the candidate has demonstrated the following competencies:]

1. Foundations. Characteristics, legal, and medical aspects.

a. Knowledge of the foundation for educating students with disabilities, including:

- (1) Historical perspectives, models, theories, philosophies, and trends that provide the basis for special education practice;
- (2) Characteristics of children and youth with disabilities relative to age, varying levels of severity, and developmental differences manifested in cognitive, linguistic, physical, psychomotor, social, or emotional functioning;
- (3) Normal patterns of development [~~i.e.~~, such as] physical, psychomotor, cognitive, linguistic, social, and emotional development [λ] and their relationship to the various disabilities;
- (4) Medical aspects of disabilities;
- (5) The dynamic influence of the family system and cultural and environmental milieu and related issues pertinent to the education of students with disabilities;
- (6) Educational implications of the various disabilities; and
- (7) Understanding of ethical issues and the practice of accepted standards of professional behavior.

b. An understanding and application of the legal aspects, regulatory requirements, and expectations associated with identification, education, and evaluation of students with disabilities, including:

- (1) Legislative and judicial mandates related to education and special education [~~e.g.~~], [including] the Individuals with Disabilities Education Act, § 504 of the

Rehabilitation Act of 1973, the Americans with Disabilities Act, the No Child Left Behind Act of 2001, etc. [λ];

(2) Current regulations governing special education [~~e.g.~~], [including] individualized education program (IEP) development; disciplinary practices, policies, and procedures; and alternative placements and programs in schools [λ]; and

(3) Rights and responsibilities of parents, students, teachers, and schools as they relate to individuals with disabilities and disability issues.

2. Assessments and evaluation.

An understanding and application of the foundation of assessment and evaluation related to best special education practice, including:

- a. Ethical issues and responsibilities in the assessment of individuals with disabilities;
- b. Procedures for screening, prereferral, referral, and eligibility determinations;
- c. Factors that may influence assessment findings such as cultural, behavioral, and learning diversity;
- d. A general knowledge of measurement theory and practice, including validity, reliability, norming, bias, sensitivity, and specificity;
- e. Administration, scoring, and interpretation of commonly used individual and group instruments, including norm-referenced, criterion-referenced, and curriculum-based measures [λ] as well as task analysis, observation, portfolio, and environmental assessments;
- f. Synthesis and interpretation of assessment findings for eligibility, program planning, and program evaluation decisions; and
- g. Knowledge of the Virginia Accountability System, assessment options, and procedures for participation for students with disabilities.

3. Management of instruction and behavior.

An understanding and application of classroom and behavior management techniques and individual interventions, including techniques that:

- a. Promote emotional well-being and teach and maintain behavioral conduct and skills consistent with norms, standards, and rules of the educational environment;
- b. Address diverse approaches and classroom organization based upon [culturally responsive] behavioral, cognitive, affective, social, and ecological theory and practice;
- c. Provide positive behavioral supports; and

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d. Are based on functional assessment of behavior.

4. Collaboration.

a. Skills in consultation, case management, and collaboration, including:

Coordination of service delivery with related service providers, general educators, and other professions in collaborative work environments to include:

(1) Understanding the [Virginia] Standards of Learning [(SOL)], structure of the curriculum, and accountability systems across K-12;

(2) Understanding and assessing the organization and environment of general education classrooms across the K-12 setting;

(3) Implementation of collaborative models, including collaborative consultation, co-teaching with co-planning, and student intervention teams;

(4) Procedures to collaboratively develop, provide, and evaluate instructional and behavioral plans consistent with students' individual needs;

(5) Understanding of the roles and responsibilities of each member of the collaborative team; and

(6) Knowledge and application of effective communication strategies and culturally responsive strategies with a variety of stakeholders in the collaborative environment;

b. Training, managing, and monitoring paraprofessionals;

c. Involving of families in the education of their children with disabilities;

d. Understanding the standards of professionalism;

e. Cooperating with community agencies and other resource providers; and

f. Models and strategies for promoting students' self-advocacy skills.

B. The program in special education adapted curriculum K-12 shall ensure through coursework and field experiences in a variety of settings that the candidate seeking endorsement in special education adapted curriculum has the special education core competencies and the specific competency requirements specified in this section. The candidate shall demonstrate the following competencies to prepare children and youth to acquire the functional, academic, and community living skills necessary to reach an appropriate level of independence and be assessed in progress toward an aligned curriculum while participating in programs with nondisabled peers to the fullest extent possible:

1. Characteristics.

a. Demonstrate knowledge of the definitions; characteristics, including medical and health conditions; and learning and behavioral support needs of students with disabilities (K-12) whose cognitive impairments or adaptive skills require adaptations to the general curriculum and whose functional skills are significantly different from typically developing peers, and therefore require adaptations to the general curriculum for an appropriate education, including [~~but not limited to,~~] students with:

(1) Autism spectrum disorders;

(2) Developmental delay;

(3) Intellectual disability;

(4) Traumatic brain injury; and

(5) Multiple disabilities, including sensory, deaf-blindness, speech-language, orthopedic [~~and/or~~ and other] health impairments as an additional disability to those referenced in subdivision 1 a of this subsection.

b. Knowledge of characteristics shall include:

(1) Medical needs, sensory needs, and position and handling needs of children with multiple disabilities;

(2) Speech and language development and communication and impact on educational, behavioral, and social interactions;

(3) Impact of disability on self-determination and self-advocacy skills; and

(4) Historical and legal perspectives, models, theories, philosophies, and trends related to specific student populations.

2. Individualized education program (IEP) development and implementation.

a. Demonstrate knowledge of the eligibility process and legal and regulatory requirements for IEP development including timelines, components, team composition, roles, and responsibilities.

b. Apply knowledge of content standards, assessment, and evaluation throughout the K-12 grade levels to:

(1) Construct, use, and interpret a variety of standardized and nonstandardized data collection techniques, such as task analysis, observation, portfolio assessment, and other curriculum-based measures;

(2) Make decisions about student progress, instruction, program modifications, adaptations, placement, teaching methodology, and transitional services and activities for students with disabilities who are accessing the general education curriculum and the [~~standards of learning~~

Virginia Standards of Learning] through an aligned curriculum;

(3) Be able to write educationally relevant IEP goals and objectives that address self-care and self-management of student physical, sensory, and medical needs that also enhance academic success in the adapted curriculum.

3. Instructional methods and strategies for the adapted curriculum.

An understanding and application of service delivery, curriculum, and instruction of students with disabilities, including:

a. Curriculum development that includes a scope and sequence, lesson plans, instructional methods, and assessments that are based on grade level content standards;

b. Foundational knowledge of reading and writing that includes an understanding of the complex nature of language acquisition and reading [~~(reading competencies in,~~ such as those found in the] professional studies requirements in 8VAC40-543-140 [2]. Skills in this area include phonemic [and other phonological] awareness, an understanding of sound and symbol relationships, explicit phonics instruction, syllables, phonemes, morphemes, decoding skills, word attack skills, and knowledge of how phonics, syntax, and semantics interact. Additional skills shall include proficiency in a wide variety of comprehension strategies and writing, as well as the ability to foster appreciation of a variety of literature and independent reading; and reading and writing across the content areas;

c. Foundational knowledge of the complex nature of numeracy acquisition and the sequential nature of mathematics including mathematical concepts, mathematical thinking, calculation, and problem-solving;

d. Alternative ways to teach content material including curriculum adaptation and curriculum modifications;

e. Procedures to develop, provide, and evaluate instruction consistent with students' individual needs;

f. Strategies to promote successful integration of students with disabilities with their nondisabled peers;

g. Use of technology to promote student learning;

h. Structure and organization of general education classrooms and other instructional settings representing the continuum of special education services, to include field experiences;

i. Demonstrate the ability to implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum and [Virginia] Standards of Learning

through an aligned curriculum across the K-12 grade levels, including the ability to:

(1) Identify and apply differentiated instructional methodologies including systematic instruction, multisensory approaches, learning cognitive strategies, diverse learning styles, and technology use;

(2) Implement a blended curriculum that includes teaching academic skills using the aligned [~~standards of learning~~ Virginia Standards of Learning] and incorporating functional and essential life skills into instruction;

(3) Provide explicit instruction of reading, writing and mathematics at appropriate developmental and grade level in a cumulative manner to students with disabilities accessing the general education curriculum through an aligned curriculum;

(4) Conduct and analyze results of functional behavior assessment;

(5) Implement behavioral intervention plans incorporating positive behavioral supports;

(6) Promote the potential and capacity of individual students to meet high functional, academic, behavioral, and social expectations;

(7) Design alternative ways to teach content material including modifying and adapting the general education curriculum;

(8) Develop appropriate transition between grade levels, setting, and environments;

(9) Use assistive and instructional technology, including augmentative and alternative communication methods and systems;

(10) Implement and evaluate group management technique and individual interventions that teach and maintain emotional, behavioral, and social skills;

(11) Implement and monitor IEP specified modifications and adaptations within the general education classroom; and

(12) Integrate students in the community through collaboration with community service systems.

4. Individualized supports and specialized care of students with significant disabilities.

a. An understanding and application of service delivery for students with significant disabilities and their unique care needs, including the ability to identify the physical, sensory, and health and medical needs of students with significant disabilities and understand how these needs impact the educational program including:

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(1) Understanding of typical physical development of children and application of this knowledge in developing learning experiences for students with significant disabilities;

(2) Basic understanding of the most common medical diagnoses associated with students with significant disabilities and the impact on their functioning in school and community settings;

(3) Understanding of the role muscle tone plays in the positioning and handling of students and familiarity with common positioning equipment used in the classroom; and

(4) Understanding of alternative and augmentative communication systems and the ability to identify an appropriate communication system based on the needs of the student.

b. Understanding of the roles and responsibilities of related and support staff working in a collaborative setting and the process and procedures related to initiating a related service request.

c. Ability to develop lesson plans that blend and incorporate the academic, functional, and behavioral goals and objectives, while integrating positioning, self-help, feeding, grooming, sensory, and toileting programs into the instructional delivery.

5. Transitioning.

Demonstrate the ability to prepare students and work with families to provide successful student transitions throughout the educational experience to include postsecondary education, training, employment, and independent living that addresses an understanding of long-term planning, age-appropriate transition assessments, career development, life skills, community experiences and resources, and self-determination to include goal setting, decision-making, problem-solving, self-awareness and self-advocacy, guardianship, and other legal considerations.

a. Skills in consultation, case management, and collaboration for students with varying degrees of disability severity [, including].

(1) Coordinate service delivery with general educators including career and technical educators and school counselors, related services providers, and other providers;

(2) Awareness of community resources agencies and strategies to interface with community agencies when developing and planning IEPs;

(3) Knowledge of related services and accommodations that pertain to postsecondary transitions that increase

student access to postsecondary education and community resources; and

(4) Ability to coordinate and facilitate meetings involving parents, students, outside agencies, and administrators to include the understanding of consent to share information, including confidentiality and disability disclosure.

b. Understand the difference between entitlement and eligibility for agency services as students move to the adult world, including a basic understanding of Social Security Income benefits planning, work incentive, Medicaid, community independent living, and waivers.

c. Recognize uses of technology and seek out technology at postsecondary settings that shall aid the student in their education, work, and independent living.

d. Recognize and plan for individual student potential and their capacity to meet high academic, behavioral, and social expectations and the impact of academic and social success on personal development.

e. Knowledge of person-centered planning strategies to promote student involvement in planning.

f. Knowledge of generic skills that lead to success in school, work, and community, including time management, preparedness, social interactions, and communication skills.

g. Understand social skill development and the unique social skills deficits and challenges associated with disabilities;

(1) Assesses social skill strengths and needs; and

(2) Plans and uses specialized social skills strategies.

h. Knowledge of use and implementation of vocational assessments to encourage and support students' advocacy and self-determination skills.

i. Knowledge of legal issues surrounding age of majority and guardianship.

j. Knowledge of graduation requirements, diploma options and legal issues surrounding age of majority, and guardianship.

6. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

7. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

C. Completion of supervised classroom experiences with students with disabilities and an adapted curriculum K-12.

8VAC20-543-470. Special education blindness and visual impairments preK-12.

The program in special education visual impairments preK-12 is designed to ensure through course work and field experiences in a variety of settings that the candidate has demonstrated the following competencies:

1. Understanding of the characteristics of individuals with disabilities, including:

- a. Developmental and cognitive characteristics of children and youth with disabilities, particularly blindness or visual impairment;
- b. Language development and the effects of blindness, visual impairment, and other disabling conditions and cultural and linguistic diversity on language development;
- c. Characteristics of individuals with visual impairments, including impact of visual impairment on children's social and emotional development, and family interaction patterns; and
- d. Understanding of psychosocial aspects of visual impairment and cultural identity.

2. Understanding of the foundation of the legal aspects associated with students with disabilities and students with visual impairments, including:

- a. Legislative and judicial mandates related to education and special education;
- b. The Individuals with Disabilities Education Act (IDEA), § 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act;
- c. Legal decisions related to persons with disabilities;
- d. Current regulations and procedures governing special education, including individualized education program (IEP) development, individualized family service plan (IFSP), and transition services; and
- e. Disciplinary practices, policies, and procedures and alternative placements [~~and~~ or] programs in schools.

3. Understanding of the foundation of assessment and evaluation with an emphasis on individuals with visual impairments, including:

- a. Administering, scoring, and interpreting assessments, including norm-referenced, criterion-referenced, and curriculum-based individual and group assessments;
- b. Administration and interpretation of a functional vision assessment (FVA), learning media assessment (LMA), and assistive technology assessment and assessment in the areas of the expanded core curriculum (ECC);

c. Interpreting assessments for eligibility, placement, and program decisions and to inform instruction;

d. Techniques to collect, record, and analyze information;

e. Diagnostic instruction using ongoing assessment data;

f. Techniques for recognizing capacity and diversity and its influence on student assessment and evaluation;

g. Using data from student program evaluation to inform curriculum development, instructional practice, and accommodations; and

h. Low vision practices and procedures, including assessment and instructional programming for functional vision.

4. Understanding of service delivery, classroom and behavior management, and instruction for students who are blind and visually impaired, including:

a. The application of current research and evidence-based practice;

b. Classroom organization and curriculum development;

c. Curriculum adaptations and accommodations;

d. The development of language and literacy skills;

e. The use of technology in teaching and instructing students to use assistive technologies to promote learning and provide access to the general education curriculum;

f. Classroom management, including behavior support systems and individual planning;

g. Methods and procedures for teaching students with visual impairments;

h. Instructional programming and modifications of curriculum to facilitate inclusion of students with blindness and visual impairment in programs and services with sighted and typically developing peers;

i. Individual and group behavior management techniques;

j. Career and vocational aspects of individuals with disabilities, including persons with visual impairments, including knowledge of careers, vocational opportunities, and transition from school to work; and

k. Social and recreational skills and resources for individuals with visual impairments, including methods and materials for assessing and teaching activities of daily living.

5. Understanding of consultation, case management, and collaboration including:

a. Coordinating service delivery with other professionals in collaborative work environments;

b. Training, managing, and monitoring paraprofessionals;

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c. Involving families in the education of their children with blindness or visual impairment;

d. Implementation of collaborative models, including collaborative consultation, co-teaching, and student intervention teams; and

e. Interfacing with community agencies and resources.

6. Understanding of the foundations of Braille reading and writing, including:

a. Teaching reading and writing of [~~grade 2~~ Braille uncontracted and contracted Unified English Braille] on both a Braille writer and a "slate and stylus"; and

b. Knowledge of other codes, including Nemeth, foreign language code, [and] music code [~~, and computer Braille~~].

7. Understanding of anatomy, physiology, and diseases of the eye and the educational implications.

8. Understanding principles and how to instruct in human guide techniques and pre-cane orientation and mobility instruction.

9. Understanding of the standards of professionalism, including ethical and professional practice.

10. Completion of supervised classroom experiences at the elementary and secondary levels with students who have visual impairments, to include those with blindness and low vision, and with individuals who may have additional disabilities.

11. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

12. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-480. Special education deaf and hard of hearing preK-12.

The program in special education deaf and hard of hearing preK-12 is designed to ensure through course work and field experiences in a variety of settings that the candidate has demonstrated the following competencies:

1. Understanding of the characteristics of individuals with disabilities, including the following:

a. Developmental and cognitive characteristics of children and youth with disabilities;

b. Characteristics of individuals who are deaf or hard of hearing, including sociocultural influences and possible health-related or genetically-related problems; and

c. Foundations of the education and culture of persons who are deaf or hard of hearing.

2. Understanding of the foundation of the legal aspects associated with students with disabilities and students who are deaf or hard of hearing including:

a. Legislative and judicial mandates related to education and special education;

b. The Individuals with Disabilities Education Act (IDEA), § 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act;

c. Legal decisions related to persons with disabilities;

d. Current regulations and procedures governing special education, including individualized education program (IEP) development, individualized family service plan (IFSP), and transition services; and

e. Disciplinary practices, policies, and procedures and alternative placements or programs in schools.

3. Understanding of the foundation of assessment and evaluation with an emphasis on individuals who are deaf or hard of hearing, including:

a. Administering, scoring, and interpreting assessments, including norm-referenced, criterion-referenced, and curriculum-based individual and group assessments;

b. Interpreting assessment results for eligibility, placement, and to inform instruction [~~(i.e.)~~], [such as] linking assessment results to classroom interventions [~~]~~];

c. Techniques to collect, record, and analyze information from observing students;

d. Data-based decision-making skills using assessment data to inform diagnostic instruction [and];

e. Techniques for recognizing capacity and diversity and its influence on student assessment and evaluation.

4. Understanding of service delivery, classroom and behavior management, and instruction, including:

a. The application of current research in practice;

b. Classroom organization and curriculum development;

c. Curriculum adaptations and accommodations;

d. The development of language and literacy skills;

e. The use of technology to promote student learning;

f. Classroom and behavior management, including behavior support systems and individual planning;

g. Evidence-based strategies and procedures for teaching persons who are deaf or hard of hearing;

- h. Instructional programming and modifications of curriculum to facilitate inclusion of students with disabilities into the continuum of programs and services with peers without disabilities;
- i. Strategies to promote successful socialization of students who are deaf or hard of hearing with their hearing peers; and
- j. Career and vocational skill development of individuals with disabilities, including persons who are deaf or hard of hearing and who may have additional needs.
5. Skills in consultation, case management, and collaboration, including:
- a. Coordinating service delivery with other professionals in collaborative work environments;
- b. Training, managing, and monitoring paraprofessionals;
- c. Implementation of collaborative models, including collaborative consultation, co-teaching, and student intervention teams;
- d. Involving families in the education of their children with disabilities; and
- e. Cooperating with community agencies and resources.
6. Understanding of speech, hearing, and language development, including:
- a. Speech, hearing, and language development and the effects of sensory loss and cultural diversity on typical language development;
- b. How to promote development of listening and spoken language skills in children who are deaf or hard of hearing [$\frac{1}{2}$ and] how to promote development of American Sign Language skills in children who are deaf or hard of hearing;
- c. Anatomy of speech structures, auditory and visual mechanisms, production, transmission, and psychophysical characteristics of sound; and
- d. General and specific effects of having partial or no hearing on production and reception of speech and on English language development.
7. Understanding of audiology, including:
- a. Diagnostic evaluation, testing procedures, and interpreting audiology reports to inform instruction in and expectations for development of listening and spoken language skills; and
- b. Characteristics of individual, group amplification and assistive listening devices [~~e.g.~~], [including] cochlear implant systems, hearing aids, FM systems, sound field systems [~~—etc.~~] with emphasis on utilization in educational environments.
8. Understanding of [various] communication modalities to include [~~various modalities of communication, including~~] cued speech, speech reading, listening, signed language, and spoken language.
9. Demonstrated proficiency in expressive and receptive sign language, to include American Sign Language and contact varieties.
10. Understanding of the standards for professionalism.
11. Completion of supervised classroom experiences at the elementary and secondary levels with students who are deaf or hard of hearing, including those with additional disabilities.
12. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.
13. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.
- 8VAC20-543-490. Special education early childhood (birth through age five).**
- The program in special education early childhood (birth through age five) is designed to ensure through course work and field experiences in a variety of settings that the candidate has demonstrated the following competencies:
1. Understanding of the nature and characteristics of major disabling and at-risk conditions, including:
- a. [~~Trends~~ Pathways] for service delivery to the birth-through-age-five population;
- b. An overview of early intervention and early childhood special education;
- c. Historical perspective of special education; and
- d. Awareness of [~~the issues surrounding~~] cultural and linguistic diversity.
2. Understanding of the foundation of the legal aspects associated with students with disabilities, including:
- a. Legislative and judicial mandates related to education and special education;
- b. The Individuals with Disabilities Education Act (IDEA), § 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act;
- c. Legal decisions related to persons with disabilities;
- d. Current regulations and procedures governing special education to include individualized education program (IEP) development and individualized family service plan (IFSP); and

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e. Disciplinary practices, policies, and procedures and alternative placements and programs in schools.

3. Knowledge of the selection, administration, and interpretation of formal and informal assessment techniques for young children with disabling and at-risk conditions and their families, including:

a. Eligibility and diagnosis of disabling and at-risk conditions;

b. Progress monitoring for growth compared to same age, typically developing peers and functioning in environments where same age peers would normally attend [] to include [~~, but not be limited to,~~] settings that the families choose [];

c. Program development and improvement; and

d. Curriculum-based assessments for instructional planning.

4. Understanding of the methods for providing instructional programs for early intervention, including:

a. Service delivery options;

b. Development of individualized education programs (IEPs) and individualized family service plans (IFSPs);

c. Curriculum development and implementation to ensure developmentally appropriate intervention techniques in the areas of self-help, motor, cognitive, social and emotional, and language; [~~and~~]

d. Service delivery to support success and functionality in all settings where same age, typically developing peers would be located [; and

e. Response and recognition of tiered instruction].

5. Understanding of teaching social and emotional skills to assist with behavior management and the application of principles of learning and child development to individual and group management using a variety of techniques that are appropriate to the age of that child.

6. Understanding of speech and language development and intervention methods, including the effects of disabling and at-risk conditions on young children, including:

a. Developmental stages of language acquisition [and communication];

b. Cultural and linguistic diversity;

c. English [~~language~~] learner language acquisition; and

d. Use of language to get needs and wants met and [use of functional communication] for social interaction.

7. Understanding of and experiences with the medical aspects of young children with disabling and at-risk

conditions and the management of neuro-developmental and motor disabilities, including:

a. Emergency care and the role of health care professionals in the lives of individuals with disabilities; and

b. Use and effects of medications [and treatments].

8. Skills in consultation, case management, collaboration, coaching, mentoring, and co-teaching, including techniques in working with children, families, educators, related service providers, and other human service professionals that include:

a. Service coordination;

b. Interagency coordination;

c. Inclusive practices [and least restrictive environments];

d. Transition facilitation; and

e. Training, managing, and monitoring paraprofessionals.

9. Understanding of the theories and techniques of family-centered intervention, including:

a. Cultural and linguistic [~~differences~~] influences; and

b. Family [~~issues~~ dynamics].

10. Understanding of the standards of professionalism.

11. Completion of supervised experiences at the early childhood level in a variety of settings, including [~~but not limited~~] to early intervention, home-based, school-based, and community-based settings.

12. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

13. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-500. Special education general curriculum K-12.

A. The program in special education is designed to ensure through course work and field experiences in a variety of settings that the candidate has demonstrated the core competencies in this section to prepare children and youth for participation in the general education curriculum and within the community to the maximum extent possible. The candidate also shall complete the competencies [~~in at least one of the endorsement areas of Special Education General Curriculum K-12, in addition to those~~] required under professional studies in 8VAC40-543-140, including reading and language acquisition.

1. Foundations - Characteristics, legal, and medical aspects.

a. Knowledge of the foundation for educating students with disabilities, including:

(1) Historical perspectives, models, theories, philosophies, and trends that provide the basis for special education practice;

(2) Characteristics of children and youth with disabilities relative to age, varying levels of severity, and developmental differences manifested in cognitive, linguistic, physical, psychomotor, social, or emotional functioning;

(3) Normal patterns of development [~~i.e.~~], [including] physical, psychomotor, cognitive, linguistic, social, or emotional development [~~∫~~] and their relationship to the various disabilities;

(4) Medical aspects of disabilities;

(5) The dynamic influence of the family system and cultural and environmental milieu and related issues pertinent to the education of students with disabilities;

(6) Educational implications of the various disabilities; and

(7) Understanding of ethical issues and the practice of accepted standards of professional behavior.

b. An understanding and application of the legal aspects, regulatory requirements, and expectations associated with identification, education, and evaluation of students with disabilities, including:

(1) Legislative and judicial mandates related to education and special education [~~i.e.~~], [including] the Individuals with Disabilities Education Act, § 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, the No Child Left Behind Act of 2001, etc. [~~∫~~];

(2) Current regulations governing special education (e.g., individualized education program (IEP) development; disciplinary practices, policies, and procedures; and alternative placements and programs in schools); and

(3) Rights and responsibilities of parents, students, teachers, and schools as they relate to individuals with disabilities and disability issues.

2. Assessments and evaluation.

An understanding and application of the foundation of assessment and evaluation related to best special education practice, including:

a. Ethical issues and responsibilities in the assessment of individuals with disabilities;

b. Procedures for screening, pre-referral, referral, and eligibility determinations;

c. Factors that may influence assessment findings such as cultural, behavioral, and learning diversity;

d. A general knowledge of measurement theory and practice, including validity, reliability, norming, bias, sensitivity, and specificity;

e. Administration, scoring, and interpretation of commonly used individual and group instruments, including norm-referenced, criterion-referenced, and curriculum-based measures [~~∫~~] as well as task analysis, observation, portfolio, and environmental assessments;

f. Synthesis and interpretation of assessment findings for eligibility, program planning, and program evaluation decisions; and

g. Knowledge of the Virginia Accountability System, assessment options, and procedures for participation for students with disabilities.

3. Management of instruction and behavior.

An understanding and application of classroom and behavior management techniques and individual interventions, including techniques that:

a. Promote emotional well-being and teach and maintain behavioral conduct and skills consistent with norms, standards, and rules of the educational environment;

b. Address diverse approaches to classroom organization and set-up based upon [culturally responsive] behavioral, cognitive, affective, social, and ecological theory and practice;

c. Provide positive behavioral supports; and

d. Are based on functional assessment of behavior.

4. Collaboration.

a. Skills in consultation, case management, and collaboration, including coordination of service delivery with related service providers, general educators, and other professions in collaborative work environments to include:

(1) Understanding the Standards of Learning, the structure of the curriculum, and accountability systems across K-12;

(2) Understanding and assessing the organization and environment of general education classrooms across the K-12 setting;

(3) Implementation of collaborative models, including collaborative consultation, co-teaching with co-planning, and student intervention teams;

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(4) Procedures to collaboratively develop, provide, and evaluate instructional and behavioral plans consistent with students' individual needs;

(5) Understanding the roles and responsibilities of each member of the collaborative team; and

(6) Knowledge and application of effective communication strategies and culturally responsive strategies with a variety of stakeholders in the collaborative environment;

b. Training, managing, and monitoring paraprofessionals;

c. Involvement of families in the education of their children with disabilities;

d. Understanding the standards of professionalism;

e. Cooperating with community agencies and other resource providers; and

f. Models and strategies for promoting students' self-advocacy skills.

B. The program in special education general curriculum K-12 shall ensure through coursework and field experiences in a variety of settings that the candidate seeking endorsement in special education general curriculum K-12 has the special education core competencies and the specific competency requirements specified in this section.

1. Characteristics.

a. Demonstrate knowledge of definitions, characteristics, and learning and behavioral support needs of students with disabilities whose cognitive and functional skills are not significantly different from typically developing peers and therefore require access to the general education curriculum for an appropriate education, including [~~but not limited to,~~] students with:

(1) Autism spectrum disorder;

(2) Deaf-blindness;

(3) Developmental delay;

(4) Emotional disability;

(5) Hearing impairment [~~(or,~~ including] deaf and hard of hearing [~~]~~];

(6) Intellectual disability;

(7) Learning disability;

(8) Multiple disabilities;

(9) Orthopedic impairment;

(10) Other health impairment;

(11) Speech-language impairment;

(12) Traumatic brain injury; [~~and/or~~ and]

(13) Visual impairment [~~(,~~] including blindness [~~]~~].

b. Knowledge of characteristics shall include:

(1) Age-span and developmental issues;

(2) Levels of severity;

(3) Cognitive functioning;

(4) Language development;

(5) Emotional and behavioral adjustment;

(6) Social development;

(7) Medical aspects; and

(8) Cultural, ethnic, and socioeconomic factors.

2. Individualized education program development and implementation.

a. Demonstrate knowledge of the eligibility process and legal and regulatory requirements for IEP development, including timelines, components, team composition, roles, and responsibilities.

b. Apply knowledge of content standards, assessment, and evaluation throughout the K-12 grade levels to:

(1) Construct, use, and interpret a variety of standardized and nonstandardized data collection techniques, such as task analysis, observation, portfolio assessment, and other curriculum-based measures;

(2) Make decisions about student progress, instruction, program, accommodations, placement, teaching methodology, and transition services and activities for students with disabilities who are accessing the general education curriculum and the Virginia Standards of Learning; and

(3) Develop an individualized education program (IEP) that addresses the academic and functional needs of the student with disabilities in the general education curriculum and meets regulatory requirements.

3. Instructional strategies for reading and writing.

An understanding and application of service delivery, curriculum, and instruction of students with disabilities, including:

a. Curriculum development that includes a scope and sequence, lesson plans, instructional methods, and assessments that are based on the general education curriculum [~~standards of learning~~ Virginia Standards of Learning] at the elementary, middle, and secondary levels;

b. Foundational knowledge of reading and writing that includes an understanding of the complex nature of language acquisition and reading [~~(,~~ such as] reading competencies [found] in [~~the~~] professional studies

requirements [2]. Skills in this area include: phonemic awareness, an understanding of sound and symbol relationships, explicit phonics instruction, syllables, phonemes, morphemes, decoding skills, word attack skills, and knowledge of how phonics, syntax, and semantics interact. Additional skills shall include proficiency in a wide variety of comprehension, vocabulary, and writing strategies, as well as the ability to foster appreciation of a variety of literature, independent reading, and reading and writing across content areas;

c. Alternative ways to teach content material including curriculum adaptation and curriculum modifications;

d. Procedures to develop, provide, and evaluate instruction consistent with students' individual needs;

e. Strategies to promote successful integration of students with disabilities with their nondisabled peers;

f. Use of technology to promote student learning;

g. Structure and organization of general education classrooms and other instructional settings representing the continuum of special education services, to include field experiences; and

h. Demonstrate the ability to implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels, including the ability to:

(1) Identify and apply differentiated instructional methodologies including systematic instruction, multisensory approaches, learning cognitive strategies, study skills, diverse learning styles, and technology use;

(2) Teach skills and remediate deficits in academic areas at the elementary, middle, and secondary levels;

(3) Provide explicit instruction of reading and writing at appropriate developmental and grade level in a systematic and cumulative manner to students with disabilities who are accessing the general education curriculum;

(4) Promote the potential and capacity of individual students to meet high academic, behavioral, and social expectations;

(5) Design alternative ways to teach content material including modifying curriculum in both directive and nondirective methodologies;

(6) Use assistive and instructional technology in order to access the general education curriculum;

(7) Implement and evaluate group management techniques and individual interventions that teach and maintain emotional, behavioral, and social skills; and

(8) Implement and monitor IEP specified accommodations within the general education classroom.

4. Instructional strategies for mathematics.

An understanding and application of service delivery, curriculum, and instruction of students with disabilities, including:

a. Curriculum development that includes a scope and sequence, lesson plans, instructional methods, and assessments that are based on the general education curriculum [~~standards of learning~~ Virginia Standards of Learning] at the elementary, middle, and secondary levels;

b. Foundational knowledge of the complex nature of numeracy acquisition and nature of mathematics including mathematical concepts, mathematical thinking, mathematics vocabulary, calculation, and problem-solving;

c. Alternative ways to teach content material including curriculum adaptation and curriculum modifications;

d. Procedures to develop, provide, and evaluate instruction consistent with students' individual needs;

e. Strategies to promote successful integration of students with disabilities with their nondisabled peers;

f. Use of technology to promote student learning;

g. Structure and organization of general education classrooms and other instructional settings representing the continuum of special education services, to include field experiences;

h. Demonstrate the ability to implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels, including the ability to:

(1) Identify and apply differentiated instructional methodologies including systematic instruction, multisensory approaches, learning cognitive strategies, study skills, diverse learning styles, and technology use;

(2) Teach skills and remediate deficits in academic areas at the elementary, middle, and secondary levels;

(3) Provide explicit instruction in mathematics at appropriate developmental and grade level in a systematic and cumulative manner to students with disabilities who are accessing the general education curriculum;

(4) Promote the potential and capacity of individual students to meet high academic, behavioral, and social expectations;

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(5) Design alternative ways to teach content material including modifying curriculum in both directive and nondirective methodologies;

(6) Use assistive and instructional technology in order to access the general education curriculum;

(7) Implement and evaluate group management techniques and individual interventions that teach and maintain emotional, behavioral, and social skills; and

(8) Implement and monitor IEP specified accommodations within the general education classroom.

5. Transitioning.

Demonstrate the ability to prepare students and work with families to provide successful student transitions throughout the educational experience to include postsecondary education, training, employment, and independent living that addresses an understanding of long-term planning, transition assessments, career development, life skills, community experiences and resources, self-advocacy, and self-determination, guardianship, and legal considerations.

a. Skills in consultation, case management, and collaboration for students with varying degrees of disability severity;

(1) Coordinate service delivery with general educators, related service providers, and other providers;

(2) Awareness of community resources agencies and strategies to interface with community agencies when developing and planning IEPs;

(3) Knowledge of related services and accommodations that pertain to postsecondary transitions that increase student access to postsecondary education and community resources [and];

(4) Ability to coordinate and facilitate meetings involving parents, students, outside agencies, and administrators.

b. Understand the difference between entitlement and eligibility for agency services as students move to the adult world including a basic understanding of Social Security Income benefits planning, work incentive, Medicaid, and community independent living.

c. Recognize uses of technology and seek out technology at postsecondary settings that shall aid the student in their education, work, and independent living.

d. Recognize and plan for individual student potential and their capacity to meet high academic, behavioral, and social expectations and the impact of academic and social success on personal development;

(1) Knowledge of person-centered planning strategies to promote student involvement in planning; and

(2) Knowledge of generic skills that lead to success in school, work, and community, including time management, preparedness, social interactions, and communication skills.

e. Understand social skill development and the unique social skills deficits and challenges associated with disabilities:

(1) Assess social skill strengths and needs; and

(2) Plan and use specialized social skills strategies.

f. Knowledge of use and implementation of vocational assessments to encourage and support students' self-advocacy and self-determination skills.

g. Knowledge of graduation requirements, diploma options, and legal issues surrounding age of majority and guardianship.

6. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

7. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

C. Completion of supervised classroom experiences with students with disabilities and the general curriculum K-12.

8VAC20-543-510. Special education – general curriculum elementary education K-6 (add-on endorsement).

The program in special education - general curriculum elementary education K-6 (add-on endorsement) shall ensure that the candidate holds an active license with an endorsement in elementary education (early/primary education preK-3/elementary education preK-6) issued by the Virginia Board of Education and has demonstrated the following competencies. The candidate must:

1. Hold a license issued by the Virginia Board of Education with an endorsement in elementary education (early/primary education preK-3/elementary education preK-6);

2. Have completed competencies in the education of students with disabilities distributed in each of the following areas:

a. Foundations. Characteristics that include knowledge of the foundation for educating students with disabilities; historical, ethical, and legal aspects that include an understanding and application of the federal and state regulatory requirements; and expectations associated

with identification, education, and evaluation of students with disabilities.

b. Individualized education program (IEP) development and implementation.

(1) Knowledge of the eligibility process, legal, and regulatory requirements of IEP development including timelines, components, team composition, roles, and responsibilities.

(2) Skills in this area include the ability to apply knowledge of assessment and evaluation throughout the K-12 grade levels to construct, use, and interpret a variety of standardized and nonstandardized data collection techniques; to make decisions about student progress, instructional, program, goal development, accommodations, placement, and teaching methodology for students with disabilities who are accessing the general education curriculum and the [standards of learning Virginia Standards of Learning]; and to demonstrate the use of assessment, evaluation, and other information to develop and implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels.

c. Assessment and evaluation.

(1) Understanding and application of the foundation of assessment and evaluation related to best practice in special education; including types and characteristics of assessment, introduction to formal and informal assessment, and use of assessments and other information to determine special education eligibility, service delivery, curriculum, and instruction of students with disabilities.

(2) Understanding of the current legal and ethical issues related to assessment selection and use, including comprehensive evaluation requirements, students with disabilities participation in the state and local accountability systems, assessment options, appropriate grading and testing accommodations, and assessment of students from diverse backgrounds.

d. Instructional strategies in reading and writing.

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in reading and writing.

(2) Knowledge of the general curriculum, English requirements, and expectations, and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address the identified reading needs of the students. Skills in this area include the

ability to identify, understand, and implement a range of specialized instructional strategies and research-based interventions that reflect best practice in reading and writing instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the [Virginia] Standards of Learning and state assessments.

(5) Knowledge and ability to utilize current assistive and instructional reading and writing technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized reading and writing assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as it relates to the curriculum design and delivery.

(7) Ability to model and directly teach reading and writing instructional strategies in a variety of settings and collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the general curriculum and monitor student progress.

e. Instructional strategies in mathematics.

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in mathematics.

(2) Knowledge of the general curriculum mathematics requirements and expectations and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address calculations, reasoning, and problem-solving skills. Skills in this area include the ability to understand and use a range of specialized mathematics instructional strategies and research-based interventions that reflect best practice in mathematics instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the [Virginia] Standards of Learning and state assessments.

(5) Knowledge of and ability to utilize current mathematics related assistive and instructional technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized mathematics assessments to conduct ongoing evaluations of instructional materials and

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practices to determine effectiveness and assess student needs as related to the mathematics curriculum design and delivery.

(7) Ability to model and directly teach mathematics instructional strategies in a variety of settings and collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the mathematics general curriculum and monitor student progress.

3. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

4. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

[5. The program shall include a practicum that shall include a minimum of 45 instructional hours of successful teaching experiences with students with disabilities accessing the general curriculum in a public or accredited nonpublic school.]

8VAC20-543-520. Special education – general curriculum middle education grades 6-8 (add-on endorsement).

The program in special education - general curriculum middle education grades 6–8 (add-on endorsement) shall ensure that the candidate holds an active license with an endorsement in middle education (middle education 6–8 English, middle education 6–8 history and social sciences, middle education 6–8 mathematics, or middle education 6–8 sciences) issued by the Virginia Board of Education and has demonstrated the following competencies. The candidate must:

1. Hold a license issued by the Virginia Board of Education with an endorsement in middle education (middle education 6–8 English, middle education 6–8 history and social sciences, middle education 6–8 mathematics, or middle education 6–8 sciences).

2. Have completed competencies in the education of students with disabilities distributed in each of the following areas:

a. Foundations. Characteristics that include knowledge of the foundation for educating students with disabilities; historical, ethical, and legal aspects that include an understanding and application of the federal and state regulatory requirements; and expectations associated with identification, education, and evaluation of students with disabilities.

b. Individualized education program (IEP) development and implementation. Knowledge of the eligibility process and legal and regulatory requirements of IEP

development including timelines, components, team composition, roles, and responsibilities. Skills in this area include the ability to apply knowledge of assessment and evaluation throughout the K-12 grade levels to construct, use, and interpret a variety of standardized and nonstandardized data collection techniques; to make decisions about student progress, instructional, program, goal development, accommodations, placement, and teaching methodology for students with disabilities who are accessing the general education curriculum and the [~~standards of learning~~ Virginia Standards of Learning]; and to demonstrate the use of assessment, evaluation, and other information to develop and implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels.

c. Transitioning. Skills in this area include the ability to prepare students and work with families and community agencies to provide successful student transitions throughout the educational experience to include postsecondary education training, employment, and independent living which addresses an understanding of long-term planning, career development, life skills, community experiences and resources, self-advocacy, and self-determination, guardianship, and legal considerations.

d. Instructional strategies in reading and writing.

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in reading and writing.

(2) Knowledge of the general curriculum, English requirements and expectations, and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address the identified reading needs of the students. Skills in this area include the ability to identify, understand, and implement a range of specialized instructional strategies and research-based interventions that reflect best practice in reading and writing instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the [Virginia] Standards of Learning and state assessments.

(5) Knowledge and ability to utilize current assistive and instructional reading and writing technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized reading and writing assessments to conduct

ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as related to the curriculum design and delivery.

(7) Ability to model and directly teach reading and writing instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the general curriculum, and monitor student progress.

e. Instructional strategies in mathematics.

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in mathematics.

(2) Knowledge of the general curriculum mathematics requirements and expectations and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address calculations, reasoning, and problem-solving skills. Skills in this area include the ability to understand and use a range of specialized mathematics instructional strategies and research-based interventions that reflect best practice in mathematics instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the [Virginia] Standards of Learning and state assessments.

(5) Knowledge of and ability to utilize current mathematics related assistive and instructional technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized mathematics assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as it relates to the mathematics curriculum design and delivery.

(7) Ability to model and directly teach mathematics instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the mathematics general curriculum, and monitor student progress.

3. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

4. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and

present ideas in writing to communicate for a variety of purposes.

[5. The program shall include a practicum that shall include a minimum of 45 instructional hours of successful teaching experiences with students with disabilities accessing the general curriculum in a public or accredited nonpublic school.]

8VAC20-543-530. Special education – general curriculum secondary education grades 6–12 (add-on endorsement).

The program in special education - general curriculum secondary education grades 6–12 (add-on endorsement) shall ensure that the candidate holds an active license with an endorsement in English, history and social sciences, mathematics, biology, chemistry, Earth science, or physics issued by the Virginia Board of Education and has demonstrated the following competencies. The candidate must:

1. Hold a license issued by the Virginia Board of Education with an endorsement in English, history and social sciences, mathematics, biology, chemistry, Earth science, or physics.

2. Have completed competencies in the education of students with disabilities distributed in each of the following areas:

a. Foundations. Characteristics that include knowledge of the foundation for educating students with disabilities; historical, ethical, and legal aspects that include an understanding and application of the federal and state regulatory requirements; and expectations associated with identification, education, and evaluation of students with disabilities.

b. Individualized education program development and implementation. Knowledge of the eligibility process and legal and regulatory requirements of IEP development including timelines, components, team composition, roles, and responsibilities. Skills in this area include the ability to apply knowledge of assessment and evaluation throughout the K-12 grade levels to construct, use, and interpret a variety of standardized and nonstandardized data collection techniques; to make decisions about student progress, instructional, program, goal development, accommodations, placement, and teaching methodology for students with disabilities who are accessing the general education curriculum and the [~~standards of learning~~ Virginia Standards of Learning]; and to demonstrate the use of assessment, evaluation, and other information to develop and implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels.

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c. Transitioning. Skills in this area include the ability to prepare students and work with families and community agencies to provide successful student transitions throughout the educational experience to include postsecondary education training, employment, and independent living which addresses an understanding of long-term planning, career development, life skills, community experiences and resources, self-advocacy, and self-determination, guardianship, and legal considerations.

d. Instructional strategies in reading and writing.

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in reading and writing.

(2) Knowledge of the general curriculum, English requirements and expectations, and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address the identified reading needs of the students. Skills in this area include the ability to identify, understand, and implement a range of specialized instructional strategies and research-based interventions that reflect best practice in reading and writing instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the [Virginia] Standards of Learning and state assessments.

(5) Knowledge and ability to utilize current assistive and instructional reading and writing technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized reading and writing assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as related to the curriculum design and delivery.

(7) Ability to model and directly teach reading and writing instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the general curriculum, and monitor student progress.

e. Instructional strategies in mathematics.

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in mathematics.

(2) Knowledge of the general curriculum mathematics requirements and expectations and how to provide access

to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address calculations, reasoning, and problem-solving skills. Skills in this area include the ability to understand and use a range of specialized mathematics instructional strategies and research-based interventions that reflect best practice in mathematics instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the [Virginia] Standards of Learning and state assessments.

(5) Knowledge of and ability to utilize current mathematics related assistive and instructional technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized mathematics assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as it relates to the mathematics curriculum design and delivery.

(7) Ability to model and directly teach mathematics instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the mathematics general curriculum, and monitor student progress.

3. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

4. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

[5. The program shall include a practicum that shall include a minimum of 45 instructional hours of successful teaching experiences with students with disabilities accessing the general curriculum in a public or accredited nonpublic school.]

8VAC20-543-540. Speech communication (add-on endorsement).

The program in speech communication shall ensure that the candidate holds an active license with a teaching endorsement or endorsements issued by the Virginia Board of Education and has demonstrated the following competencies:

1. Understanding and knowledge of oral communication, including language acquisition involving the processes of

expressive and receptive language and voice production involving the aesthetics of speech;

2. Understanding and knowledge of common speech production patterns, including articulation, pronunciation, and dialectical variances as these relate to standard English patterns;

3. Understanding the components of effective messages, including appropriate use of language, voice and diction, and nonverbal elements;

4. Understanding of and proficiency in effective communication, including interpersonal communication, small group communication, skills contributing to effective listening, the art of persuasion, oral interpretation, group discussion, mass communication, public speaking, and debate, verbal and nonverbal messages, and the ability to critique such communication interactions;

5. Understanding media, digital, and visual literacy and the skills to evaluate and utilize these literacies in presentations;

6. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing;

7. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes;

8. Skills necessary to teach research including ethical accessing, evaluating, organizing, crediting, and synthesizing information as needed for speech communication; and

9. Knowledge of the [Virginia] Computer Technology Standards of Learning and their integration into Speech Communication.

8VAC20-543-550. Theatre arts preK-12.

The program in theatre arts preK-12 shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of the theatre arts discipline as defined in the Virginia Standards of Learning and how these provide a necessary foundation integral to teaching theatre arts.

2. Understanding of the knowledge, skills, and processes for teaching theatre arts to the developmental levels and academic needs of students in preK-12, including the following:

a. Experience in planning, developing, administering, and evaluating a program of theatre arts education;

b. Knowledge and understanding for teaching theatre arts, including performance and production; theatre

history and cultural context; analysis, evaluation, and critique; and aesthetics;

c. [~~Directing~~ Knowledge and understanding in directing];

d. [~~Technical~~ Knowledge and understanding in technical] theatre, including lighting, set design, stage craft, costuming, makeup, and safety;

e. [~~Performance~~ Knowledge and understanding in performance], including acting and acting styles;

f. [~~Dramatic~~ Knowledge and understanding in dramatic] literature;

g. [~~The~~ Knowledge and understanding of the] relationship of theatre and culture and the influence of theatre on past and present culture;

h. Knowledge and understanding of technological and artistic copyright laws;

i. Knowledge and understanding of classroom management and safety, including performance and studio [and use of toxic art materials in various aspects of theatre arts production, performance, and the classroom];

k. Knowledge of instructional and assessment strategies to foster, support, and enhance student theatre arts learning;

l. Knowledge of related areas of theatre arts, such as art, dance arts, music, and the visual arts;

m. Knowledge and understanding of technology, with applications for instruction, resources, artistic expression, administration, assessment, and communication;

n. Knowledge and understanding of appropriate and sensitive attention to diversity and cultural understanding; and

o. Observation and student teaching experiences at the elementary, middle, and secondary levels.

3. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

4. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-560. Visual arts preK-12.

The program in visual arts preK-12 shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of the visual arts discipline as defined in the Virginia

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Standards of Learning, and how they provide a necessary foundation for teaching the visual arts;

2. Understanding of the knowledge, skills, and processes for teaching art appropriate to the developmental levels and academic needs of students in preK-12 including the following [areas]:

a. Knowledge and experience in planning, developing, administering, and evaluating a program of visual arts education;

b. Two-dimensional media and concepts: basic and complex techniques and concepts in two-dimensional design, drawing, painting, printmaking, computer graphics, and other electronic imagery;

c. Three-dimensional media and concepts: basic and complex techniques and concepts in three-dimensional design, sculpture, ceramics, fiber arts, crafts, and computer and other electronic imagery;

d. Knowledge and understanding for teaching the visual arts, including visual communication and production, art history and cultural context, analysis, evaluation and critique, and aesthetics;

e. The relationship of visual arts and culture and the influence of visual arts on past and present cultures;

f. Related areas of visual arts, such as architecture, dance arts, music, theatre arts, photography, and other expressive arts;

g. Knowledge and understanding of technological and artistic copyright laws;

h. Knowledge and understanding of classroom management and safety, including use of toxic art material in various aspects of studio and classroom work;

i. Knowledge of a variety of instructional and assessment strategies to foster, support, and enhance student visual arts learning;

j. Knowledge and understanding of technology, with applications for instruction, resources, artistic expression, administration, assessment, and communication;

k. Knowledge and understanding of appropriate and sensitive attention to diversity and cultural understanding; and

l. Observation and student teaching experiences at the elementary, middle, and secondary levels.

3. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

4. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and

present ideas in writing to communicate for a variety of purposes.

Article 4

Administration and Supervision and Support Personnel

8VAC20-543-570. Administration and supervision preK-12.

A. The program in administration and supervision preK-12 shall ensure that the candidate has [completed three years of successful, full-time experience in a public school or accredited nonpublic school in an instructional personnel position that requires licensure in Virginia and] demonstrated the following competencies:

1. Knowledge, understanding, and application of planning, assessment, and instructional leadership that builds collective professional capacity, including:

a. Principles of student motivation, growth, and development as a foundation for age-appropriate and grade-appropriate curriculum, instruction, and assessment;

b. Collaborative leadership in gathering and analyzing data to identify needs to develop and implement a school improvement plan that results in increased student learning;

c. Planning, implementation, and refinement of standards-based curriculum aligned with instruction and assessment;

d. Collaborative planning and implementation of a variety of assessment techniques, including examination of student work, that yield individual, class, grade level, and school level data as a foundation for identifying existing competencies and targeting areas in need of further attention;

e. Incorporation of differentiated and effective instruction that responds to individual learner needs including appropriate response to cultural, ethnic, and linguistic diversity;

f. Knowledge, understanding, and application of the federal and state regulatory requirements, and expectations associated with identification, education, and evaluation of students with disabilities;

g. Collaboratively working with parents and school personnel to ensure that students with disabilities are included as a valued part of the school community, and that they receive effective and appropriately intensive instruction to assist them in meeting the standards set for all students [,] as well as individual goals outlined in their individualized education plans (IEPs);

h. Integration of technology in curriculum and instruction to enhance learner understanding;

- i. Identification, analysis, and resolution of problems using effective problem-solving techniques; and
 - j. Development, articulation, implementation, and stewardship of a vision of excellence linked to mission and core beliefs that promote continuous improvement consistent with the goals of the school division.
2. Knowledge, understanding, and application of leadership and organizations, including:
- a. The change process of systems, organizations, and individuals using appropriate and effective adult learning models;
 - b. Aligning organizational practice, division mission, and core beliefs for developing and implementing strategic plans;
 - c. Information sources and processing, including data collection and data analysis strategies;
 - d. Using data as a part of ongoing program evaluation to inform and lead change;
 - e. Developing a change management strategy for improved student outcomes;
 - f. Developing distributed leadership strategies to create personalized learning environments for diverse schools; and
 - g. Effective two-way communication skills including consensus building, negotiation, and mediation skills.
3. Knowledge, understanding, and application of management and leadership skills that achieve effective and efficient organizational operations and sustain an instructional program conducive to student academic progress, including:
- a. Alignment of curriculum and instruction and assessment of the educational program to achieve high academic success at the school and division or district level;
 - b. Principles and issues of supervising and leading others to ensure a working and learning climate that is safe, secure, and respectful of a diverse school community;
 - c. Management decisions that ensure successful teaching and learning including human resources management and development, theories of motivation, change in school culture, innovation and creativity, conflict resolution, adult learning, and professional development models;
 - d. Knowledge, understanding, and application of Virginia's Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers and the Guidelines for Uniform Performance Standards and Evaluation Criteria for Principals;
 - e. Principles and issues related to fiscal operations of school management;
 - f. Principles and issues related to school facilities and use of space and time for supporting high-quality school instruction and student learning;
 - g. Legal issues impacting school operations and management;
 - h. Technologies that support management functions; and
 - i. Application of data-driven decision-making to initiate and continue improvement in school and classroom practices and student achievement.
4. Knowledge, understanding, and application of the conditions and dynamics impacting a diverse school community, including:
- a. Emerging issues and trends within school and community relations;
 - b. Working collaboratively with staff, families, and community members to secure resources and to support the success of a diverse population;
 - c. Developing appropriate public relations and public engagement strategies and processes for building and sustaining positive relationships with families, caregivers, and community partners; and
 - d. Integration of technology to support communication efforts.
5. Knowledge, understanding, and application of the purpose of education and the role of professionalism in advancing educational goals, including:
- a. Philosophy of education that reflects commitment to principles of honesty, fairness, caring, and equity in day-to-day professional behavior;
 - b. Integration of high quality, content rich, job-embedded professional learning that respects the contribution of all faculty and staff members in building a diverse professional learning community;
 - c. Reflective understanding of potential moral and legal consequences of decision-making in the school setting;
 - d. Intentional and purposeful effort to model professional, moral, and ethical standards [,] as well as personal integrity in all interactions; and
 - e. Intentional and purposeful effort to model continuous professional learning and to work collegially and collaboratively with all members of the school community to support the school's goals and enhance its collective capacity.

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6. Knowledge, understanding, and application of basic leadership theories and influences that impact schools including:

a. Concepts of leadership including systems theory, change theory, learning organizations, and current leadership theory;

b. [Identify Ability to identify] and respond to internal and external forces and influences on a school;

c. [Identify Ability to identify] and apply the processes of educational policy development at the state, local, and school level; and

d. [Identify Ability to identify] and demonstrate ways to influence educational policy development at the state, local, and school level.

B. Complete a deliberately structured and supervised internship that is focused on student academic progress for all students and

1. Provides significant experiences within a school environment for candidates to synthesize and apply the content knowledge and develop professional skills through school-based leadership experiences;

2. Shall occur in a public or accredited nonpublic school;

3. Provides exposure to five different multiple sites [4, including] elementary, middle, high, central office, and agency [2] with diverse student populations; and

4. Documents a minimum of 320 clock hours [of administration and supervision internship], of which at least 120 clock hours are embedded as experiential field-based opportunities experienced during coursework.

C. Satisfy the requirements for the school leaders licensure assessment prescribed by the Board of Education. Individuals seeking an initial administration and supervision endorsement who are interested in serving as central office instructional personnel are not required to take and pass the school leaders assessment prescribed by the Board of Education.

8VAC20-543-580. Mathematics specialist for elementary education.

A. A mathematics specialist is a teacher in the elementary grades who has interest and special preparation in mathematics content, scientifically based research in the teaching and learning of mathematics, diagnostic and assessment methods, and leadership skills. The school-based mathematics specialist shall serve as a resource in professional development, instructing children who have learning difficulties in mathematics, curriculum development and implementation, mentoring new teachers, and parent and community education.

B. The mathematics specialist program shall ensure that the candidate has completed at least three years of successful

classroom teaching experience in which the teaching of mathematics was an important responsibility and demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of the Virginia Mathematics Standards of Learning and how curriculum may be organized to teach these standards to diverse learners;

2. Understanding of a core knowledge base of concepts and procedures within the discipline of mathematics, including the following strands: number systems and number theory; geometry and measurement; statistics and probability; and functions and algebra;

3. Understanding of the sequential nature of mathematics, the vertical progression of mathematical standards, and the mathematical structures inherent in the content strands;

4. Understanding of the connections among mathematical concepts and procedures and their practical applications;

5. Understanding of and the ability to use the five processes - becoming mathematical problem-solvers, reasoning mathematically, communicating mathematically, making mathematical connections, and using mathematical models and representations - at different levels of complexity;

6. Understanding of major current curriculum studies and trends in mathematics;

7. Understanding how to utilize appropriate technologies for teaching and learning mathematics including virtual manipulatives;

8. Understanding of and the ability to select, adapt, evaluate, and use instructional materials and resources, including professional journals and technology;

9. Understanding of and the ability to use strategies for managing, assessing, and monitoring student learning, including diagnosing student errors;

10. Understanding of and the ability to use strategies to teach mathematics to diverse learners;

11. Understanding of leadership skills needed to improve mathematics programs at the school and division levels, including the needs of high-achieving and low-achieving students and of strategies to challenge them at appropriate levels; child psychology, including personality and learning behaviors; educational measurement and evaluation; and effective professional development approaches;

12. Understanding of how to develop and lead appropriate professional development based on the needs of students and the school community;

13. Understanding of how to work with school-based administration for the improvement of mathematics teaching and learning;

14. Understanding of how to effectively mentor teachers for the improvement of mathematics teaching and learning;

15. Understanding of how to effectively work with parents and the at-large community to improve mathematics teaching and learning;

16. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing; and

17. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-590. Mathematics specialist for [elementary and] middle education.

A. A mathematics specialist is a teacher in the [elementary or] middle grades who has interest and special preparation in mathematics content, scientifically-based research in the teaching and learning of mathematics, diagnostic and assessment methods, and leadership skills. The school-based mathematics specialist shall serve as a resource in professional development, instructing children who have learning difficulties in mathematics, curriculum development and implementation, mentoring new teachers, and parent and community education.

B. The mathematics specialist program shall ensure that the candidate has completed at least three years of successful classroom teaching experience [in a public or accredited nonpublic school] in which the teaching of mathematics was an important responsibility and demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of the Virginia Mathematics Standards of Learning and how curriculum may be organized to teach these standards to diverse learners;

2. Understanding of a core knowledge base of concepts and procedures within the discipline of mathematics, including the following strands: number systems and number theory; geometry and measurement; statistics and probability; and functions and algebra;

3. Understanding of the sequential nature of mathematics, the vertical progression of mathematical standards, and the mathematical structures inherent in the content strands;

4. Understanding of the connections among mathematical concepts and procedures and their practical applications;

5. Understanding of and the ability to use the five processes - becoming mathematical problem-solvers,

reasoning mathematically, communicating mathematically, making mathematical connections, and using mathematical models and representations - at different levels of complexity;

6. Understanding of major current curriculum studies and trends in mathematics;

7. Understanding how to utilize appropriate technologies for teaching and learning mathematics, including graphing utilities, dynamic software, spreadsheets, and virtual manipulatives;

8. Understanding of and the ability to select, adapt, evaluate, and use instructional materials and resources, including professional journals and technology;

9. Understanding of and the ability to use strategies for managing, assessing, and monitoring student learning, including diagnosing student errors;

10. Understanding of and the ability to use strategies to teach mathematics to diverse learners;

11. Understanding of leadership skills needed to improve mathematics programs at the school and division levels, including the needs of high-achieving and low-achieving students and of strategies to challenge them at appropriate levels; child psychology, including personality and learning behaviors; educational measurement and evaluation; and effective professional development approaches;

12. Understanding of how to develop and lead appropriate professional development based on the needs of students and the school community;

13. Understanding of how to work with school-based administration for the improvement of mathematics teaching and learning;

14. Understanding of how to effectively mentor teachers for the improvement of mathematics teaching and learning;

15. Understanding of how to effectively work with parents and the at-large community to improve mathematics teaching and learning;

16. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing; and

17. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-600. Reading specialist.

The reading specialist program shall ensure that the candidate [has completed at least three years of successful classroom teaching experience in a public or accredited

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nonpublic school and] has demonstrated the following competencies:

1. Assessment and diagnostic teaching. The candidate shall:

a. Demonstrate expertise in the use of formal and informal screening, diagnostic, and progress monitoring assessment for language proficiency, concepts of print, phonemic awareness, letter recognition, decoding, fluency, vocabulary, reading levels, and comprehension; and

b. Demonstrate expertise in the ability to use diagnostic data to inform instruction for acceleration, intervention, remediation, and differentiation.

2. Communication: speaking, listening, media literacy. The candidate shall:

a. Demonstrate expertise in the knowledge, skills, and processes necessary for teaching communication, [& such as] speaking, listening, and media literacy [&]:

b. Demonstrate expertise in developing students' phonological awareness skills;

c. Demonstrate effective strategies for facilitating the learning of standard English by speakers of other languages and dialects;

d. Demonstrate an understanding of the unique needs of students with language differences and delays;

e. Demonstrate the ability to promote creative thinking and expression, such as through storytelling, drama, and choral and oral reading [-ete.]; and

f. Demonstrate the ability to teach students to identify the characteristics of, and apply critical thinking to, media messages and to facilitate their proficiency in using various forms of media to collaborate and communicate.

3. Reading. The candidate shall:

a. Demonstrate expertise in explicit and systematic phonics instruction, including an understanding of sound and symbol relationships, syllables, phonemes, morphemes, decoding skills, word analysis, and word attack skills;

b. Demonstrate expertise in the morphology of English including inflections, prefixes, suffixes, roots, and word relationships;

c. Demonstrate expertise in strategies to increase vocabulary;

d. Demonstrate expertise in the structure of the English language, including and understanding of syntax, semantics, and vocabulary development;

e. Demonstrate expertise in reading comprehension strategies, including a repertoire of questioning strategies, understanding the dimensions of word meanings, teaching predicting, inferencing, summarizing, clarifying, evaluating, and making connections;

f. Demonstrate expertise in the ability to teach strategies in literal, interpretive, critical, and evaluative comprehension;

g. Demonstrate the ability to develop comprehension skills in all content areas;

h. Demonstrate the ability to foster appreciation of a variety of literature; [and]

i. Understand the importance of promoting independent reading and reading strategically through a variety of means including by selecting fiction and nonfiction texts of appropriate yet engaging topics and reading levels; and

j. Demonstrate effective strategies for teaching students to view, interpret, analyze, and represent information and concepts in visual form with or without the spoken or written word.

4. Writing. The candidate shall:

a. Demonstrate expertise in the knowledge, skills, and processes necessary for teaching writing, including the domains of composing and written expression and usage and mechanics and the writing process of planning, drafting, revising, editing, and sharing;

b. Demonstrate expertise in systematic spelling instruction, including awareness of the purpose and limitations of "invented spelling," orthographic patterns, and strategies for promoting generalization of spelling study to writing; and

c. Demonstrate expertise to teach the writing process: plan, draft, revise, edit, and share in the narrative, descriptive, and explanative modes.

5. Technology. The candidate shall demonstrate expertise in their use of technology for both process and product as they work to guide students with reading, writing, and research.

6. Leadership, coaching, and specialization. The candidate shall:

a. Demonstrate an understanding of developmental psychology, including personality and learning behaviors;

b. Demonstrate an understanding of the needs of high achieving students and of strategies to challenge them at appropriate levels;

- c. Demonstrate an understanding of the significance of cultural contexts upon language;
- d. Demonstrate an understanding of varying degrees of learning disabilities;
- e. Demonstrate expertise with educational measurement and evaluation [,] including validity, reliability, and normative comparisons in test design and selections;
- f. Demonstrate expertise to interpret grade equivalents, percentile ranks, normal curve equivalents, and standards scores;
- g. Demonstrate the ability to instruct and advise teachers in the skills necessary to differentiate reading instruction for both low and high achieving readers;
- h. Demonstrate the ability to coach and support teachers through classroom observations, demonstrations, co-teaching, and other forms of job-embedded professional development;
- i. Demonstrate the ability to organize and supervise the reading program within the classroom, school, or division;
- j. Demonstrate effective communication skills in working with a variety of groups, including parents, teachers, administrators, community leaders [, etc.];
- k. Demonstrate knowledge of current research and exemplary practices in English and reading;
- l. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing; [and]
- m. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes [; and
- n. Complete] a supervised practicum or field experience in the diagnosis and remediation of reading difficulties in a public or accredited nonpublic school.]

8VAC20-543-610. School counselor preK-12.

The school counselor preK-12 program shall ensure that the candidate has [completed two years of successful, full-time teaching experience or two years of successful full-time experience in school counseling in a public or an accredited nonpublic school. Two years of successful, full-time experience in school counseling in a public or an accredited nonpublic school under a nonrenewable Provisional License may be accepted to meet this requirement. The program shall ensure that the candidate must] demonstrated the following competencies:

- 1. The ability to support students by cooperatively working with parents and guardians and teachers.

- 2. Understanding of the principles and theories of human growth and development throughout the lifespan and their implications for school counseling.
- 3. Understanding of the social and cultural foundations of education and their implications for school counseling programs.
- 4. Understanding of lifespan career development.
- 5. Understanding of the skills and processes for counseling students to include:
 - a. Individual and group counseling for academic development;
 - b. Individual and group counseling for career development; and
 - c. Individual and group counseling for personal and social development.
- 6. Understanding of the knowledge, skills, and processes for providing developmental group [~~guidance~~ counseling], including:
 - a. Academic development;
 - b. Career development; and
 - c. Personal and social development.
- 7. Understanding of the skills and processes related to the school counseling program at the elementary, middle, and secondary levels, including:
 - a. Characteristics of learners at the elementary, middle, and secondary levels;
 - b. Program planning;
 - c. Coordination; and
 - d. Consultation.
- 8. Understanding of the knowledge, skills, and processes of student appraisal and assessment relative to school [~~guidance and~~] counseling programs, including:
 - a. Individual assessment; and
 - b. Group assessment.
- 9. Understanding of the school counseling professional, including:
 - a. Legal considerations;
 - b. Ethical considerations; and
 - c. Professional issues and standards.
- 10. Understanding of the skills and processes of research and evaluation aimed at improving school counseling programs.

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11. Understanding work-based learning methods of instruction such as internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship.

12. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

13. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

14. The program shall include at least 100 clock hours of [a school counselor] internship and practicum experience in the preK-6 setting and 100 clock hours of internship and practicum experience in the grades 7-12 setting.

8VAC20-543-620. School psychology.

The school psychology program shall ensure that the candidate has demonstrated the following competencies:

1. Knowledge of basic teaching and learning principles and the conditions under which they operate maximally [{, including } academic environment and instructional match [}].

2. Knowledge and application of psychological foundations of human functioning including biological bases of behavior; cultural diversity; infant, child, and adolescent development; effects of poverty and lack of opportunity on learning; interplay between behavior, learning and motivation; personality theory; human learning; and social bases of behavior and mental health, to ensure student academic achievement, student growth and development, and mental health.

3. Knowledge of and skill at applying educational foundations of schooling, including education of exceptional learners; evidence-based instructional and remedial interventions, techniques, and strategies; formative and summative evaluation; evidence-based behavioral interventions; and organization and operations of schools, to ensure effective collaboration with other school professionals toward implementing school practices that promote learning and mental health.

4. Knowledge of various methods for assessing students' cognitive processes and abilities and skill in administering a variety of such methods; knowledge of various methods for assessing student academic strengths and weaknesses and skill in administering a variety of such methods; knowledge of various methods for assessing student interpersonal emotional and social and behavioral functioning and skill in administering a variety of such methods; and knowledge of universal screening measures designed for early and tiered academic and behavioral intervention. Knowledge of a variety of progress

monitoring tools, especially student growth percentiles and skill in implementing at least two such tools.

5. Understanding and knowledge of direct and indirect methods of academic and behavioral intervention, and proficiency in delivering such interventions including:

a. Counseling on an individual, group, and family basis;

b. Consulting with administrators, teachers, parents, and other professionals about student problems and appropriate change strategies;

c. Designing and implementing individual and group behavior change programs; designing, implementing, and evaluating crisis intervention and threat [{, such as } self-directed and other-directed [}] assessment programs; and

d. Designing and implementing academic and instructional interventions.

6. Statistics and research design, measurement, and program evaluation.

7. The profession of psychology applied to schools, including:

a. Basic knowledge of the standards of practice promoted by the National Association of School Psychologists (NASP);

b. Knowledge of and skill with several basic problem-solving schemes;

c. Knowledge of and ability to identify the variety of mental health problems exhibited by infants, children, and adolescents through age 21, including the ability to collaborate with other community-based professionals and private practitioners in providing wraparound services to the extent possible [{ or considered as } systems of care philosophy [}];

d. History and foundations of school psychology;

e. Legal and ethical issues of practicing in schools;

f. Professional issues and standards related to practicing as a psychologist in a public school setting; and

g. Knowledge of the roles of all individuals practicing and working in a public school setting.

8. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

9. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

10. The candidate shall have earned a baccalaureate degree from a regionally accredited college or university and

completed 60 graduate hours, 54 of which are academic coursework, exclusive of field-based experiences, that culminate in at least a master's degree.

11. The candidate shall complete an internship [in school psychology] that is documented by the degree granting institution. The internship experience shall occur on a full-time basis over a period of one year or on a half-time basis over a period of two consecutive years. The internship shall occur under conditions of appropriate supervision [~~i.e.~~], [such as] the school-based supervisor shall be licensed as either a school or clinical psychologist []. The internship shall include experiences at multiple age levels, at least one half of which shall be in an accredited schooling setting.

8VAC20-543-630. School social worker.

The school social worker program shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes for direct and indirect intervention, including:

a. Facilitating integrated intervention efforts that emphasize primary prevention, early screening, and multi-tiered interventions that target multiple risk factors in various settings;

b. Identifying approaches that seek to improve individual and system factors contributing to academic success and data-informed decision making and intervention fidelity;

c. Counseling on an individual, group, or family basis;

d. Consulting with administrators, teachers, parents, and other professionals about student problems and appropriate change strategies;

e. Networking and brokering with school programs and community agencies to provide essential services for families and children; and

f. [~~Skills in collaborating~~ Collaborating] with and facilitating collaboration among students, parents, members, administrators, teachers, and staff to identify ways to intervene early, reduce barriers to learning, and improve student outcomes.

2. Understanding of child development, psychopathology, social and environmental conditioning, cultural diversity, and family systems including:

a. Acknowledgment of the interrelatedness of various ecological systems such as education, juvenile justice, family and children's health, mental health, and child protective services; and

b. Knowledge of social problem impact on student performance and behaviors.

3. Understanding of the knowledge, skills, and processes for effective casework practice [including]:

a. [~~Examine~~ Examining] factors in home, school, and community that impact students' educational performance and success; and

b. [~~Assist~~ Assisting] in reducing identified barriers to learning.

4. Specialized knowledge and understanding of the organization and operations of school systems including:

a. Historical and current perspectives of public school education at the local, state, and national levels, including educational reform and legislation; and

b. Identifying and conveying the impact social problems, within ecological systems of home, school, and community, have on student performance in the educational setting.

5. Understanding of the knowledge, skills, and processes involved with assessing and programming for exceptional students including:

a. Skills in implementing systematic assessment, data gathering and interpretation at multiple levels, and developing action plans to address the areas of need;

b. Identifying and utilizing research-based interventions to enhance the educational opportunities and school performance of vulnerable and at-risk populations;

c. Providing leadership in developing prevention programs and policies with administrators that impact school climate, student learning, and academic success; and

d. Ability to facilitate team decision-making and problem-solving strategies.

6. Understanding of the school social work profession, including:

a. History and foundations of school social work;

b. Legal and ethical issues;

c. Professional issues and standards; and

d. The role and function of the school social worker to include contextual variables influencing school social work roles and functions [~~e.g.~~], [such as] political, legal, ethical, and value-based issues [] that confront schools.

7. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

8. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and

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present ideas in writing to communicate for a variety of purposes.

9. The candidate shall have earned a master's of social work degree from a regionally accredited college or university school of social work with a minimum of 60 graduate semester hours [or earned an advanced standing master's of social work degree from a regionally accredited college or university with a minimum of 30 graduate-level semester hours].

10. The candidate shall complete a minimum of six graduate semester hours in education to include six semester hours from two of the following courses:

- a. [~~The~~ Foundations of education and the] teaching profession (3 semester hours);
- b. Characteristics of special education [~~3~~ (three) semester hours];
- c. Human development and learning [~~3~~ (three) semester hours); or
- d. Classroom and behavior management [~~3~~ (three) semester hours).

11. The candidate shall complete a [school social worker] supervised practicum or field experience of a minimum of 400 clock hours in a public or accredited nonpublic school [~~discharging the duties of a school social worker~~]. One year of successful, full-time experience as a school social worker in a public or accredited nonpublic school may be accepted in lieu of the school social work practicum.

8VAC20-543-640. Vocational evaluator.

The vocational evaluator program shall ensure that the candidate has demonstrated the following competencies:

- 1. Understanding of the foundations of vocational evaluation and career assessment, including philosophy and process of vocational evaluation and assessment, use of occupational and labor market information, and functional aspects of physical, mental and intellectual disabilities.
- 2. Understanding of the basic concepts and skills of planning for and delivering vocational evaluation and career assessment services, including the use of vocational interviewing, individualized service planning, report development and communication, and use of modifications and accommodations.
- 3. Ability to modify standard instruments and to develop new instruments to respond to labor markets or individual needs.
- 4. Understanding of the federal and state laws and regulations pertaining to special education [~~4~~, such as the] Individuals with Disabilities Education Act [~~2~~].

[~~rehabilitation~~ ~~4~~] Rehabilitation Act and the Americans with Disabilities Act. [~~2~~]

5. Understanding of the content, processes, and skills necessary to administer and report findings of standardized testing, including knowledge of tests and measurements and selection and use of appropriate instruments.

6. Above average communication skills in order to explain assessment information to school personnel, parents, students, and other service providers [.]

7. Understanding of natural supports and assistive technology.

8. Ability to select, administer, and interpret a wide assortment of evaluation instruments which includes commercial work sample systems, and situational assessments.

9. Understanding and knowledge of specific assessment techniques and skills and the processes for conducting vocational evaluation and career assessment, including:

- a. Job and training analysis;
- b. Work samples and systems;
- c. Situational and community-based assessment;
- d. Behavioral observation;
- e. Learning and functional skills assessment; and
- f. Work site assessment [~~4~~ or] ecological assessment [~~2~~].

10. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

11. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

<p>NOTICE: The following form used in administering the regulation was filed by the agency. The form is not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of the form with a hyperlink to access it. The form is also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.</p>

FORMS (8VAC20-543)

[Request for New Education Program Endorsement Area \(undated\)](#)

VA.R. Doc. No. R13-3477; Filed July 3, 2018, 11:23 a.m.

Fast-Track Regulation

Titles of Regulations: 8VAC20-590. Minimum Standards for the Accreditation of Child Day Programs Serving Children of Preschool Age or Younger in Public Schools (repealing 8VAC20-590-10, 8VAC20-590-20, 8VAC20-590-30).

8VAC20-600. Minimum Standards for the Accreditation of Child Day Programs Serving School Age Children Offered in Public Schools (repealing 8VAC20-600-10, 8VAC20-600-20, 8VAC20-600-30).

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

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: August 23, 2018.

Effective Date: September 10, 2018.

Agency Contact: Emily V. Webb, Director for Board Relations, Department of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 225-2924, FAX (804) 225-2524, or email emily.webb@doe.virginia.gov.

Basis: Chapter 442 of the 2016 Acts of Assembly eliminated the State Board of Education's authority to regulate child day programs.

Purpose: This repeal is required by legislative action, and the Virginia Department of Social Services will be responsible for the welfare of all children in child day programs.

Rationale for Using Fast-Track Rulemaking Process: The repeal of this regulation is required by legislative action and is not controversial.

Substance: This action repeals the regulations.

Issues: There are no disadvantages to the public in repealing this legislation. The advantage to the public is one regulatory agency responsible for compliance for child day programs. This action is conducive to effective and efficient state government. The advantage to the Commonwealth is avoidance of duplication of effort. Instead of two state agencies responsible for child day program, once state agency will be responsible for child day program. There are no disadvantages to the agency or the Commonwealth. The Virginia Department of Education will be responsible for education, and the Virginia Department of Social Services will be responsible for child welfare, day care, and any additional social services required by the family.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. Chapter 442 of the 2016 Acts of Assembly (Chapter 442)¹ eliminated Code of Virginia language requiring these regulations. Consequently, the Board of Education (Board) proposes to repeal 8VAC20-590 and 8VAC20-600.

Result of Analysis. The benefits likely exceed the costs for all proposed amendments.

Estimated Economic Impact. According to the Department of Education (DOE), in practice the requirements of these regulations have been duplicative of 8VAC20-131, Regulations Establishing Standards for Accrediting Public Schools in Virginia. Staff at local school divisions who have child day programs have had to produce documents and prepare for visits from two sets of DOE staff, for 8VAC20-131 and for these regulations. By repealing these regulations, local school divisions that have child day programs no longer have to spend staff time preparing documents and for visits from DOE staff to obtain accreditation under these regulations. Eliminating the duplicative efforts saves significant staff time for the school divisions without compromising safety or quality assurance.

Businesses and Entities Affected. The proposed amendments affect the 11 school divisions that have child day programs.²

Localities Particularly Affected. The local school divisions with child day programs are for the Cities of Buena Vista, Charlottesville, Falls Church, Manassas, Norfolk, and Richmond and the Counties of Albemarle, Arlington, Charlotte, Fluvanna, and Southampton.³

Projected Impact on Employment. The proposed amendments do not significantly affect employment.

Effects on the Use and Value of Private Property. The proposed amendments do not affect the use and value of private property.

Real Estate Development Costs. The proposed amendments do not affect real estate development costs.

Small Businesses:

Definition. Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

Costs and Other Effects. The proposed amendments do not affect small businesses.

Alternative Method that Minimizes Adverse Impact. The proposed amendments do not adversely affect small businesses.

Adverse Impacts:

Businesses. The proposed amendments do not adversely affect businesses.

Localities. The proposed amendments do not adversely affect localities.

Other Entities. The proposed amendments do not adversely affect other entities.

¹See <http://leg1.state.va.us/cgi-bin/legp504.exe?161+ful+CHAP0442>.

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²Source: Department of Education. The data is from 2016, the most recent year available.

³Ibid.

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

Summary:

The amendments repeal regulations to conform with Chapter 442 of the 2016 Acts of Assembly, which removed Board of Education authority to regulate child day programs and placed that authority under the State Board of Social Services.

VA.R. Doc. No. R18-5463; Filed June 26, 2018, 10:37 a.m.

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Forms

REGISTRAR'S NOTICE: A form used in administering the following regulation has been filed by the Virginia Waste Management Board. The form is not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form to access it. The form is also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

Title of Regulation: **9VAC20-90. Solid Waste Management Permit Action Fees and Annual Fees.**

Contact Information: Melissa Porterfield, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, email melissa.porterfield@deq.virginia.gov.

FORMS (9VAC20-90)

[Solid Waste Information and Assessment Program - Reporting Table, Form DEQ 50-25 with Statement of Economic Benefits Form and Instructions \(rev. 11/2014\)](#)

~~[Solid Waste Annual Permit Fee Quarter Payment Form PF001 \(rev. 7/2017\)](#)~~

[Solid Waste Annual Permit Fee Quarter Payment Form PF001 \(rev. 6/2018\)](#)

VA.R. Doc. No. R18-5546; Filed June 26, 2018, 8:37 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Final Regulation

Title of Regulation: **12VAC30-60. Standards Established and Methods Used to Assure High Quality Care (amending 12VAC30-60-303, 12VAC30-60-310; adding 12VAC30-60-301, 12VAC30-60-302, 12VAC30-60-304, 12VAC30-60-305, 12VAC30-60-306, 12VAC30-60-308, 12VAC30-60-313, 12VAC30-60-315; repealing 12VAC30-60-300, 12VAC30-60-307, 12VAC30-60-312).**

Statutory Authority: § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

Effective Date: August 22, 2018.

Agency Contact: Emily McClellan, Regulatory Supervisor, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email emily.mcclellan@dmas.virginia.gov.

Summary:

Item 306 PPP of Chapter 780 of the 2016 Acts of Assembly directs the Department of Medical Assistance Services (DMAS) to contract out community-based screenings for children, track and monitor all requests for screenings that have not been completed within 30 days of an individual's request, and establish reimbursement and tracking mechanisms. Emergency regulations were promulgated effective September 1, 2016, to implement this legislative mandate. The permanent regulations are intended to supersede the emergency regulations.

The amendments add requirements for accepting, managing, and completing requests for community and hospital electronic screenings for community-based and nursing facility services and for using the preadmission screening (ePAS) system, establish the use by DMAS of contractors, and provide a framework for public or private entities to screen children and adults in communities where community preadmission screening teams are unable to complete screenings within 30 days of the initial request date for a screening. The current requirements for functional eligibility (12VAC30-60-303 B) for long-term services and supports (LTSS) are retained since these standards support the eligibility process for the DMAS home-based and community-based waiver programs (the Elderly or Disabled with Consumer Direction Waiver, the Technology Assisted Waiver, the Alzheimer's Assisted Living Waiver, the Program of All-Inclusive Care for the Elderly, and nursing facility care).

The amendments repeal 12VAC30-60-300 and move the existing nursing facility criteria to 12VAC30-60-303. The

functional criteria, based on the Uniform Assessment Instrument (UAI) form, are not changing in this regulatory action, and the use of the UAI for this purpose remains the same.

Amendments include adding a definitions section (12VAC30-60-301) and sections describing the requirement for the request for screenings (12VAC30-60-304), screenings for Medicaid-funded LTSS (12VAC30-60-305), submission of screenings (12VAC30-306), ePAS requirements and submissions (12VAC30-60-310), individuals determined to not meet criteria (12VAC30-60-313), and ongoing evaluations for individuals receiving Medicaid-funded LTSS (12VAC30-60-315).

Changes since the proposed stage of the regulation based on public comments on the proposed amendments (i) add definitions of long standing terminology; (ii) modify the required training program to permit experienced screeners, who have successfully completed the initial training course, to take a shorter refresher course every three years; (iii) add an additional six months to complete the required training; (iv) clarify the text of the special circumstances; (v) add the individual's physician as an entity who can make requests and referrals for screenings; (vi) specify that screenings are face-to-face; (vii) add the statutory exception (i.e., an individual being financially eligible within six months of the screening) to screenings conducted by community-based teams and hospitals; (viii) allow inpatients in hospitals to have adult protective services and child protective services workers request a screening; (ix) qualify the term "eligibility" throughout with medical or nursing and functional descriptors; (x) allow screeners to complete the asterisked sections of an online UAI form; (xi) clarify the long-standing policy of the functional equivalency between UAI and minimum data set level of care determinations; and (xii) make editorial corrections to improve clarity and readability.

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.

12VAC30-60-300. Nursing facility criteria. (Repealed.)

~~A. Medicaid funded long term care services may be provided in either a nursing facility or community based care setting. The criteria for assessing an individual's eligibility for Medicaid payment of nursing facility care consist of two components: (i) functional capacity (the degree of assistance an individual requires to complete activities of daily living) and (ii) medical or nursing needs. The criteria for assessing an individual's eligibility for Medicaid payment of community-based care consist of three components: (i) functional capacity (the degree of assistance an individual requires to complete activities of daily living), (ii) medical or nursing needs and (iii) the individual's risk of nursing facility~~

~~placement in the absence of community based waiver services. In order to qualify for either Medicaid funded nursing facility care or Medicaid funded community based care, the individual must meet the same criteria.~~

~~B. The preadmission screening process preauthorizes a continuum of long term care services available to an individual under the Virginia Medical Assistance Program. Nursing Facilities' Preadmission Screenings to authorize Medicaid funded long term care are performed by teams composed by agencies contracting with the Department of Medical Assistance Services (DMAS). The authorization for Medicaid funded long term care must be rescinded by the nursing facility or community based care provider or by DMAS at any point that the individual is determined to no longer meet the criteria for Medicaid funded long term care. Medicaid funded long term care services are covered by the program for individuals whose needs meet the criteria established by program regulations. Authorization of appropriate non institutional services shall be evaluated before nursing facility placement is considered.~~

~~C. Prior to an individual's admission, the nursing facility must review the completed pre-admission screening forms to ensure that appropriate nursing facility admission criteria have been documented. The nursing facility is also responsible for documenting, upon admission and on an ongoing basis, that the individual meets and continues to meet nursing facility criteria. For this purpose, the nursing facility will use the Minimum Data Set (MDS). The post admission assessment must be conducted no later than 14 days after the date of admission and promptly after a significant change in the resident's physical or mental condition. If at any time during the course of the resident's stay, it is determined that the resident does not meet nursing facility criteria as defined in the State Plan for Medical Assistance, the nursing facility must initiate discharge of such resident. Nursing facilities must conduct a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity and medical and nursing needs.~~

~~The Department of Medical Assistance Services shall conduct surveys of the assessments completed by nursing facilities to determine that services provided to the residents meet nursing facility criteria and that needed services are provided.~~

~~D. The community based provider is responsible for documenting upon admission and on an ongoing basis that the individual meets the criteria for Medicaid funded long-term care.~~

~~E. The criteria for nursing facility care under the Virginia Medical Assistance Program are contained herein. An individual's need for care must meet these criteria before any authorization for payment by Medicaid will be made for either institutional or non institutional long term care services. The Nursing Home Pre Admission Screening team~~

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~~is responsible for documenting on the state designated assessment instrument that the individual meets the criteria for nursing facility or community based waiver services and for authorizing admission to Medicaid funded long term care. The rating of functional dependencies on the assessment instrument must be based on the individual's ability to function in a community environment, not including any institutionally induced dependence.~~

12VAC30-60-301. Definitions.

The following words and terms as used in 12VAC30-60-302 through 12VAC30-60-315 shall have the following meanings unless the context clearly indicates otherwise:

"Activities of daily living" or "ADLs" means personal care tasks such as bathing, dressing, toileting, transferring, and eating or feeding. An individual's degree of independence in performing these activities is a part of determining appropriate level of care and service needs.

"Adult" means a person age 18 years or older who may need Medicaid-funded long-term services and supports (LTSS) or who becomes [functionally] eligible to receive Medicaid-funded LTSS.

"Appeal" means the processes used to challenge actions regarding services, benefits, and reimbursement provided by Medicaid pursuant to 12VAC30-110 and Part XII (12VAC30-20-500 et seq.) of 12VAC30-20.

"At risk" means the need for the level of care provided in a hospital, nursing facility, or an intermediate care facility for individuals with intellectual disability (ICF/IID) when there is reasonable indication that the individual is expected to need the services in the near future (that is, [~~one month~~ 30 days] or less) in the absence of home or community-based services.

"Child" means a person up to the age of 18 years who may need Medicaid-funded LTSS or who becomes [functionally] eligible to receive Medicaid-funded LTSS.

"Choice" means the individual is provided the option of either home and community-based waiver services or institutional services and supports, including the Program of All-Inclusive Care for the Elderly (PACE), if available and appropriate, after the individual has been determined likely to need LTSS.

"Communication" means all forms of sharing information and includes oral speech and augmented or alternative communication used to express thoughts, needs, wants, and ideas, such as the use of a communication device, interpreter, gestures, and picture or symbol communication boards.

~~["Community based services" means community based waiver services or the Program of All Inclusive Care for the Elderly (PACE).~~

~~"Community based services provider" means a provider or agency enrolled with Virginia Medicaid to offer services to~~

~~individuals eligible for home and community based waivers services or PACE.]~~

"Community-based team" or "CBT" means (i) a registered nurse or nurse practitioner; (ii) a social worker or other assessor designated by DMAS; and (iii) a physician. The CBT members are employees of, or contracted with, the Virginia Department of Health or the local department of social services.

["CSB" means a local community services board.]

"DARS" means the Virginia Department for Aging and Rehabilitative Services.

"Day" means calendar day unless specified otherwise.

"DBHDS" means the Virginia Department of Behavioral Health and Developmental Services.

"DMAS" means the Department of Medical Assistance Services.

"DMAS designee" means the public or private entity with an agreement with the Department of Medical Assistance Services to complete preadmission screenings pursuant to § 32.1-330 of the Code of Virginia.

"ePAS" means the DMAS automated system or a DMAS-approved electronic record system for use by [~~all~~] entities contracted by DMAS to perform screenings pursuant to § 32.1-330 of the Code of Virginia.

"Face-to-face" means an in-person meeting with the individual seeking Medicaid-funded LTSS.

"Feasible alternative" means a range of services that can be provided in the community via waiver or PACE, for less than the cost of comparable institutional care, in order to enable an individual to continue living in the community.

["Functional capacity" means the degree of independence that an individual has in performing ADLs, ambulation, and instrumental ADLs as measured on the UAI and as used as a basis for differentiating levels of long-term care services.

"Functional eligibility" means the demonstrable degree to which an individual requires assistance with activities of daily living.

"Home and community-based services" means community-based waiver services or the Program of All-Inclusive Care for the Elderly (PACE).

"Home and community-based services provider" means a provider or agency enrolled with Virginia Medicaid to offer services to individuals eligible for home and community-based waivers services or PACE.]

"Home and community-based services waiver." ["HCBS,"] or "waiver services" means the range of community services and supports [, including PACE,] approved by the Centers for Medicare and Medicaid Services (CMS) pursuant to

§ 1915(c) of the Social Security Act to be offered to individuals as an alternative to institutionalization.

"Hospital team" means persons designated by the hospital who are responsible for conducting and submitting the screening [~~document~~ documents] for inpatients to ePAS.

"Inpatient" means an individual who has a physician's order for admission to an acute care hospital, rehabilitation hospital, or a rehabilitation unit in an acute care hospital and shall not apply to [~~outpatient~~ outpatients], patients in observation beds, and patients of the hospital's emergency department.

"Local department of social services" or "LDSS" means the entity established under § 63.2-324 of the Code of Virginia by the governing city or county in the Commonwealth.

"Local health department" or "LHD" means the entity established under § 32.1-31 of the Code of Virginia.

"Long-term services and supports" or "LTSS" means a variety of services that help individuals with health or personal care needs and ADLs over a period of time that can be provided in the home, the community, [~~assisted living facilities,~~] or nursing facilities.

["Managed care organization" or] "MCO" [~~or~~] means a health plan selected to participate in the Commonwealth's CCC Plus program and that is a party to a contract with DMAS.

"Medicaid" means the program set out in the 42 USC § 1396 et seq. and administered by the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

["Medical or nursing need" means (i) the individual's condition requires observation and assessment to ensure evaluation of needs due to an inability for self-observation or evaluation; (ii) the individual has complex medical conditions that may be unstable or have the potential for instability; or (iii) the individual requires at least one ongoing medical or nursing service.]

"Medicare" means the Health Insurance for the Aged and Disabled program as administered by the Centers for Medicare and Medicaid Services pursuant to 42 USC 1395ggg.

["Minimum data set" or "MDS" means the evaluation form used by nursing facilities, as federally required, for the purpose of documenting ongoing level of care required for all of an NF's residents.]

"Nursing facility" or "NF" means any nursing home as defined in § 32.1-123 of the Code of Virginia.

["Ongoing" means continuous medical or nursing needs that shall not be temporary.]

"Other assessor designated by DMAS" means an employee of the local department of social services holding the

occupational title of family services specialist [or an employee of a DMAS designee],

"Preadmission screening" or "screening" means the [face-to-face] process to (i) evaluate the functional, [medical or] nursing, and social support needs of individuals referred for screening for certain long-term care services requiring NF eligibility; (ii) assist individuals in determining what specific services the individual needs; (iii) evaluate whether a service or a combination of existing community services are available to meet the individual's needs; and (iv) provide a list to individuals of appropriate providers for Medicaid-funded nursing facility or home and community-based services for those individuals who meet nursing facility level of care.

["~~Primary account holder" means the person who performs the initial web registrations for the screening entity and establishes the security needed for accessing ePAS.]~~

"Private pay individual" means individuals who are not eligible for Medicaid or not expected to become eligible for Medicaid [~~for 180 days within six months~~] following admission.

"Program of All-Inclusive Care for the Elderly" or "PACE" means the community-based service pursuant to § 32.1-330.3 of the Code of Virginia.

["Provider" means an individual professional or an agency enrolled with Virginia Medicaid to offer services to eligible individuals.]

"Referral for screening" means information obtained from an interested person or other third party having knowledge of an individual who may need Medicaid-funded LTSS and may include, for example, a physician, PACE provider, service provider, family member, or neighbor who is able to provide sufficient information to enable contact with the individual.

["~~Reimbursement" means the determination that a submitted claim is completed accurately and completely and the service is covered resulting in the payment by DMAS for the services represented on the claims.]~~

"Representative" means a person who is authorized to make decisions on behalf of the individual.

"Request date for screening" or "request date" means the date (i) that an individual, [an emancipated child,] the individual's representative, an adult protective services worker, child protective services worker, [physician,] or the managed care organization (MCO) care coordinator contacts the screening entity in the jurisdiction where the individual resides asking for assistance with LTSS, or (ii) for hospital inpatients, that a physician orders case management consultation or a hospital's case management service determines the need for LTSS upon discharge from the hospital.

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"Request for screening" means (i) communication from an individual, [an emancipated child,] individual's representative, adult protective services worker, child protective services worker, [~~or physician,~~] managed care organization (MCO) care coordinator [, or CSB support coordinator], expressing the need for LTSS or (ii) for hospital inpatients, a physician order for case management consultation or case management determination of the need for LTSS upon discharge from a hospital.

"Residence" means [the location in which an individual is living], for example, an individual's private home, apartment, assisted living facility, nursing facility, [~~or~~] jail or correctional facility [if the individual to be screened is seeking Medicaid-funded LTSS and does not request an alternative screening location as allowed in 12VAC30-60-305 A].

"Screening entity" means the hospital screening team, community-based team, or DMAS designee contracted to perform screenings pursuant to § 32.1-330 of the Code of Virginia.

"Significant change in condition" means a change in an individual's condition that is expected to last longer than 30 days and shall not include (i) short-term changes that resolve with or without intervention; (ii) a short-term illness or episodic event; or (iii) a well-established, predictive, cyclic pattern of clinical signs and symptoms associated with a previously diagnosed condition where an appropriate course of treatment is in progress.

"Submission" means the transmission of the screening findings [and receipt of successfully processed results using via] ePAS.

[~~"Submission date" means the date that the screening entity transmits to DMAS the screening findings using ePAS.~~]

"Uniform Assessment Instrument" or "UAI" means the standardized multidimensional assessment instrument that is completed by the screening entity that assesses an individual's physical health, mental health, and psycho/social and functional abilities to determine if the individual meets the nursing facility level of care.

"VDH" means the Virginia Department of Health.

12VAC30-60-302. Access to Medicaid-funded long-term services and supports.

A. Medicaid-funded long-term services and supports (LTSS) may be provided in either home and community-based or institutional-based settings. To receive LTSS, the individual's condition shall first be evaluated using the designated assessment instrument, the Uniform Assessment Instrument (UAI), and other [~~designated~~ DMAS-designated] forms. Screening entities shall [also] use the DMAS-designated forms ([~~UAI,~~] DMAS-95, DMAS-96, DMAS-97) [and], if selecting nursing facility placement, the DMAS-95 Level I

(MI/IDD/RC) [, as appropriate, the DMAS-108, and the DMAS-109]. If indicated by the DMAS-95 Level I results, the individual shall be referred to DBHDS for completion of the DMAS-95 Level II (for nursing facility placements only).

1. An individual's need for LTSS shall meet the established criteria (12VAC30-60-303) before any authorization for reimbursement by Medicaid [or its designee] is made for LTSS.

2. Appropriate [home and] community-based services shall be evaluated [as an option for long-term services and supports] prior to consideration of nursing facility placement.

B. The evaluation shall be the screening as designated in § 32.1-330 of the Code of Virginia, which shall preauthorize a continuum of LTSS covered by Medicaid. [These screenings shall be conducted face to face.]

1. Such screenings, using the UAI, shall be conducted by teams of representatives of (i) hospitals for individuals (adults and children) who are inpatients; (ii) local departments of social services and local health departments, known herein as CBTs, for adults residing in the community and who are not inpatients; (iii) a DMAS designee for children residing in the community who are not inpatients; and (iv) a DMAS designee for adults residing in the community who are not inpatients and who cannot be screened by the CBT within 30 days of the request date. All of these entities shall be contracted with DMAS to perform this activity and be reimbursed by DMAS.

2. All screenings shall be comprehensive, accurate, standardized, and reproducible evaluations of individual functional capacities, medical or nursing needs, and [whether the individual is at] risk for institutional placement [within 30 days of the screening].

C. Individuals shall not be required to be financially eligible for receipt of Medicaid or have submitted an application for Medicaid in order to be screened for LTSS [for admission to either a NF or home and community-based services].

D. Pursuant to § 32.1-330 of the Code of Virginia, individuals shall be screened if they are [financially] eligible for Medicaid or are anticipated to become [financially] eligible for Medicaid reimbursement of their NF care within six months of NF [~~placement~~ admission or Medicaid reimbursement of home and community-based services and supports].

E. Special circumstances.

[1. Out of state hospitals shall not be required to perform a screening for residents of the Commonwealth who are inpatients. If a screening is needed and is requested by either the individual or the individual's representative, individuals shall be screened upon discharge from the out-

~~of state hospital by the CBT serving the locality in which the individual resides. Screenings shall not be required for individuals who transfer into a nursing facility in the Commonwealth from an out of state nursing facility.~~

~~2. Veterans and military hospitals located in the Commonwealth that have inpatients who are residents of the Commonwealth shall not be required to perform screenings and may refer, upon discharge, the individual who requests a screening to the CBT serving the locality in which the individual resides. Screenings shall not be required for individuals who transfer to a nursing facility in the Commonwealth from a veterans or military hospital.~~

~~3. State facilities that are licensed by DBHDS shall not be required to perform screenings of individuals who are receiving their services. Individuals shall be referred, upon discharge from such state facilities, to the CBT serving the locality in which the individual lives if the facility anticipates an individual may need a screening.~~

~~4. Hospitals shall not be required to initiate screenings for inpatients who are determined by the hospital team to be private pay individuals unless there is a request for a screening as outlined in 12VAC30-60-304 C.~~

~~5. Wilson Workforce Rehabilitation Center (WWRC) staff shall perform screenings of the WWRC clients.~~

~~6. A screening shall not be required for enrollment in Medicaid hospice services as set out in 12VAC30-60-130 and home health services as set out in 12VAC30-50-160.~~

1. Private pay individuals who will not become financially eligible for Medicaid within six months from admission to a Virginia nursing facility shall not be required to have a screening in order to be admitted to the NF.

2. Individuals who reside out of state and seek direct admission to a Virginia nursing facility shall not be required to have a screening. Individuals who need a screening for HCBS waiver or PACE programs and request the screening shall be screened by the CBT or DMAS designee, as appropriate, serving the locality in which the individual resides once the individual has relocated to the Commonwealth.

3. Individuals who are inpatients in an out-of-state hospital, in-state or out-of-state veteran's hospital, or in-state or out-of-state military hospital and seek direct admission to a Virginia NF shall not be required to have a screening. Individuals who need a screening for HCBS waiver or PACE programs and request the screening shall be referred, upon discharge from one of the identified facilities, to the CBT or DMAS designee, as appropriate, serving the locality in which the individual resides once the individual has relocated to the Commonwealth.

4. Individuals who are patients or residents of a state owned or operated facility that is licensed by DBHDS and

seek direct admission to a Virginia NF shall not be required to have a screening. Individuals who need a screening for HCBS waiver or PACE and request the screening shall be referred, upon discharge from the facility, to the CBT or DMAS designee, as appropriate, serving the locality in which the individual resides.

5. A screening shall not be required for enrollment in Medicaid hospice services as set out in 12VAC30-50-270 or home health services as set out in 12VAC30-50-160.

6. Wilson Workforce Rehabilitation Center (WWRC) staff shall perform screenings of the WWRC clients.]

[G. F.] Failure to comply with DMAS requirements, including competency and training requirements applicable to staff, may result in retraction of Medicaid payments.

12VAC30-60-303. Preadmission screening Screening criteria for Medicaid-funded long-term care services and supports.

A. Functional [dependency capacity] alone is shall not be deemed sufficient to demonstrate the need for nursing facility care [or placement admission] or authorization for [home and] community-based care services [and supports]. An individual shall be determined to meet the nursing facility criteria when:

1. The individual has both limited functional capacity [and,] medical or nursing needs [, and is at risk of NF admission within 30 days] according to the requirements of this section; or

2. The individual is rated dependent in some functional limitations, but does not meet the functional capacity requirements, and the individual requires the daily direct services or supervision of a licensed nurse that cannot be managed on an outpatient basis (e.g., clinic, physician visits, home health services).

B. An individual shall only be considered to meet the nursing facility criteria when both the functional capacity of the individual and his medical or nursing needs meet the following requirements. Even when an individual meets nursing facility criteria, placement in a noninstitutional setting shall be evaluated before actual nursing facility placement is considered. In order to qualify for Medicaid-funded LTSS, the individual shall meet the following criteria:

1. [For Medicaid funded nursing facility services to be authorized, the screening entity shall document that the individual has both functional and medical or nursing needs] The criteria for screening an individual's eligibility for Medicaid reimbursement of NF services shall consist of [two three] components: (i) functional capacity (the degree of assistance an individual requires to complete ADLs) [;] (ii) medical or nursing needs [; and (iii) the individual is at risk of NF admission within 30 days of the screening date]. The rating of functional dependency on

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the UAI shall be based on the individual's ability to function in a community environment and exclude all institutionally induced dependencies.

2. In order for Medicaid-funded community-based [~~services~~ LTSS] to be authorized, an individual shall not be required to be physically admitted to a NF. The criteria for screening an individual's eligibility for Medicaid reimbursement of community-based services shall consist of three components: (i) functional capacity [~~needs (the degree of assistance an individual requires in order to complete ADLs);~~] (ii) medical or nursing needs [~~;~~ and (iii) the individual's risk of NF placement within 30 days in the absence of community-based services.

4. C. Functional capacity.

a. 1. When documented on a ~~completed state designated preadmission screening assessment instrument~~ a UAI that is completed in a manner consistent with the definitions of activities of daily living (ADLs) and directions provided by DMAS for the rating of those activities, individuals may be considered to meet the functional capacity requirements for nursing facility care when one of the following describes their functional capacity:

(1) ~~a.~~ Rated dependent in two to four of the ~~Activities of Daily Living~~ ADLs, and also rated semi-dependent or dependent in Behavior Pattern and Orientation, and semi-dependent [~~or dependent~~] in Joint Motion or dependent in Medication Administration.

(2) ~~b.~~ Rated dependent in five to seven of the ~~Activities of Daily Living~~ ADLs, and also rated dependent in Mobility.

(3) ~~c.~~ Rated semi-dependent [~~or dependent~~] in two to seven of the ~~Activities of Daily Living~~ ADLs, and also rated dependent in Mobility and Behavior Pattern and Orientation.

b. 2. The rating of functional [~~dependencies~~ capacity] on the ~~preadmission screening assessment instrument~~ must shall be based on the individual's ability to function in a community environment, not including any institutionally induced dependence. The following abbreviations shall mean: I = independent; d = semi-dependent; D = dependent; MH = mechanical help; HH = human help.

(1) ~~a.~~ Bathing.

(a) (1) Without help (I)

(b) (2) MH only (d)

(c) (3) HH only (D)

(d) (4) MH and HH (D)

(e) (5) Performed by Others (D)

(2) ~~b.~~ Dressing.

(a) (1) Without help (I)

(b) (2) MH only (d)

(c) (3) HH only (D)

(d) (4) MH and HH (D)

(e) (5) Performed by Others (D)

(f) (6) Is not Performed (D)

(3) ~~c.~~ Toileting.

(a) (1) Without help day or night (I)

(b) (2) MH only (d)

(c) (3) HH only (D)

(d) (4) MH and HH (D)

(e) (5) Performed by Others (D)

(4) ~~d.~~ Transferring.

(a) (1) Without help (I)

(b) (2) MH only (d)

(c) (3) HH only (D)

(d) (4) MH and HH (D)

(e) (5) Performed by Others (D)

(f) (6) Is not Performed (D)

(5) ~~e.~~ Bowel ~~Function~~ function.

(a) (1) Continent (I)

(b) (2) Incontinent less than weekly (d)

(c) (3) External/Indwelling Device/Ostomy -- self care (d)

(d) (4) Incontinent weekly or more (D)

(e) (5) Ostomy -- not self care (D)

(6) ~~f.~~ Bladder ~~Function~~ function.

(a) (1) Continent (I)

(b) (2) Incontinent less than weekly (d)

(c) (3) External device/Indwelling Catheter/Ostomy -- self care (d)

(d) (4) Incontinent weekly or more (D)

(e) (5) External device -- not self care (D)

(f) (6) Indwelling catheter -- not self care (D)

(g) (7) Ostomy -- not self care (D)

(7) ~~g.~~ Eating/Feeding.

(a) (1) Without help (I)

- (b) (2) MH only (d)
- (c) (3) HH only (D)
- (d) (4) MH and HH (D)
- (e) (5) Spoon fed (D)
- (f) (6) Syringe or tube fed (D)
- (g) (7) Fed by IV or clysis (D)
- (8) h. Behavior ~~Pattern~~ pattern and ~~Orientation~~ orientation.
 - (a) (1) Appropriate or Wandering/Passive less than weekly + Oriented (I)
 - (b) (2) Appropriate or Wandering/Passive less than weekly + Disoriented -- Some Spheres (I)
 - (c) (3) Wandering/Passive Weekly/or more + Oriented (I)
 - (d) (4) Appropriate or Wandering/Passive less than weekly + Disoriented -- All Spheres (d)
 - (e) (5) Wandering/Passive Weekly/Some or more + Disoriented -- All Spheres (d)
 - (f) (6) Abusive/Aggressive/Disruptive less than weekly + Oriented or Disoriented (d)
 - (g) (7) Abusive/Aggressive/Disruptive weekly or more + Oriented (d)
 - (h) (8) Abusive/Aggressive/Disruptive + Disoriented -- All Spheres (D)
- (9) i. Mobility.
 - (a) (1) Goes outside without help (I)
 - (b) (2) Goes outside MH only (d)
 - (c) (3) Goes outside HH only (D)
 - (d) (4) Goes outside MH and HH (D)
 - (e) (5) Confined -- moves about (D)
 - (f) (6) Confined -- does not move about (D)
- (10) j. Medication ~~Administration~~ administration.
 - (a) (1) No medications (I)
 - (b) (2) Self administered -- monitored less than weekly (I)
 - (c) (3) By lay persons, Administered/Monitored (D)
 - (d) (4) By Licensed/Professional nurse Administered/Monitored (D)
- (11) k. Joint ~~Motion~~ motion.
 - (a) (1) Within normal limits or instability corrected (I)
 - (b) (2) Limited motion (d)
 - (c) (3) Instability -- uncorrected or immobile (D)

e. D. Medical or nursing needs. An individual with medical or nursing needs is an individual whose health needs require medical or nursing supervision or care above the level that could be provided through assistance with Activities of Daily Living ADLs, Medication Administration medication administration, and general supervision and is not primarily for the care and treatment of mental diseases. Medical or nursing supervision or care beyond this level is required when any one of the following describes the individual's need for medical or nursing supervision:

- (4) 1. The individual's medical condition requires observation and assessment to [~~assure~~ ensure] evaluation of the [~~person's~~ individual's] need for modification of treatment or additional medical procedures to prevent destabilization, and the person has demonstrated an inability to self observe or evaluate the need to contact skilled medical professionals;
- (2) 2. Due to the complexity created by the [~~person's~~ individual's] multiple, interrelated medical conditions, the potential for the individual's medical instability is high or medical instability exists; or
- (3) 3. The individual requires at least one ongoing medical or nursing service. The following is a nonexclusive list of medical or nursing services that may, but need not necessarily, indicate a need for medical or nursing supervision or care:
 - (a) a. Application of aseptic dressings;
 - (b) b. Routine catheter care;
 - (c) c. Respiratory therapy;
 - (d) d. Supervision for adequate nutrition and hydration for individuals who show clinical evidence of malnourishment or dehydration or have recent history of weight loss or inadequate hydration that, if not supervised, would be expected to result in malnourishment or dehydration;
 - (e) e. Therapeutic exercise and positioning;
 - (f) f. Routine care of colostomy or ileostomy or management of neurogenic bowel and bladder;
 - (g) g. Use of physical (e.g., side rails, poseys, locked wards) ~~and/or~~ or chemical restraints, or both;
 - (h) h. Routine skin care to prevent pressure ulcers for individuals who are immobile;
 - (i) i. Care of small uncomplicated pressure ulcers and local skin rashes;
 - (j) j. Management of those with sensory, metabolic, or circulatory impairment with demonstrated clinical evidence of medical instability;
 - (k) k. Chemotherapy;

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- (4) l. Radiation;
- (m) m. Dialysis;
- (n) n. Suctioning;
- (o) o. Tracheostomy care;
- (p) p. Infusion therapy; or
- (q) q. Oxygen.

~~d. Even when an individual meets nursing facility criteria, provision of services in a noninstitutional setting shall be considered before nursing facility placement is sought.~~

~~C. E. When assessing an individual 21 years of age or younger screening a child, the teams who are screening entity who is conducting preadmission screenings [the] screening for long term care services LTSS shall utilize the electronic Uniform Assessment Instrument (UAI) interpretive guidance as contained referenced in DMAS' Medicaid Memo dated October 3, 2012, entitled "Development of Special Criteria for the Purposes of Pre Admission Screening," November 22, 2016, entitled "Reissuance of the Pre-Admission Screening (PAS) Provider Manual, Chapter IV," which can be accessed on the DMAS website at <https://www.virginiamedicaid.dmas.virginia.gov/>.~~

12VAC30-60-304. Requests [and referrals] for screening for adults and children living in the community and adults and children in hospitals.

~~A. Screenings for adults living in the community. Screenings for adults who are residing in the community but who are not inpatients shall be completed and submitted [(submission date)] by the CBT to ePAS [within 30 days of the request date for screening]. [If the individual, or any of the other persons permitted to make such requests, requests a screening, the CBT shall be required to perform the requested screening; otherwise, CBTs shall not be required to screen individuals who are not expected to become financially eligible for Medicaid-funded LTSS within six months of the screening.]~~

~~1. Requests for screenings shall be accepted from either an individual, the individual's representative, an adult protective service worker, [the individual's physician,] or an MCO care coordinator having an interest in the individual. The CBT in the jurisdiction where the individual resides shall conduct such screening. For the screening to be scheduled by the CBT, the individual shall either agree to participate or, if refusing, shall be under order of a court of appropriate jurisdiction to have a screening.~~

~~a. The LDSS or LHD in receipt of the request for a screening shall contact the individual or his representative within seven days of the request date for screening to schedule a screening with the individual and~~

~~any other persons whom the individual selects to attend the screening.~~

~~b. When the CBT has not scheduled a screening to occur within 21 days of the request date for screening, and the screening is not anticipated to be complete within 30 days of the request date for screening due to the screening entity's inability to conduct the screening, the LDSS and LHD shall, no later than seven days after the request date for screening, notify DARS and VDH staff designated for technical assistance. [After contact with the LDSS and LHD, if DARS and VDH confirm that the screening entity is unable to complete the screening within 30 days of the request date for screening, the designated VDH staff shall refer the CBT and screening request to the DMAS designee for scheduling of a screening and submission of documentation.]~~

~~2. Referrals for screenings may also be accepted by LDSS or LHD from an interested person having knowledge of an individual who may need LTSS. When the LDSS or LHD receives such a referral, the LDSS or LHD shall obtain sufficient information from the referral source to initiate contact with the individual or his representative to discuss the [preadmission] screening process. Within seven days of the referral date, the LDSS or LHD shall contact the individual or his representative to determine if the individual is interested in receiving LTSS and would participate in the screening. If the LDSS or LHD is unable to contact the individual or his representative, it shall document the attempt to contact the individual or his representative using the method adopted by the CBT.~~

~~a. After contact with the individual or his representative, or if the LDSS or LHD is unable to contact the individual or his representative, the LDSS or LHD shall advise the referring interested person that contact or attempt to contact has been made in response to the referral for screening.~~

~~b. Information about the results of the contact shall only be shared [by the LDSS or LHD] with the interested person who made the referral [with either when the LDSS or LHD has] the individual's written consent or the written consent of his legal representative who has such authority on behalf of the individual.~~

~~B. Screenings for children living in the community. Screenings for children who are residing in the community but who are not inpatients shall be completed and submitted [to via] ePAS [(this shall be considered the submission date as defined herein) within 30 days of the request date for screening]. [If the individual or parent or guardian, or any of the other persons permitted to make such requests, requests a screening, the DMAS designee shall perform the requested screening; otherwise, the DMAS designee shall not be required to screen individuals who are not expected to~~

become financially eligible for Medicaid-funded LTSS within six months of the screening.]

1. A child who is residing in the community and is not an inpatient shall receive a screening from a DMAS designee. ~~[The CBT shall forward requests for such screenings directly to the DMAS designee.]~~ The DMAS designee may receive requests for screenings directly. Any requests for screenings for a child received by the CBT shall be forwarded directly to the DMAS designee. For the screening to be scheduled by the CBT, the child shall either agree to participate or, if refusing, shall be under order of a court of appropriate jurisdiction to have a screening.]

2. The request for screening of a child residing in the community shall ~~[initiate]~~ be accepted] from the parent, ~~[legal guardian,]~~ the entity having legal custody of that child, an emancipated child, ~~[a physician,]~~ an MCO care coordinator, or a child protective service worker having an interest in the child.

3. Referrals for screenings may also be accepted from an interested person having knowledge of a child who may need LTSS. The process, timing, and limitations on the sharing of the results for referrals for screenings for children shall be the same as that set out for adults in subdivision A 2 of this section.

C. Screenings in hospitals for adults and children who are inpatients. Screenings in hospitals shall be completed when an adult or child who is an inpatient may need LTSS upon discharge or when the ~~[inpatient]~~ individual], ~~[MCO,]~~ or representative ~~[]~~ requests a screening.

1. As a part of the discharge planning process, the hospital team shall ~~[also]~~ complete a face-to-face screening when:

a. The individual's physician, in collaboration with the individual or the individual's representative if there is one ~~[,]~~ makes a request of the hospital team. If the individual is a child, the screening shall be completed when the individual's physician, in collaboration with the child's parent, ~~[legal guardian,]~~ the entity having legal custody of the child, ~~[or]~~ the emancipated child ~~[, adult protective services worker, child protective services worker, or MCO care coordinator]~~ makes a request of the hospital team; or

b. The individual, the individual's representative if there is one, parent, ~~[legal guardian,]~~ entity having legal custody, ~~[or]~~ emancipated child ~~[, adult protective services worker, child protective services worker, or MCO care coordinator]~~ requests a consultation with hospital case management.

2. ~~[Such]~~ When there is a request, ~~[such]~~ individual shall receive a screening conducted by the hospital team regardless of ~~[the primary payer source (e.g., Medicare,~~

~~health maintenance organization) and whether or not if]~~ he is eligible for Medicaid or ~~[are is]~~ anticipated to become eligible for Medicaid within six months after admission to a NF.

~~[3. The hospital team shall exclude all institutionally-induced dependencies from the face-to-face screening documentation.~~

D. Screenings shall be submitted via e-PAS within 30 days of the screening request.]

12VAC30-60-305. Screenings in the community and hospitals for Medicaid-funded long-term services and supports.

A. Community screenings for adults.

1. ~~[Eligibility]~~ Medical or nursing and functional eligibility] for Medicaid-funded LTSS shall be determined by the CBT after completion of a screening of the individual's needs and available supports. The CBT shall ~~[document a screening of]~~ consider] all the supports available for that individual in the community (i.e., the immediate family, other relatives, other community resources ~~[]~~), and other services in the continuum of LTSS ~~[]~~. The screening shall be documented on the ~~[designated DMAS]~~ DMAS-designated] forms identified in 12VAC30-60-306.

2. Screenings shall be completed in the individual's residence unless the residence presents a safety risk for the individual or the CBT, or unless the individual or the representative requests that the screening be performed in an alternate location within the same jurisdiction. The individual shall be permitted to have another person ~~[or persons]~~ present at the time of the screening. Other than situations when a court has issued an order for a screening, the individual shall also be afforded the right to refuse to participate. The CBT shall determine the appropriate degree of participation and assistance given by other persons to the individual during the screening and accommodate the individual's preferences to the extent feasible.

3. The CBT shall:

a. Observe the individual's ability to perform ~~[appropriate]~~ ADLs according to 12VAC30-60-303 and consider the individual's communication or responses to questions or his representative's communication or responses;

b. Observe, assess, and report the individual's medical ~~[, nursing, and functional]~~ condition. This information shall be used to ensure accurate and comprehensive evaluation of the individual's need for modification of treatment or additional medical procedures to prevent destabilization even when the individual has

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demonstrated an inability to self-observe or evaluate the need to contact skilled medical professionals;

c. Identify the medical or nursing needs, [~~or both,~~ and functional needs] of the individual; and

d. Consider services and settings that may be needed by the individual in order for the individual to safely perform ADLs.

4. Upon completion of the screening and in consideration of the communication from the individual or his representative, if appropriate, and observations obtained during the screening, the CBT shall determine whether the individual meets the criteria set out in 12VAC30-60-303. If the individual meets the criteria for LTSS, the CBT shall inform [the individual or his representative, if appropriate, of this determination in writing] and provide choice [~~to the individual and his representative, if appropriate,~~] of the feasible alternatives [, such as PACE or home and community-based waiver services,] to placement in a NF.

5. If waiver services or PACE, where available, are declined, the reason for [~~the declination declining~~] shall be recorded on the DMAS-97, Individual Choice - Institutional Care or Waiver Services Form. The CBT shall have this document signed by either the individual or his representative, if appropriate. In addition to the electronic document, a paper copy of the DMAS-97 form with the individual's or his representative's signature shall be retained in the individual's record by the screening entity.

6. If the individual meets criteria and selects [home and] community-based services, the CBT shall also document that the individual is at risk of NF placement in the absence of [home and] community-based services by finding that at least one of the following conditions exists:

a. The individual has been cared for in the home prior to the screening and evidence is available demonstrating a deterioration in the individual's health care condition, a significant change in condition, or a change in available supports [~~preventing previous services and supports from meeting the individual's needs~~]. Examples of such evidence may include (i) recent hospitalizations, (ii) attending physician documentation, or (iii) reported findings from medical or social service agencies.

b. There has been no significant change in condition or available support but evidence is available that demonstrates the individual's functional, medical, or nursing needs are not being met. Examples of such evidence may include (i) recent hospitalizations, (ii) attending physician documentation, or (iii) reported findings from medical or social service agencies.

7. If the individual selects NF placement, the CBT shall follow the Level I identification and Level II evaluation

process as outlined in Part III (12VAC30-130-140 et seq.) of 12VAC30-130.

8. If the CBT determines that the individual does not meet the criteria set out in 12VAC30-60-303, the CBT shall notify [~~in writing~~] the individual [and or] the individual's representative, as may be appropriate, [in writing] that LTSS are being denied for the individual. The denial notice shall include the individual's right to appeal consistent with DMAS client appeals regulations (12VAC30-110).

9. For those screenings conducted in accordance with clause iv of 12VAC30-60-302 B 1, the DMAS designee shall follow the process outlined in this subsection.

B. Community screenings for children.

1. [~~Eligibility~~ Medical or nursing and functional eligibility] for Medicaid-funded LTSS shall be determined by the DMAS designee after completion of a screening of the child's needs and available supports. The DMAS designee shall [~~document a screening of~~ consider] all the supports available for that child in the community (i.e., the immediate family, other community resources []), and other services in the continuum of LTSS [}]. The screening shall be documented on the designated DMAS forms identified in 12VAC30-60-306.

2. Upon receipt of a screening request, the DMAS designee shall schedule an appointment to complete the requested screening. Community settings where screenings may occur include the child's residence, other residences, children's residential facilities, or other settings with the exception of acute care hospitals, rehabilitation units of acute care hospitals, and rehabilitation hospitals.

3. The DMAS designee shall:

a. Determine the appropriate degree of participation and assistance given by other persons to the individual during the screening in recognition of the individual's preferences to the extent feasible.

b. Observe the child's ability to perform [appropriate] ADLs according to 12VAC30-60-303 and consider the parent's, legal guardian's, or emancipated child's communications or responses to questions;

c. Observe, assess, and report the child's medical [or nursing and functional] condition. This information shall be used to ensure accurate and comprehensive evaluation of the child's need for modification of treatment or additional medical procedures to prevent destabilization even when the child has demonstrated an inability to self-observe or evaluate the need to contact skilled medical professionals;

d. Identify the medical or nursing [and the functional] needs [~~or both,~~] of the child; and

e. Consider services and settings that may be needed by the child in order for the child to safely perform ADLs in the community.

4. Upon completion of the screening and in consideration of the communication from the child or his representative, if appropriate, and observations obtained during the screening, the DMAS designee shall determine whether the child meets the criteria set out in 12VAC30-60-303. If the child meets the criteria for [Medicaid-funded] LTSS, the DMAS designee shall inform [the child and his representative, if appropriate, of this determination in writing] and provide choice [~~to the child and his representative, if appropriate,~~] of the feasible alternatives [, such as PACE or home and community-based waiver services,] to NF placement.

5. If waiver services are declined, the reason for declining shall be recorded on the DMAS-97, Individual Choice - Institutional Care or Waiver Services Form. The DMAS designee shall have this document signed by either the [emancipated] child or his representative [~~, if appropriate~~]. In addition to the electronic document, a paper copy of the DMAS-97 form with the child's or his representative's signature shall be retained in the child's record by the screening entity.

6. If the child meets criteria and selects [home and] community-based services, the DMAS designee shall also document that the individual is at risk of NF placement in the absence of [home and] community-based services by finding that at least one of the following conditions exists:

a. The child has been cared for in the home prior to the screening and evidence is available demonstrating a deterioration in the child's health care condition, a significant change in condition, or a change in available supports [~~preventing previous services and supports from meeting the child's needs~~]. Examples of such evidence may include (i) recent hospitalizations, (ii) attending physician documentation, or (iii) reported findings from medical or social service agencies.

b. There has been no significant change in condition or available support but evidence is available that demonstrates the child's functional, medical, or nursing needs are not being met. Examples of such evidence may include (i) recent hospitalizations, (ii) attending physician documentation, or (iii) reported findings from medical or social service agencies.

7. If the parent, [legal guardian,] entity having legal custody of the child, or emancipated child selects NF placement, the DMAS designee shall follow the Level I identification and Level II evaluation process as set out in Part III (12VAC30-130-140 et seq.) of 12VAC30-130.

8. If the DMAS designee determines that the child does not meet the criteria to receive [Medicaid-funded] LTSS as

set out in 12VAC30-60-303, the DMAS designee shall notify [~~in writing~~] the parent, [legal guardian,] entity having legal custody of the child, or the emancipated child and representative, as may be appropriate, [in writing] that [Medicaid-funded] LTSS are being denied for the child. The denial notice shall include the child's right to appeal consistent with DMAS client appeals regulations (12VAC30-110).

C. Screenings for adults and children in hospitals. For the purpose of this subsection, the term "individual" shall mean either an adult or a child.

1. [Eligibility Medical or nursing and functional eligibility] for Medicaid-funded LTSS shall be determined by the hospital screening team after completion of a screening of the individual's [medical or nursing and functional] needs and available supports. The hospital screening team shall [~~document a screening of~~ consider] all the supports available for that individual in the community (i.e., the immediate family, other relatives, other community resources []), and other services in the continuum of LTSS [] .

2. Screenings shall be completed in the hospital prior to discharge. The individual shall be permitted to have another person [~~or persons~~] present at the time of the screening. [~~Other than situations Except~~] when a court has issued an order for a screening, the individual shall also be afforded the right to refuse to participate. The hospital screening team shall determine the appropriate degree of participation and assistance given by other persons to the individual during the screening and accommodate the individual's preferences to the extent feasible.

3. The hospital screening team shall:

a. Observe the individual's ability to perform [appropriate] ADLs according to 12VAC30-60-303, excluding all institutionally induced dependencies, and consider the individual's communication or responses to questions or his representative's communication or responses;

b. Observe, assess, and report the individual's medical [or nursing and functional] condition. This information shall be used to ensure accurate and comprehensive evaluation of the individual's need for modification of treatment or additional medical procedures to prevent destabilization even when the individual has demonstrated an inability to self-observe or evaluate the need to contact skilled medical professionals;

c. Identify the medical [~~or,~~] nursing [, and functional] needs [~~or both,~~] of the individual; and

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d. Consider services and settings that may be needed by the individual in order for the individual to safely perform ADLs.

4. Upon completion of the screening and in consideration of the communication from the individual or his representative, if appropriate, and observations obtained during the screening, the hospital screening team shall determine whether the individual meets the criteria set out in 12VAC30-60-303. If the individual meets the criteria for [Medicaid-funded] LTSS, the hospital screening team shall inform [~~and provide choice to~~] the individual [~~and or~~] his representative, if appropriate, [of this determination in writing and provide choice] [~~to the individual and his representative, if appropriate~~] of the feasible alternatives [, such as PACE or home and community-based waiver services,] to placement in a NF.

5. If waiver services or PACE, where available, are declined, the reason for [~~the declination declining~~] shall be recorded on the DMAS-97, Individual Choice - Institutional Care or Waiver Services Form. The hospital screening team shall have this document signed by either the individual or his representative, if appropriate. In addition to the electronic document, a paper copy of the DMAS-97 form with the individual's or his representative's signature shall be retained in the individual's record.

6. If the individual meets criteria and selects [home and] community-based services, the hospital screening team shall also document that the individual is at risk of NF placement in the absence of [home and] community-based services by finding that at least one of the following conditions exists:

a. Prior to the inpatient admission, the individual was cared for in the home and evidence is available demonstrating a deterioration in the individual's health care condition, a significant change in condition, or a change in available supports [~~preventing previous services and supports from meeting the individual's needs~~]. Examples of such evidence may include (i) recent hospitalizations, (ii) attending physician documentation, or (iii) reported findings from medical or social service agencies.

b. There has been no significant change in condition or available support but evidence is available that demonstrates the individual's functional, medical, or nursing needs are not being met. Examples of such evidence may include (i) recent hospitalizations, (ii) attending physician documentation, or (iii) reported findings from medical or social service agencies.

7. If the individual selects NF placement, the hospital screening team shall follow the Level I identification and Level II evaluation process as outlined in Part III (12VAC30-130-140 et seq.) of 12VAC30-130.

8. If the hospital screening team determines that the individual does not meet the criteria set out in 12VAC30-60-303, the hospital screening team shall notify [~~in writing~~] the individual [~~and or~~] the individual's representative, as may be appropriate, [in writing] that LTSS are being denied for the individual. The denial notice shall include the individual's right to appeal consistent with DMAS client appeals regulations (12VAC30-110).

12VAC30-60-306. Submission of screenings.

A. The screening entity shall complete and submit the following forms to DMAS electronically [~~on via~~] ePAS:

1. DMAS-95 - MI/IDD/RC (Supplemental Assessment Process Form Level I) [, as appropriate];
2. DMAS-96 (Medicaid-Funded Long-Term Care Service Authorization Form) [~~as appropriate~~];
3. DMAS-97 (Individual Choice - Institutional Care or Waiver Services) [~~and~~, as applicable];
4. UAI (Uniform Assessment Instrument) [;
5. DMAS-108 (Tech Waiver Adult Referral); and
6. DMAS-109 (Tech Waiver Pediatric Referral)].

B. For screenings performed in the community, the screening entity shall submit to DMAS [~~on via~~] ePAS each screening form listed in subsection A of this section within 30 days of the individual's request date for screening.

C. For screenings performed in a hospital, the hospital team shall submit to DMAS [~~on via~~] ePAS each screening form listed in subsection A of this section, which shall be completed prior to the individual's discharge. For individuals who will be admitted to a Medicare-funded skilled NF or to a Medicare-funded rehabilitation hospital (or rehabilitation unit) directly upon discharge from the hospital, the hospital screener shall have up to an additional three days post-discharge to submit the screening forms via ePAS.

12VAC30-60-307. Summary of pre-admission nursing facility criteria. (Repealed.)

A. An individual shall be determined to meet the nursing facility criteria when:

1. The individual has both limited functional capacity and requires medical or nursing management according to the requirements of 12VAC30-60-303, or
2. The individual is rated dependent in some functional limitations, but does not meet the functional capacity requirements, and the individual requires the daily direct services or supervision of a licensed nurse that cannot be managed on an outpatient basis (e.g., clinic, physician visits, home health services).

~~B. An individual shall not be determined to meet nursing facility criteria when one of the following specific care needs solely describes his or her condition:~~

- ~~1. An individual who requires minimal assistance with activities of daily living, including those persons whose only need in all areas of functional capacity is for prompting to complete the activity;~~
- ~~2. An individual who independently uses mechanical devices such as a wheelchair, walker, crutch, or cane;~~
- ~~3. An individual who requires limited diets such as a mechanically altered, low salt, low residue, diabetic, reducing, and other restrictive diets;~~
- ~~4. An individual who requires medications that can be independently self administered or administered by the caregiver;~~
- ~~5. An individual who requires protection to prevent him from obtaining alcohol or drugs or to address a social or environmental problem;~~
- ~~6. An individual who requires minimal staff observation or assistance for confusion, memory impairment, or poor judgment;~~
- ~~7. An individual whose primary need is for behavioral management which can be provided in a community based setting;~~

12VAC30-60-308. Nursing facility admission and level of care determination requirements.

~~Prior to an individual's admission, the NF shall review the completed screening forms to ensure that applicable NF admission criteria have been met [and,] documented [, and submitted via e-PAS unless the individual meets any of the special circumstances set out in 12VAC30-60-302 E. NFs shall not accept paper screening forms as proof that admission criteria have been met and documented].~~

12VAC30-60-310. [Reserved] Competency training and testing requirements.

~~By [no later than December 31, 2018 June 30, 2019], each person performing screenings on behalf of a screening entity shall complete required training and competency [assessments tests]. A score of at least 80% on each module [for each person who is required to give final approval on screenings on behalf of the screening entity] shall constitute satisfactory competency [assessment test] results. The most current competency [assessment test] results shall be kept in the screening entity's personnel records for each person performing screenings for the screening entity. Such documentation results shall be provided to DMAS upon its request.~~

- ~~1. All persons [performing who are required by the screening entity to give final approval of] screenings shall~~

~~complete the DMAS-approved training and pass the corresponding competency [assessment tests] with a score of at least 80% for each module of the training prior to performing screenings. [This training shall be repeated no less than every three years resulting in a score of at least 80% on each module.]~~

~~2. [Upon successful completion of the initial training, each person who is required to give final approval of screenings on behalf of the screening entity shall complete the shortened refresher course no less than every three years. A score of at least 80% on the refresher module shall be required for a person to continue to perform screenings or give final approval of screenings on behalf of the screening entity.~~

~~3.] Failure to satisfy the training and competency [assessment tests] requirements may result in the retraction of Medicaid payment.~~

12VAC30-60-312. Evaluation to determine eligibility for Medicaid payment of nursing facility or home and community based care services. (Repealed.)

~~A. The screening team shall not authorize Medicaid funded nursing facility services for any individual who does not meet nursing facility criteria. Once the nursing home preadmission screening team has determined whether or not an individual meets the nursing facility criteria, the screening team must determine the most appropriate and cost effective means of meeting the needs of the individual. The screening team must document a complete assessment of all the resources available for that individual in the community (i.e., the immediate family, other relatives, other community resources and other services in the continuum of long term care which are less intensive than nursing facility level of care services). The screening team shall be responsible for preauthorizing Medicaid funded long term care according to the needs of each individual and the support required to meet those needs. The screening team shall authorize Medicaid funded nursing facility care for an individual who meets the nursing facility criteria only when services in the community are either not a feasible alternative or the individual or the individual's representative rejects the screening team's plan for community services. The screening team must document that the option of community based alternatives has been explained, the reason community based services were not chosen, and have this document signed by the client or client's primary caregivers.~~

~~B. The screening team shall authorize community based waiver services only for an individual who meets the nursing facility criteria and is at risk of nursing home placement without waiver services. Waiver services are offered to such an individual as an alternative to avoid nursing facility admission pursuant to 42 CFR 441.302 (e)(1).~~

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~~C. Federal regulations which govern Medicaid-funded home and community based services require that services only be offered to individuals who would otherwise require institutional placement in the absence of home and community based services. The determination that an individual would otherwise require placement in a nursing facility is based upon a finding that the individual's current condition and available support are insufficient to enable the individual to remain in the home and thus the individual is at risk of institutionalization if community based care is not authorized. The determination of the individual's risk of nursing facility placement shall be documented either on the state designated pre admission screening assessment or in a separate attachment for every individual authorized to receive community based waiver services. To authorize community-based waiver services, the screening team must document that the individual is at risk of nursing facility placement by finding that one of the following conditions is met:~~

~~1. Application for the individual to a nursing facility has been made and accepted;~~

~~2. The individual has been cared for in the home prior to the assessment and evidence is available demonstrating a deterioration in the individual's health care condition or a change in available support preventing former care arrangements from meeting the individual's need. Examples of such evidence may be, but shall not necessarily be limited to:~~

~~a. Recent hospitalizations;~~

~~b. Attending physician documentation; or~~

~~c. Reported findings from medical or social service agencies.~~

~~3. There has been no change in condition or available support but evidence is available that demonstrates the individual's functional, medical and nursing needs are not being met. Examples of such evidence may be, but shall not necessarily be limited to:~~

~~a. Recent hospitalizations;~~

~~b. Attending physician documentation; or~~

~~c. Reported findings from medical or social service agencies.~~

12VAC30-60-313. Individuals determined to not meet criteria for Medicaid-funded long-term services and supports.

[~~An~~ Notwithstanding 12VAC30-60-302 E, an] individual shall be determined not to meet [~~the medical or nursing and functional~~] criteria for Medicaid-funded LTSS when [~~there is no screening or MDS to document the individual meets the medical or nursing and functional criteria or when~~] one of the following specific care needs solely describes the individual's condition:

1. The individual requires minimal assistance with ADLs, including those individuals whose only need in all areas of functional capacity is for prompting to complete the activity;

2. The individual independently uses mechanical devices such as a wheelchair, walker, crutch, or cane;

3. The individual requires limited diets such as a mechanically altered, low-salt, low-residue, diabetic, reducing, or other restrictive diets;

4. The individual requires medications that can be independently self-administered or administered by the caregiver;

5. The individual requires protection to prevent him from obtaining alcohol or drugs or to address a social or environmental problem;

6. The individual requires minimal staff observation or assistance for confusion, memory impairment, or poor judgment; or

7. The individual's primary need is for behavioral management that can be provided in a community-based setting.

12VAC30-60-315. [Ongoing Periodic] evaluations for individuals receiving Medicaid-funded long-term services and supports.

A. Once an individual is [~~admitted to~~ enrolled in home and] community-based services, the [home and] community-based services provider shall be responsible for conducting [ongoing periodic] evaluations to ensure that the individual meets, and continues to meet, the waiver program or PACE criteria, if appropriate. These [ongoing periodic] evaluations shall be conducted using the Level of Care Review tab in the Medicaid portal [~~at~~] (<https://www.virginiamedicaid.dmas.virginia.gov/wps/portal>). [~~The home and community-based services provider shall promptly evaluate the individual after he experiences a significant change in his condition, as defined in 12VAC30-60-301.]~~

B. Once an individual is admitted to a NF, the NF shall be responsible for conducting [ongoing periodic] evaluations to ensure that the individual meets, and continues to meet, the NF criteria. For this purpose, the NF shall use the federally required Minimum Data Set (MDS) form (see <https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/NursingHomeQualityInits/MDS30RAIManual.html>). The post-admission evaluation shall be conducted no later than 14 days after the date of NF admission and promptly after an individual's significant change [in his condition], as defined in 12VAC30-60-301 [~~in condition~~].

C. For individuals who are enrolled in [a an] MCO that is responsible for providing LTSS, the MCO shall conduct [~~ongoing~~ periodic] evaluations by qualified MCO staff to ensure the individual continues to meet criteria for LTSS. [The MCO shall promptly evaluate the individual after he experiences a significant change in his condition, as defined in 12VAC30-60-301.]

NOTICE: The following forms used in administering the regulation were filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

FORMS (12VAC30-60)

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

Request for Hospice Benefits, DMAS 420 (rev. 1/99).

[Screening for Mental Illness, Mental Retardation/Individuals with Intellectual Disability, or Related Conditions, DMAS-95 MI/IDD/RC \(rev. 12/2015\)](#)

[Medicaid Funded Long-Term Services and Supports Authorization Form, DMAS-96 \(rev. 12/2015\)](#)

[Individual Choice - Institutional Care or Waiver Services Form, DMAS-97 \(rev. 8/2012\)](#)

[Virginia Uniform Assessment Instrument](#)

[Virginia Uniform Assessment Instrument, DMAS-98 \(eff. 2/2016\), including:](#)

~~UAI-A; UAI-B; [Eligibility Communication Document;]~~
~~Screening for Mental Illness, Mental Retardation/Intellectual Disability, or Related Conditions; MI/MR Supplemental: Level II; Medicaid Funded Long-Term Care Service Authorization Form; Individual Choice - Institutional Care or Waiver Services Form~~

[Community-Based Care Level of Care Review Instrument, DMAS-99LOC \(undated\)](#)

[[Technology Assisted Waiver Adult Referral, DMAS-108 \(rev. 9/2016\)](#)

[Technology Assisted Waiver Pediatric Referral, DMAS-109 \(rev. 12/2016\)](#)]

DOCUMENTS INCORPORATED BY REFERENCE (12VAC30-60)

Department of Medical Assistance Services Provider Manuals
[\(https://www.virginiamedicaid.dmas.virginia.gov/wps/portal/ProviderManuals/\)](https://www.virginiamedicaid.dmas.virginia.gov/wps/portal/ProviderManuals/):

Virginia Medicaid Nursing Home Manual

Virginia Medicaid Rehabilitation Manual

Virginia Medicaid Hospice Manual

Virginia Medicaid School Division Manual

~~Development of Special Criteria for the Purposes of Pre-Admission Screening, Medicaid Memo, October 3, 2012, Department of Medical Assistance Services~~

Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV-TR), copyright 2000, American Psychiatric Association

Patient Placement Criteria for the Treatment of Substance-Related Disorders (ASAM PPC-2R), Second Edition, copyright 2001, American Society on Addiction Medicine, Inc.

[Medicaid Memo, Reissuance of the Pre-Admission Screening \(PAS\) Provider Manual, Chapter IV, November 22, 2016, Department of Medical Assistance Services](#)

Medicaid Special Memo, Subject: New Service Authorization Requirement for an Independent Clinical Assessment for Medicaid and FAMIS Children's Community Mental Health Rehabilitative Services, dated June 16, 2011, Department of Medical Assistance Services

Medicaid Special Memo, Subject: Changes to Children Community Mental Health Rehabilitative Services - Children's Services, July 1, 2010 & September 1, 2010, dated July 23, 2010, Department of Medical Assistance Services

Medicaid Special Memo, Subject: Changes to Community Mental Health Rehabilitative Services - Adult-Oriented Services, July 1, 2010 & September 1, 2010, dated July 23, 2010, Department of Medical Assistance Services

VA.R. Doc. No. R16-4355; Filed July 2, 2018, 4:20 p.m.

Emergency Regulation

Title of Regulation: 12VAC30-120. Waivered Services (amending 12VAC30-120-900 through 12VAC30-120-925, 12VAC30-120-930, 12VAC30-120-935, 12VAC30-120-945; repealing 12VAC30-120-1700, 12VAC30-120-1705, 12VAC30-120-1710 through 12VAC30-120-1770).

Statutory Authority: § 32.1-325 of the Code of Virginia; 42 USC § 1396.

Effective Dates: June 29, 2018, through December 28, 2019.

Agency Contact: Emily McClellan, Regulatory Supervisor, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email emily.mcclellan@dmas.virginia.gov.

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Preamble:

Section 2.2-4011 B of the Code of Virginia states that agencies may adopt emergency regulations in situations in which Virginia statutory law or the appropriation act requires that a regulation be effective in 280 days or less from its enactment, and the regulation is not exempt under the provisions of § 2.2-4006 A 4 of the Code of Virginia.

Item 306 JJJ (3) of Chapter 780 of the 2016 Acts of Assembly directs the Department of Medical Assistance Services (DMAS) to seek reforms to include all remaining Medicaid populations and services, including long-term care and home and community-based waiver services, into cost-effective, managed, and coordinated delivery systems. The act requires DMAS to promulgate regulations to implement the act to be effective within 280 days of enactment.

The emergency regulations establish Commonwealth Coordinated Care Plus (CCC Plus). Individuals previously served under the Elderly and Disabled with Consumer Direction and the Technology Assistance waivers are included in CCC Plus, which operates under a fully integrated model across the full continuum of care that includes physical health, behavioral health, community-based, and institutional services. CCC Plus will operate with very few carved out services.

Part IX

~~Elderly or Disabled with Consumer Direction~~ Commonwealth Coordinated Care Plus Waiver

12VAC30-120-900. Definitions.

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

"Activities of daily living" or "ADLs" means personal care tasks such as bathing, dressing, toileting, transferring, and eating/feeding. An individual's degree of independence in performing these activities is a part of determining appropriate level of care and service needs.

"Adult" means an individual who is 21 years of age or older.

"Adult day health care " or "ADHC" means long-term maintenance or supportive services offered by a DMAS-enrolled community-based day care program providing a variety of health, therapeutic, and social services designed to meet the specialized needs of those waiver individuals who are elderly or who have a disability and who are at risk of placement in a nursing facility (NF). The program shall be licensed by the Virginia Department of Social Services (VDSS) as an adult day care center (ADCC). The services offered by the center shall be required by the waiver individual in order to permit the individual to remain in his home rather than entering a nursing facility. ADHC can also refer to the center where this service is provided.

"Adult Protective Services" or "APS" means a program overseen by the Virginia Department for Aging and Rehabilitative Services that investigates reports of abuse, neglect, and exploitation of adults 60 years of age and older and incapacitated adults 18 years of age and older and provides services when such persons are found to be in need of protective services.

~~"Agency-directed model of service"~~ means a model of service delivery where an agency is responsible for providing direct support staff, for maintaining individuals' records, and for scheduling the dates and times of the direct support staff's presence in the individuals' homes for personal and respite care.

"Agency provider" means a public or private organization or entity that holds a Medicaid provider agreement and furnishes services to individuals using its own employees or subcontractors.

~~"Americans with Disabilities Act" or "ADA" means the United States Code pursuant to 42 USC § 12101 et seq.~~

"Annually" means a period of time covering 365 consecutive calendar days or 366 consecutive days in the case of leap years.

"Appeal" means the process used to challenge actions regarding services, benefits, and reimbursement provided by Medicaid pursuant to 12VAC30-110 and 12VAC30-20-500 through 12VAC30-20-560.

"Applicant" means an individual, or representative on his behalf, who has applied for or is in the process of applying for and is awaiting a determination of eligibility for admission to the CCC Plus Waiver.

"Assess" means to evaluate an applicant's or an individual's condition, including functional status (an individual's degree of dependence in performing ADLs or IADLs), current medical status, psychosocial history, and environment. Information is collected from the applicant or individual; applicant's or individual's representative, family, and medical professionals as well as the assessor's observation of the applicant or individual.

"Assessment" means one or more processes that are used to obtain information about an applicant, including his condition, personal goals and preferences, functional limitations, health status, financial status, and other factors that are relevant to the determination of eligibility for service. An assessment is required for the authorization of and provision of services; and forms the basis for the development of the plan of care.

"Assistive technology" or "AT" means specialized medical equipment and supplies including those devices, controls, or appliances specified in the plan of care but not available under the State Plan for Medical Assistance that (i) enable ~~wave~~ individuals ~~who are participating in the Money~~

~~Follows the Person demonstration program pursuant to Part XX (12VAC30-120-2000 et seq.) to increase their abilities to perform activities of daily living or ADLs or IADLs and to perceive, control, or communicate with the environment in which they live, or that (ii) are necessary to the proper functioning of the specialized equipment, cost effective, and appropriate for the individual's assessed medical needs and physical deficits.~~

"Backup caregiver" means a secondary person who assumes the role of providing direct care to and support of the waiver individual in instances of emergencies and in the absence of the primary caregiver who is unable to care for the individual. The backup caregiver shall perform the duties needed by the waiver individual without compensation and shall be trained in the skilled needs and technologies required by the waiver individual. The backup caregiver shall be identified in the waiver individual's records.

"Barrier crime" means those crimes as defined at § 32.1-162.9:1 of the Code of Virginia that would prohibit either the employment or the continuation of employment if a person is found, through a Virginia State Police criminal record check, to have been convicted of such a crime.

"CMS" means the Centers for Medicare and Medicaid Services, which is the unit of the U.S. Department of Health and Human Services that administers the Medicare and Medicaid programs.

"Child Protective Services" or "CPS" means a program overseen by the Virginia Department of Social Services that investigates reports of abuse, neglect, and exploitation of children younger than 18 years of age and provides services when persons are found to be in need of protective services.

"Cognitive impairment" means a severe deficit in mental capability that affects a waiver individual's areas of functioning such as thought processes, problem solving, judgment, memory, or comprehension that interferes with such things as reality orientation, ability to care for self, ability to recognize danger to self or others, or impulse control.

"Commonwealth Coordinated Care Plus Program" or "CCC Plus" means the DMAS mandatory integrated care initiative for certain qualifying individuals, including individuals who are dually eligible for Medicare and Medicaid and individuals receiving long-term services and supports (LTSS). The CCC Plus program includes individuals who receive services through nursing facility (NF) care, or from four of the DMAS five home and community-based services (HCBS) § 1915(c) waivers (the Alzheimer's Assisted Living (AAL) Waiver individuals are not eligible for the CCC Plus program).

"Congregate living arrangement" means a living arrangement in which three or fewer waiver individuals live in the same household and share receipt of health care services from the same provider or providers.

"Congregate skilled PDN" means skilled in-home nursing provided to three or fewer waiver individuals in the individuals' primary residence or a group setting.

~~"Conservator" means a person appointed by a court to manage the estate and financial affairs of an incapacitated individual.~~

"Consumer-directed attendant" means a person who provides, via the consumer-directed model of services, personal care, companion services, or respite care, or any combination of these three services, who is also exempt from workers' compensation.

"Consumer-directed (CD) model of service" or "CD model of service" means the model of service delivery for which the ~~waiver~~ individual enrolled in the waiver or the individual's employer of record, as appropriate, ~~are~~ is responsible for hiring, training, supervising, and firing of the ~~person or persons~~ attendants who actually render the services that are reimbursed by DMAS.

"Consumer-directed services facilitator," "CD services facilitator," or "facilitator" means the DMAS-enrolled provider who is responsible for supporting the individual and family/caregiver by ensuring the development and monitoring of the consumer-directed services plan of care, providing attendant management training, and completing ongoing review activities as required by DMAS for consumer-directed personal care and respite services.

"Cost-effective" means the anticipated annual cost to Medicaid for CCC Plus waiver services shall be less than or equal to the anticipated annual institutional costs to Medicaid for individuals receiving care in hospitals or specialized care nursing facilities.

"Day" means, for the purposes of reimbursement, a 24-hour period beginning at 12 a.m. and ending at 11:59 p.m.

"DBHDS" means the Department of Behavioral Health and Developmental Services.

"Direct marketing" means any of the following: (i) conducting either directly or indirectly door-to-door, telephonic, or other "cold call" marketing of services at residences and provider sites; (ii) using direct mailing; (iii) paying "finders fees"; (iv) offering financial incentives, rewards, gifts, or special opportunities to eligible individuals or family/caregivers as inducements to use the providers' services; (v) providing continuous, periodic marketing activities to the same prospective individual or family/caregiver, for example, monthly, quarterly, or annual giveaways as inducements to use the providers' services; or (vi) engaging in marketing activities that offer potential customers rebates or discounts in conjunction with the use of the providers' services or other benefits as a means of influencing the individual's or family/caregiver's use of the providers' services.

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"Direct medical benefit" means services or supplies that are proper and needed for the diagnosis or treatment of a medical condition; are provided for the diagnosis, direct care, and treatment of the condition; and meet the standards of good professional medical practice.

"DMAS" means the Department of Medical Assistance Services.

"DMAS staff" means persons employed by the Department of Medical Assistance Services.

"Durable medical equipment and supplies" or "DME" means those items prescribed by the attending physician, generally recognized by the medical community as serving a diagnostic or therapeutic purpose to assist the waiver individual in the completion of everyday activities, and as being a medically necessary element of the service plan without regard to whether those items are covered by the State Plan for Medical Assistance.

~~"Elderly or Disabled with Consumer Direction Waiver" or "EDCD Waiver" means the CMS approved waiver that covers a range of community support services offered to waiver individuals who are elderly or who have a disability who would otherwise require a nursing facility level of care.~~

"Employer of record" or "EOR" means the person who performs the functions of the employer in the consumer-directed model of service delivery. The EOR may be the individual enrolled in the waiver, a family member, caregiver, or another person.

"Enrollment" means the process where an individual has been determined to meet the eligibility requirements for a Medicaid program or service and the approving entity has verified the availability of services for the individual requesting waiver enrollment and services.

~~"Environmental modifications" or "EM" means physical adaptations to an individual's primary home residence or primary vehicle or work site, when the work site modification exceeds reasonable accommodation requirements of the Americans with Disabilities Act (42 USC § 1201 et seq.), which that are necessary to ensure the individual's health and safety, or welfare or that enable functioning the individual to function with greater independence and shall be of direct medical or remedial benefit to individuals who are participating in the Money Follows the Person demonstration program pursuant to Part XX (12VAC30-120-2000 et seq.) without which the individual would require institutionalization. Such physical adaptations shall not be authorized for Medicaid payment when the adaptation is being used to bring a substandard dwelling up to minimum habitation standards.~~

"EPSDT" means the Early Periodic Screening, Diagnosis and Treatment Program administered by DMAS for children younger than 21 years of age according to federal guidelines

that prescribe preventive and treatment services for Medicaid-eligible children as set out in 12VAC30-50-130.

"Fiscal/employer agent" means a state agency or other entity as determined by DMAS that meets the requirements of 42 CFR 441.484 and the Virginia Public Procurement Act, § 2.2-4300 et seq. of the Code of Virginia.

"Guardian" means a person appointed by a court to manage the personal affairs of an incapacitated individual pursuant to Chapter 20 (§ 64.2-2000 et seq.) of Title 64.2 of the Code of Virginia.

~~"Health, safety, and welfare standard" means, for the purposes of this waiver, that an individual's right to receive an EDCD Waiver service is dependent on a determination that the waiver individual needs the service based on appropriate assessment criteria and a written plan of care, including having a backup plan of care, that demonstrates medical necessity and that services can be safely provided in the community or through the model of care selected by the individual.~~

"Home and community-based waiver services" or "waiver services" means the range of community support services approved by the CMS pursuant to § 1915(c) of the Social Security Act to be offered to individuals as an alternative to institutionalization.

"Individual" means the person who has applied for and been approved to receive these waiver services.

"Individual's representative" means a spouse, legal guardian, adult child, parent of a minor child, or other person chosen by the member to represent him in matters relating to his care or to function as the member's primary caregiver as defined in this section.

"Instrumental activities of daily living" or "IADLs" means tasks such as meal preparation, shopping, housekeeping and laundry. An individual's degree of independence in performing these activities is a part of determining appropriate service needs.

"Legally responsible person" means one who has a legal obligation under the provisions of state law to care for and make decisions for an individual. Legally responsible persons shall include the parents or legal guardians of minor children.

"Level of care" or "LOC" means the specification of the minimum amount of assistance an individual requires in order to receive services in an institutional setting under the State Plan or to receive waiver services.

"License" means proof of official or legal permission issued by the government for an entity or person to perform an activity or service ~~such that, in the absence of an official license, the entity or person is debarred from performing the activity or service.~~ In the absence of a license that may be required by either statute or regulation, the entity or person

shall be prohibited from performing the activity or service for reimbursement by DMAS.

"Licensed Practical Nurse" or "LPN" means a person who is licensed or holds multi-state licensure to practice nursing pursuant to Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia.

~~"Live in caregiver" means a personal caregiver who resides in the same household as the individual who is receiving waiver services.~~

"Long-term ~~care~~ services and supports" or "~~LTC~~" "LTSS" means a variety of services that help individuals with health or personal care needs and activities of daily living over a period of time. Long-term care can be provided in the home, in the community, or in various types of facilities, including nursing facilities and assisted living facilities.

"Medicaid Long-Term ~~Care (LTC) Services and Supports (LTSS) Communication Form~~" or "DMAS-225" means the form used by the long-term care provider to report information about changes in an individual's eligibility and financial circumstances.

"Medically necessary" means those services or specialized medical equipment or supplies that are covered for reimbursement under either the State Plan for Medical Assistance or in a waiver program that are reasonable, proper, and necessary for the treatment of an illness, injury, or deficit; are provided for direct care of the condition or to maintain or improve the functioning of a malformed body part; and that meet the standards of good professional medical practice as determined by DMAS.

"Medication monitoring" means an electronic device, which is only available in conjunction with ~~Personal Emergency Response Systems~~ personal emergency response systems, that enables certain waiver individuals who are at risk of institutionalization to be reminded to take their medications at the correct dosages and times.

~~"Money Follows the Person" or "MFP" means the demonstration program, as set out in 12VAC30-120-2000 and 12VAC30-120-2010.~~

"Monitoring" means the ongoing oversight of the provision of waiver and other services to determine that they are furnished according to the waiver individual's plan of care and effectively meet his needs, thereby assuring his health, safety, and welfare. Monitoring activities may include telephone contact; observation; interviewing the individual or the trained individual representative, as appropriate, in person or by telephone; or interviewing service providers.

"Participating provider" or "provider" means an entity that meets the standards and requirements set forth by DMAS and has a current, signed provider participation agreement, ~~including managed care organizations,~~ with DMAS or a

managed care organization that has a signed contract with DMAS.

"PAS Team" means the entity contracted with DMAS that is responsible for performing preadmission screening pursuant to § 32.1-330 of the Code of Virginia.

"Patient pay amount" means the portion of the individual's income that must be paid as his share of the long-term ~~care~~ services and supports and is calculated by the local department of social services based on the individual's documented monthly income and permitted deductions.

~~"Personal care agency" means a participating provider that provides personal care services.~~

"Personal care aide" or "aide" means a person employed by an agency who provides personal care or unskilled respite services. The aide shall have successfully completed an educational curriculum of at least 40 hours of study related to the needs of individuals who are either elderly or who have disabilities as further set out in 12VAC30-120-935. Such successful completion may be evidenced by the existence of a certificate of completion, which is provided to DMAS during provider audits, issued by the training entity.

"Personal care attendant," or "attendant," or "PCA" means a person who provides personal care or respite services that are directed by ~~a consumer, family member/caregiver, or an~~ employer of record under the CD model of service delivery.

"Personal care services" or "PC services" means a range of support services ~~necessary to enable the waiver individual to remain at or return home rather than enter a nursing facility~~ and that includes assistance with activities of daily living (ADLs), instrumental activities of daily living (IADLs) ADLs or IADLs, access to the community, self-administration of medication, or other medical needs, supervision, and the monitoring of health status and physical condition. ~~Personal care services shall be provided by aides, within the scope of their licenses/certificates, as appropriate, under through the agency-directed model or by personal care attendants under the CD consumer-directed model of service delivery.~~ Personal care services shall be provided by PCAs or attendants within the scope of their licenses or certifications, as appropriate.

"Personal emergency response system" or "PERS" means an electronic device and monitoring service that enables certain waiver individuals, who are at least 14 years of age, at risk of institutionalization to secure help in an emergency. ~~PERS services shall be limited to those waiver individuals who live alone or who are alone for significant parts of the day and who have no regular caregiver for extended periods of time.~~

"PERS provider" means a certified home health or a personal care agency, a durable medical equipment provider, a hospital, or a PERS manufacturer that has the responsibility to furnish, install, maintain, test, monitor, and service PERS

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equipment, direct services (i.e., installation, equipment maintenance, and services calls), and PERS monitoring. PERS providers may also provide medication monitoring.

"Plan of care" or "POC" means the written plan developed collaboratively by the waiver individual and the waiver individual's family/caregiver, as appropriate, and the provider related solely to the specific services necessary for the individual to remain in the community while ensuring his health, safety, and welfare.

"Preadmission screening" means the process to: (i) evaluate the functional, nursing, and social supports of individuals referred for preadmission screening for certain long-term ~~care~~ services and supports requiring NF eligibility; (ii) assist individuals in determining what specific services the individuals need; (iii) evaluate whether a service or a combination of existing community services are available to meet the individuals' needs; and (iv) provide a list to individuals of appropriate providers for Medicaid-funded nursing facility or home and community-based care for those individuals who meet nursing facility level of care.

~~"Preadmission Screening Team" means the entity contracted with DMAS that is responsible for performing preadmission screening pursuant to § 32.1-330 of the Code of Virginia.~~

"Primary caregiver" means the primary person who consistently assumes the primary role of providing direct care and support of the ~~waiver~~ individual to live successfully in the community without ~~receiving~~ compensation for providing such care. ~~Such person's name, if applicable, shall be documented by the RN or services facilitator in the waiver individual's record. Waiver individuals are not required to have a primary caregiver in order to participate in the EDCD waiver.~~

"Provider agreement" means the contract between DMAS and a participating provider under which the provider agrees to furnish services to Medicaid-eligible individuals in compliance with state and federal statutes and regulations and Medicaid contract requirements.

"Registered nurse" or "RN" means a person who is licensed or who holds multi-state licensure privilege pursuant to Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia to practice nursing.

~~"Respite care agency" means a participating provider that renders respite services.~~

"Respite services" means services provided to waiver individuals who are unable to care for themselves that are furnished on a short-term basis because of the absence of or need for the relief of the unpaid primary caregiver who normally provides the care.

"Service authorization" ~~or "Srv Auth"~~ means the process of approving either a service for the individual before it is rendered or reimbursed. The process of approving is done by

DMAS, its service authorization contractor, or a DMAS-designated entity, ~~for the purposes of reimbursement for a service for the individual before it is rendered or reimbursed.~~

"Service authorization contractor" means DMAS or the entity that has been contracted by DMAS to perform service authorization for medically necessary Medicaid covered home and community-based services.

"Services facilitation" means a service that assists the waiver individual (or family/caregiver, as appropriate) in arranging for, directing, training, and managing services provided through the consumer-directed model of service.

"Services facilitator" means a DMAS-enrolled provider ~~or DMAS designated entity~~ or a person designated by the DMAS managed care organization contractor or one who is employed or contracted by a DMAS-enrolled provider that is responsible for supporting the individual and the individual's family/caregiver or EOR, as appropriate, by ensuring the development and monitoring of the CD services plans of care, providing employee management training, and completing ongoing review activities as required by DMAS for consumer-directed personal care and respite services. Services facilitator shall be deemed to mean the same thing as consumer-directed services facilitator.

"Skilled private duty nursing services" or "skilled PDN" means skilled in-home nursing services listed in the POC that are (i) not otherwise covered under the State Plan for Medical Assistance home health benefit; (ii) required to prevent institutionalization; (iii) provided within the scope of the Commonwealth's Nurse Practice Act and Drug Control Act (Chapters 30 (§ 54.1-3000 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia, respectively); and (iv) provided by a licensed RN, or by an LPN under the supervision of an RN, to waiver members who have serious medical conditions or complex health care needs. Skilled nursing services are to be used as hands-on member care, training, consultation, as appropriate, and oversight of direct care staff, as appropriate.

"Skilled respite services" means temporary skilled nursing services that are provided to waiver individuals who need such services and that are performed by a LPN or RN for the relief of the unpaid primary caregiver who normally provides the care.

"State Plan for Medical Assistance" or "State Plan" means the Commonwealth's legal document approved by CMS identifying the covered groups, covered services and their limitations, and provider reimbursement methodologies as provided for under Title XIX of the Social Security Act.

~~"Transition coordinator" means the person defined in 12VAC30-120-2000 who facilitates MFP transition.~~

"Transition services" means set-up expenses for individuals as defined at 12VAC30-120-2010.

"VDH" means the Virginia Department of Health.

"VDSS" means the Virginia Department of Social Services.

"Virginia Uniform Assessment Instrument" or "UAI" means the standardized multidimensional comprehensive assessment that is completed by the Preadmission Screening Team or approved hospital discharge planner that assesses an individual's physical health, mental health, and psycho/social and functional abilities to determine if the individual meets the nursing facility level of care.

"Weekly" means a span of time covering seven consecutive calendar days.

12VAC30-120-905. Waiver description and legal authority.

A. ~~The Elderly or Disabled with Consumer Direction (EDCD) Commonwealth Coordinated Care Plus (CCC Plus)~~ Waiver operates under the authority of § 1915(c) of the Social Security Act and 42 CFR 430.25(b), which permit the waiver of certain State Plan requirements. These federal statutory and regulatory provisions permit the establishment of Medicaid waivers to afford the states with greater flexibility to devise different approaches to the provision of long-term ~~care (LTC)~~ services and supports. Under this § 1915(c) waiver, DMAS waives § 1902(a)(10)(B) and (C) of the Social Security Act related to comparability of services.

B. ~~This waiver provides Medicaid individuals who are elderly or who have a disability with supportive services to enable such individuals to remain in their communities thereby avoiding institutionalization.~~ CCC Plus Waiver services shall be covered only for Medicaid-eligible individuals who have been determined eligible for waiver services and who also require the level of care provided in either a nursing facility, specialized care nursing facility, or long-stay hospital. These services shall be the critical service necessary to delay or avoid the individual's placement in an appropriate facility.

C. Federal waiver requirements provide that the current aggregate average cost of care fiscal year expenditures under this waiver shall not exceed the average per capita expenditures in the aggregate for the level of care (LOC) provided in a nursing facility (NF), specialized care nursing facility, or long-stay hospital under the State Plan that would have been provided had the waiver not been granted.

D. DMAS shall be the single state agency authority, pursuant to 42 CFR 431.10, responsible for the processing and payment of claims for the services covered in this waiver and for obtaining federal financial participation from CMS.

E. Payments for ~~EDCD CCC Plus~~ Waiver services shall not be provided to any financial institution or entity located outside of the United States pursuant to § 1902(a)(80) of the Social Security Act. Payments for ~~EDCD CCC Plus~~ Waiver services furnished in another state shall be (i) provided for an

individual who meets the requirements of 42 CFR 431.52 and (ii) limited to the same service limitations that exist when services are rendered within the Commonwealth's political boundaries. Waiver services shall not be ~~furnished to~~ covered for Medicaid-eligible individuals who are inpatients of a hospital, nursing facility (NF), intermediate care facility for individuals with intellectual disabilities (ICF/IID), ~~inpatient rehabilitation facility~~ rehabilitation hospitals, assisted living facility ~~licensed by VDSS that serves five or more individuals,~~ long-stay hospitals, skilled or intermediate care nursing facilities, general acute care hospitals, adult foster homes, or a group ~~home~~ homes licensed by DBHDS.

F. An individual shall not be simultaneously enrolled in more than one waiver program but may be listed on the waiting list for another waiver program as long as criteria are met for both waiver programs.

G. DMAS shall be responsible for assuring appropriate placement of the individual in home and community-based waiver services and ~~shall have the authority to terminate such services for the individual for the reasons set out below.~~ providers shall meet the following requirements.

1. Waiver services shall not be reimbursed until the provider is enrolled and the individual eligibility process is complete.
2. DMAS payment for services under this waiver shall be considered payment in full and no balance billing by the provider to the waiver individual, family/caregiver, employer of record (EOR), or any other family member of the waiver individual shall be permitted.
3. Additional voluntary payments or gifts from family members shall not be accepted by providers of services.
4. DMAS shall not duplicate services that are required as a reasonable accommodation as a part of the Americans with Disabilities Act (42 USC §§ 12131 through 12165) or the Rehabilitation Act of 1973 (29 USC § 794). ~~EDCD CCC Plus Waiver~~ services shall not be authorized if another entity is required to provide the services, (e.g., schools, insurance) because these waiver services shall not duplicate payment for services available through other programs or funding streams.

H. In the case of termination of home and community-based waiver services by DMAS, individuals shall be notified of their appeal rights pursuant to 12VAC30-110. DMAS, or the designated ~~Srv Auth~~ service authorization contractor, ~~or other designated entity~~ shall have the responsibility and the authority to terminate the receipt of home and community-based ~~care~~ waiver services by the waiver individual for any of the following reasons:

1. The home and community-based ~~care~~ waiver services are no longer the critical alternative to prevent or delay institutional placement within 30 days;

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2. The waiver individual is no longer eligible for Medicaid;
3. The waiver individual no longer meets the ~~NF~~ LOC criteria required for the waiver;
4. The waiver individual's environment in the community does not provide for his health, safety, or welfare;
5. The waiver individual does not have a backup plan for services in the event the provider is unable to provide services; or
6. Any other circumstances (including hospitalization) that cause services to cease or be interrupted for more than 30 consecutive calendar days. ~~In such cases, such individuals shall be referred back to the local department of social services for redetermination of their Medicaid eligibility.~~

12VAC30-120-920. Individual eligibility requirements.

A. Home and community-based waiver services shall be available through a § 1915(c) of the Social Security Act waiver for the following Medicaid-eligible individuals who have been determined to be eligible for waiver services and to require the level of care provided in a nursing facility (NF), long-stay hospital, or specialized care nursing facility:

1. Individuals who are elderly as defined by § 1614 of the Social Security Act; or
2. Individuals who have a disability as defined by § 1614 of the Social Security Act.

B. The Commonwealth has elected to cover low-income families with children as described in § 1931 of the Social Security Act; aged, blind, or disabled individuals who are eligible under 42 CFR 435.121; optional categorically needy individuals who are aged and disabled who have incomes at 80% of the federal poverty level; the special home and community-based waiver group under 42 CFR 435.217; and the medically needy groups specified in 42 CFR 435.320, 435.322, 435.324, and 435.330.

1. Under this waiver, the coverage groups authorized under § 1902(a)(10)(A)(ii)(VI) of the Social Security Act shall be considered as if they were institutionalized in a NF, specialized care NF, or long-stay hospital for the purpose of applying institutional deeming rules. All individuals in the waiver must meet the financial and nonfinancial Medicaid eligibility criteria and meet the institutional level of care (LOC) criteria. The deeming rules are applied to waiver eligible individuals as if the individual were residing in an institution or would require that level of care.
2. Virginia shall reduce its payment for home and community-based services provided to an individual who is eligible for Medicaid services under 42 CFR 435.217 by that amount of the waiver individual's total income (including amounts disregarded in determining eligibility) that remains after allowable deductions for personal

maintenance needs, deductions for other dependents, and medical needs have been made, according to the guidelines in 42 CFR 435.735 and § 1915(c)(3) of the Social Security Act as amended by the Consolidated Omnibus Budget Reconciliation Act of 1986. DMAS shall reduce its payment for home and community-based waiver services by the amount that remains after the following deductions:

- a. For waiver individuals to whom § 1924(d) applies (Virginia waives the requirement for comparability pursuant to § 1902(a)(10)(B)), deduct the following in the respective order:

- (1) An amount for the maintenance needs of the waiver individual that is equal to 165% of the SSI income limit for one individual. Working individuals have a greater need due to expenses of employment; therefore, an additional amount of income shall be deducted. Earned income shall be deducted within the following limits: (i) for waiver individuals employed 20 hours or more per week, earned income shall be disregarded up to a maximum of both earned and unearned income up to 300% of SSI and (ii) for waiver individuals employed at least eight but less than 20 hours per week, earned income shall be disregarded up to a maximum of both earned and unearned income up to 200% of SSI. However, in no case shall the total amount of income (both earned and unearned) that is disregarded for maintenance exceed 300% of SSI. If the waiver individual requires a guardian or conservator who charges a fee, the fee, not to exceed an amount greater than 5.0% of the waiver individual's total monthly income, is added to the maintenance needs allowance. However, in no case shall the total amount of the maintenance needs allowance (basic allowance plus earned income allowance plus guardianship fees) for the individual exceed 300% of SSI;

- (2) For a waiver individual with only a spouse at home, the community spousal income allowance is determined in accordance with § 1924(d) of the Social Security Act;

- (3) For an individual with a family at home, an additional amount for the maintenance needs of the family is determined in accordance with § 1924(d) of the Social Security Act; and

- (4) Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including Medicare and other health insurance premiums, deductibles, or coinsurance charges and necessary medical or remedial care recognized under the state law but not covered under the State Plan.

- b. For waiver individuals to whom § 1924(d) of the Social Security Act does not apply, deduct the following in the respective order:

(1) An amount for the maintenance needs of the waiver individual that is equal to 165% of the SSI income limit for one individual. Working individuals have a greater need due to expenses of employment; therefore, an additional amount of income shall be deducted. Earned income shall be deducted within the following limits: (i) for waiver individuals employed 20 hours or more, earned income shall be disregarded up to a maximum of 300% of SSI and (ii) for waiver individuals employed at least eight but less than 20 hours, earned income shall be disregarded up to a maximum of 200% of SSI. However, in no case shall the total amount of income (both earned and unearned) that is disregarded for maintenance exceed 300% of SSI. If the individual requires a guardian or conservator who charges a fee, the fee, not to exceed an amount greater than 5.0% of the individual's total monthly income, is added to the maintenance needs allowance. However, in no case shall the total amount of the maintenance needs allowance (basic allowance plus earned income allowance plus guardianship fees) for the individual exceed 300% of SSI;

(2) For an individual with a family at home, an additional amount for the maintenance needs of the family that shall be equal to the medically needy income standard for a family of the same size; and

(3) Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party including Medicare and other health insurance premiums, deductibles, or coinsurance charges and necessary medical or remedial care recognized under state law but not covered under the State Plan.

C. Assessment and authorization of home and community-based waiver services.

1. To ensure that Virginia's home and community-based waiver programs serve only Medicaid eligible individuals who would otherwise be placed in a NF, specialized care NF, or long-stay hospital, home and community-based waiver services shall be considered only for individuals who are eligible for admission within 30 calendar days to a ~~NF~~ the institution. Home and community-based waiver services shall be the critical service to enable the individual to remain at home and in the community rather than being placed in a ~~NF~~ an institution.

2. The individual's eligibility for home and community-based waiver services shall be determined by the ~~Preadmission Screening PAS Team or DMAS-enrolled hospital provider~~ after completion of a thorough assessment of the individual's needs and available support. If an individual meets ~~NF~~ criteria for a CCC Plus Waiver qualifying institution (NF, specialized care NF, or long-stay hospital) and in the absence of community-based waiver services, is at risk of ~~NF~~ institutional placement within 30 days, the ~~Preadmission Screening PAS Team or~~

~~DMAS-enrolled hospital provider~~ shall provide the individual and family/caregiver with the choice of ~~EDCD CCC Plus~~ Waiver services, other appropriate services, ~~NF institutional~~ placement, or Program of All Inclusive Care for the Elderly (PACE) enrollment for people 55 years of age or older, where available and appropriate.

3. The ~~Preadmission Screening PAS Team or DMAS-enrolled hospital provider~~ shall explore alternative settings or services to provide the care needed by the individual. If Medicaid-funded home and community-based ~~care~~ waiver services are selected by the individual and when such services are determined to be the critical services necessary to delay or avoid NF placement, the ~~Preadmission Screening PAS Team or DMAS-enrolled hospital provider~~ shall initiate referrals for such services.

4. Medicaid shall not pay for any home and community-based ~~care~~ waiver services delivered prior to the individual establishing Medicaid eligibility and prior to the date of the preadmission screening by the ~~Preadmission Screening PAS Team or DMAS-enrolled hospital provider~~ and the physician signature on the Medicaid Funded Long-Term Care Services Authorization Form (DMAS-96).

5. Before Medicaid shall assume payment responsibility of home and community-based waiver services, service authorization must be obtained from DMAS or the DMAS designated ~~Srv Auth contractor~~, in accordance with ~~DMAS policy~~, entity for all services requiring service authorization. Providers shall submit all required information to DMAS or the designated ~~Srv Auth contractor~~ entity within 10 business days of initiating care or within 10 business days of receiving verification of Medicaid eligibility from the local department of social services. If the provider submits all required information to DMAS or the designated ~~Srv Auth contractor~~ entity within 10 business days of initiating care, services may be authorized beginning from the date the provider initiated services but not preceding the date of the physician's signature on the DMAS 96 form. If the provider does not submit all required information to DMAS or the designated ~~Srv Auth contractor~~ entity within 10 business days of initiating care, the services may be authorized beginning with the date all required information was received by DMAS or the designated ~~Srv Auth contractor~~ entity, but in no event preceding the date of the physician's signature on the DMAS-96 form.

6. Once waiver eligibility has been determined by the ~~Preadmission Screening PAS Team or DMAS-enrolled hospital provider~~ and referrals have been initiated, the provider shall submit a Medicaid ~~LTC~~ LTSS Communication Form (DMAS-225) to the local department of social services to determine financial eligibility for the waiver program and any patient pay responsibilities. If the waiver individual who is receiving

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~~EDCD~~ CCC Plus Waiver services has a patient pay amount, a provider shall use the electronic patient pay process for the required monthly monitoring of relevant changes. Local departments of social services shall enter data regarding a waiver individual's patient pay amount obligation into the Medicaid Management Information System (MMIS) at the time action is taken on behalf of the individual either as a result of an application for ~~LTC services~~ LTSS, redetermination of eligibility, or reported change or changes in a waiver individual's situation. Procedures for the verification of a waiver individual's patient pay obligation are available in the appropriate Medicaid provider manual or manual from the designated entity.

7. After the provider has received notification via the DMAS-225 process by the local department of social services and enrollment confirmation from DMAS or the designated ~~Srv Auth contractor~~ entity, the provider shall inform the individual or family/caregiver so that services may be initiated.

8. The provider shall be responsible for notifying the local department of social services via the DMAS-225 when there is an interruption of services for 30 consecutive calendar days or upon discharge from the provider's services.

9. Home and community-based ~~care~~ waiver services shall not be offered or provided to any individual who resides in a NF, an ICF/IID, specialized care NF, a long-stay hospital, an assisted living facility licensed by VDSS that serves five or more individuals, or a group home licensed by DBHDS. ~~Transition coordination and transition services may be available to individuals residing in some settings as approved by CMS through the Money Follows the Person demonstration program.~~

10. Certain home and community-based waiver services shall not be available to individuals residing in an assisted living facility licensed by VDSS that serves four or fewer individuals. These services are: respite, PERS, ADHC, environmental modifications and transition services. Personal care services shall be covered for individuals living in these facilities but shall be limited to personal care not to exceed five hours per day. Personal care services shall be authorized based on the waiver individual's documented need for care over and above that provided by the facility.

11. Individuals who are receiving Auxiliary Grants shall not be eligible for ~~EDCD~~ CCC Plus enrollment or services.

12. Individuals who are receiving skilled PDN waiver services shall have a trained primary caregiver who accepts responsibility for the individual's health, safety, and welfare. This primary caregiver shall be responsible for all hours not provided by an RN or an LPN. The name of the

trained primary caregiver shall be documented in the provider agency records. This trained primary caregiver shall also have a back-up system available in emergency situations.

D. Waiver individual responsibilities under the consumer-directed (CD) model.

1. The individual shall be authorized for CD services and the EOR shall successfully complete consumer employee management training performed by the CD services facilitator before the waiver individual/EOR shall be permitted to hire a personal care attendant for Medicaid reimbursement. Any services rendered by an attendant prior to dates authorized by Medicaid shall not be eligible for reimbursement ~~by Medicaid~~. Individuals who are eligible for CD services shall have the capability to hire and train their own personal care attendants and supervise the attendants' performance including, but not limited to, creating and maintaining complete and accurate timesheets. Individuals may have a family member, caregiver, or another person serve as the EOR on their behalf.

2. The person who serves as the EOR on behalf of the waiver individual shall not be permitted to be (i) the paid attendant for respite services or personal care services or (ii) the services facilitator.

3. Individuals will acknowledge that they will not knowingly continue to accept CD personal care services when the service is no longer appropriate or necessary for their care needs and shall inform the services facilitator. If CD services continue after services have been terminated by DMAS or the designated ~~Srv Auth contractor~~ entity, the waiver individual shall be held liable for attendant compensation.

4. Individuals shall notify the CD services facilitator of all hospitalizations and admission to any rehabilitation facility, rehabilitation unit, or NF. Failure to do so may result in the waiver individual being liable for employee compensation.

E. Waiver individuals' rights and responsibilities. DMAS shall ensure that:

1. Each waiver individual shall receive, and the provider and provider staff shall provide, the necessary care and services, to the extent of provider availability, to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the individual's comprehensive assessment and POC.

2. Waiver individuals shall have the right to receive services from the provider with reasonable accommodation of the individuals' needs and preferences except when DMAS makes a determination that the health, safety, or

welfare of the individuals or other waiver individuals would be endangered.

3. Waiver individuals formulate their own advance directives based on information that providers must give to adult waiver individuals at the time of their admissions to services.

4. All waiver individuals shall have the right to:

a. Voice grievances to the provider or provider staff without discrimination or reprisal. Such grievances include those with respect to treatment that has been furnished or has not been furnished;

b. Prompt efforts by the provider or staff, as appropriate, to resolve any grievances the waiver individual may have;

c. Be free from verbal, sexual, physical, and mental abuse, neglect, exploitation, and misappropriation of property;

d. Be free from any physical or chemical restraints of any form that may be used as a means of coercion, discipline, convenience, or retaliation and that are not required to treat the individual's medical symptoms; and

e. Their privacy and confidentiality of their medical and clinical records.

5. Waiver individuals shall be provided by their health care providers, at the time of their admission to this waiver, with written information regarding their rights to participate in medical care decisions, including the right to accept or refuse medical treatment and the right to formulate advance directives.

6. The legally competent waiver individual, the waiver individual's legal guardian, or the parent of the minor child shall have the right to:

a. Choose whether the individual wishes to receive home and community-based care waiver services instead of institutionalization in accordance with the assessed needs of the individual. The PAS Team shall inform the individual of all available waiver service providers in the community in which the waiver individual resides. The waiver individual shall have the option of selecting the provider and services of his choice. This choice must be documented in the individual's medical record;

b. Choose his own primary care physician in the community in which he lives;

c. Be fully informed in advance about the waiver POC and treatment needs as well as any changes in that care or treatment that may affect the individual's well-being; and

d. Participate in the care planning process, choice, and scheduling of providers and services.

12VAC30-120-924. Covered services; limits on covered services.

A. Covered services in the ~~EDCD CCC Plus~~ Waiver ~~shall include~~ are as follows: adult day health care, personal care (both consumer-directed and agency-directed), respite services (both consumer-directed and agency-directed), PERS, PERS medication monitoring, ~~limited services facilitation, skilled private duty nursing,~~ assistive technology, ~~limited~~ environmental modifications, ~~transition coordination,~~ and transition services.

1. The services covered in this waiver shall be appropriate and medically necessary to maintain the individual in the community in order to prevent institutionalization and shall be cost effective in the aggregate as compared to the alternative ~~of~~ institutional placement.

2. ~~EDCD CCC Plus~~ Waiver services shall not be authorized if another entity is required to provide the services (e.g., schools, insurance). Waiver services shall not duplicate services available through other programs or funding streams.

~~3. Assistive technology and environmental modification services shall be available only to those EDCD Waiver individuals who are also participants in the Money Follows the Person (MFP) demonstration program pursuant to Part XX (12VAC30-120-2000 et seq.).~~

4. ~~3.~~ An individual receiving ~~EDCD CCC Plus~~ Waiver services who is also getting hospice care may receive Medicaid-covered personal care (agency-directed and consumer-directed), respite care (agency-directed and consumer-directed), ~~services facilitation, skilled private duty nursing,~~ adult day health care, transition services, ~~transition coordination,~~ and PERS services, regardless of whether the hospice provider receives reimbursement from Medicare or Medicaid for the services covered under the hospice benefit. ~~Such dual waiver/hospice individuals shall only be able to receive assistive technology and environmental modifications if they are also participants in the MFP demonstration program.~~

B. Voluntary/involuntary disenrollment from consumer-directed services. In either voluntary or involuntary disenrollment situations, the waiver individual shall be permitted to select an agency from which to receive his agency-directed personal care and respite services.

1. A waiver individual may be found to be ineligible for CD services by either the ~~Pre-admission Screening~~ PAS Team, ~~DMAS-enrolled hospital provider,~~ DMAS, its designated agent, or the CD services facilitator. An individual may not begin or continue to receive CD services if there are circumstances where the waiver individual's health, safety, or welfare cannot be assured, including but not limited to:

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- a. It is determined that the waiver individual cannot be the EOR and no one else is able to assume this role;
 - b. The waiver individual cannot ensure his own health, safety, or welfare or develop an emergency backup plan that will ensure his health, safety, or welfare; or
 - c. The waiver individual has medication or skilled nursing needs or medical or behavioral conditions that cannot be met through CD services or other services.
2. The waiver individual may be involuntarily disenrolled from consumer direction if he or the EOR, as appropriate, is consistently unable to retain or manage the attendant as may be demonstrated by, but not necessarily limited to, a pattern of serious discrepancies with the attendant's timesheets.
3. In situations where either (i) the waiver individual's health, safety, or welfare cannot be assured or (ii) attendant timesheet discrepancies are known, the services facilitator shall assist as requested with the waiver individual's transfer to agency-directed services as follows:
- a. Verify that essential training has been provided to the waiver individual or EOR;
 - b. Document, in the waiver individual's ~~case~~ record, the conditions creating the necessity for the involuntary disenrollment and actions taken by the services facilitator;
 - c. Discuss with the waiver individual or the EOR, as appropriate, the agency-directed option that is available and the actions needed to arrange for such services and offer choice of potential providers, and
 - d. Provide written notice to the waiver individual of the right to appeal such involuntary termination of consumer direction. Such notice shall be given at least 10 calendar days prior to the effective date of this change. In cases when the individual's or the provider personnel's safety may be in jeopardy, the 10 calendar days notice shall not apply.
- C. Adult day health care (ADHC) services. ADHC services shall only be offered to waiver individuals who meet preadmission screening criteria as established in 12VAC30-60-303 and ~~12VAC30-60-307~~ 12VAC30-60-313 and for whom ADHC services shall be an appropriate and medically necessary alternative to institutional care. ADHC services may be offered to individuals in a VDSS-licensed adult day care center (ADCC) congregate setting. ADHC may be offered either as the sole home and community-based ~~care~~ waiver service or in conjunction with personal care (either agency-directed or consumer-directed), respite care (either agency-directed or consumer-directed), or PERS. A multi-disciplinary approach to developing, implementing, and evaluating each waiver individual's POC shall be essential to quality ADHC services.

1. ADHC services shall be designed to prevent institutionalization by providing waiver individuals with health care services, maintenance of their physical and mental conditions, and coordination of rehabilitation services in a congregate daytime setting and shall be tailored to their unique needs. The minimum range of services that shall be made available to every waiver individual shall be: assistance with ADLs, nursing services, coordination of rehabilitation services, nutrition, social services, recreation, and socialization services.
 - a. Assistance with ADLs shall include supervision of the waiver individual and assistance with management of the individual's POC.
 - b. Nursing services shall include the periodic evaluation, at least every 90 days, of the waiver individual's nursing needs; provision of indicated nursing care and treatment; responsibility for monitoring, recording, and administering prescribed medications; supervision of the waiver individual in self-administered medication; support of families in their home care efforts for the waiver individuals through education and counseling; and helping families identify and appropriately utilize health care resources. Periodic evaluations may occur more frequently than every 90 days if indicated by the individual's changing condition. Nursing services shall also include the general supervision of provider staff, who are certified through the Board of Nursing, in medication management and administering medications.
 - c. Coordination and implementation of rehabilitation services to ensure the waiver individual receives all rehabilitative services deemed necessary to improve or maintain independent functioning, to include physical therapy, occupational therapy, and speech therapy.
 - d. Nutrition services shall be provided to include, but not necessarily be limited to, one meal per day that meets the daily nutritional requirements pursuant to 22VAC40-60-800. Special diets and nutrition counseling shall be provided as required by the waiver individuals.
 - e. Recreation and social activities shall be provided that are suited to the needs of the waiver individuals and shall be designed to encourage physical exercise, prevent physical and mental deterioration, and stimulate social interaction.
 - f. ADHC coordination shall involve implementing the waiver individuals' POCs, updating such plans, recording 30-day progress notes, and reviewing the waiver individuals' daily logs each week.

2. Limits on covered ADHC services.

- a. A day of ADHC services shall be defined as a minimum of six hours.

b. ADCCs that do not employ professional nursing staff on site shall not be permitted to admit waiver individuals who require skilled nursing care to their centers. Examples of skilled nursing care may include: (i) tube feedings; (ii) Foley catheter irrigations; (iii) sterile dressing changing; or (iv) any other procedures that require sterile technique. The ADCC shall not permit its aide employees to perform skilled nursing procedures.

c. At any time that the center is no longer able to provide reliable, continuous care to any of the center's waiver individuals for the number of hours per day or days per week as contained in the individuals' POCs, then the center shall contact the waiver individuals or family/caregivers, as appropriate, to initiate other care arrangements for these individuals. The center may either subcontract with another ADCC or may transfer the waiver individual to another ADCC. The center may discharge waiver individuals from the center's services but not from the waiver. Written notice of discharge shall be provided, with the specific reason or reasons for discharge, at least 10 calendar days prior to the effective date of the discharge. In cases when the individual's or the center personnel's safety may be jeopardy, the 10 calendar days notice shall not apply.

d. ADHC services shall not be provided, for the purpose of Medicaid reimbursement, to individuals who reside in ~~NFs, ICFs/ID~~ nursing facilities, intermediate care facilities for individuals with intellectual disabilities, hospitals, assisted living facilities that are licensed by VDSS, or group homes that are licensed by DBHDS.

D. Agency-directed personal care services. Agency-directed personal care services shall only be offered to persons who meet the preadmission screening criteria at 12VAC30-60-303 and ~~12VAC30-60-307~~ 12VAC30-60-313 and for whom it shall be an appropriate alternative to institutional care. Agency-directed personal care services shall be comprised of hands-on care of either a supportive or health-related nature and shall include, but shall not necessarily be limited to, assistance with ADLs, access to the community, assistance with medications in accordance with VDH licensing requirements or other medical needs, supervision, and the monitoring of health status and physical condition. Where the individual requires assistance with ADLs, and when specified in the POC, such supportive services may include assistance with IADLs. This service shall not include skilled nursing services with the exception of skilled nursing tasks (e.g., catheterization) that may be delegated pursuant to Part ~~VIII~~ VI (~~18VAC90-20-420~~ 18VAC90-19-240 through ~~18VAC90-20-460~~ 18VAC90-19-280) of ~~18VAC90-20~~ 18VAC90-19. Agency-directed personal care services may be provided in a home or community setting to enable an individual to maintain the health status and functional skills necessary to live in the community or participate in community activities. Personal care may be offered either as the sole home and

community-based ~~care~~ waiver service or in conjunction with adult day health care, respite care (agency-directed or consumer-directed), or PERS. The provider shall document, in the individual's medical record, the waiver individual's choice of the agency-directed model.

1. Criteria. In order to qualify for this service, the waiver individual shall have met the ~~NE~~ LOC criteria as set out in 12VAC30-60-303 and ~~12VAC30-60-307~~ 12VAC30-60-313 as documented on the UAI assessment form, and for whom it shall be an appropriate alternative to institutional care.

a. A waiver individual may receive both CD and agency-directed personal care services if the individual meets the criteria. Hours received by the individual who is receiving both CD and agency-directed services shall not exceed the total number of hours that would be needed if the waiver individual were receiving personal care services through a single delivery model.

b. CD and agency-directed services shall not be simultaneously provided but may be provided sequentially or alternately from each other.

c. The individual or family/caregiver shall have a backup plan for the provision of services in the event the agency is unable to provide an aide.

2. Limits on covered agency-directed personal care services.

a. DMAS shall not duplicate services that are required as a reasonable accommodation as a part of the Americans with Disabilities Act (42 USC §§ 12131 through 12165) or the Rehabilitation Act of 1973 (29 USC § 794).

b. DMAS or its contractor shall reimburse for services delivered, consistent with the approved POC, for personal care that the personal care aide provides to the waiver individual to assist him while he is at work or postsecondary school.

(1) DMAS or the designated ~~Srv Auth contractor~~ entity shall review the waiver individual's needs and the complexity of the disability, as applicable, when determining the services that are provided to him in the workplace or postsecondary school or both.

(2) DMAS shall not pay for the personal care aide to assist the enrolled waiver individual with any functions or tasks related to the individual completing his job or postsecondary school functions or for supervision time during either work or postsecondary school or both.

c. Supervision services shall only be authorized to ensure the health, safety, or welfare of the waiver individual who cannot be left alone at any time or is unable to call for help in case of an emergency, and when there is no

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one else in the home competent and able to call for help in case of an emergency.

d. There shall be a maximum limit of eight hours per 24-hour day for supervision services. Supervision services shall be documented in the POC as needed by the individual.

e. Agency-directed personal care services shall be limited to 56 hours of services per week for 52 weeks per year. Individual exceptions may be granted based on criteria established by DMAS.

f. Due to the complex medical needs of waiver individuals requiring skilled PDN services and the need for 24-hour supervision, the trained primary caregiver shall be present in the home and shall render the required skilled services during the entire time that the aide is providing unskilled care.

g. Agency-directed personal care services shall not be available to waiver individuals younger than 21 years of age. Personal care services for individuals younger than 21 shall be accessed through the EPSDT benefit.

E. Agency-directed respite services. Agency-directed respite care services shall only be offered to waiver individuals who meet the preadmission screening criteria at ~~12VAC30-60-303 and 12VAC30-60-307~~ 12VAC30-60-313 and for whom it shall be an appropriate alternative to institutional care. Agency-directed respite care services may be either skilled ~~nursing respite~~ or unskilled care and shall be comprised of hands-on care of either a supportive or health-related nature and may include, but shall not be limited to, assistance with ADLs, access to the community, assistance with medications in accordance with VDH licensing requirements or other medical needs, supervision, and monitoring health status and physical condition. Skilled respite shall include skilled nursing care ordered on the physician-certified POC.

1. Respite care shall only be offered to individuals who have an unpaid primary caregiver who requires temporary relief to avoid institutionalization of the waiver individual. Respite care services may be provided in the individual's home or other community settings.

2. When the individual requires assistance with ADLs, and where such assistance is specified in the waiver individual's POC, such supportive services may also include assistance with IADLs.

3. ~~The unskilled care portion of this~~ Unskilled respite service shall not include skilled nursing services with the exception of skilled nursing tasks (e.g., catheterization) that may be delegated pursuant to Part ~~VIII (18VAC90-20-420 VI (18VAC90-19-240 through 18VAC90-20-460)~~ 18VAC90-19-280) of ~~18VAC90-20 18VAC90-19.~~

4. Skilled respite care services.

a. This service shall be provided by skilled nursing staff licensed to practice in the Commonwealth under the direct supervision of a licensed, certified, or accredited home health agency with which DMAS has a provider agreement to provide skilled PDN. Direct supervision means that the supervising registered nurse (RN) is immediately accessible by telephone to the RN, LPN, or personal care aide who is delivering waiver-covered services to individuals.

b. Skilled respite care services shall be comprised of both skilled and hands-on care of either a supportive or health-related nature and may include all skilled nursing care as ordered on the physician-certified POC, assistance with ADLs or IADLs, administration of medications or other medical needs, and monitoring of the health status and physical condition of individuals.

c. When skilled respite services are offered in conjunction with skilled PDN, the same individual record may be used with a separate section for skilled respite services documentation. This documentation must be clearly labeled as distinct from skilled PDN services.

d. Individuals who have congregate living arrangements shall be permitted to share skilled respite care service providers. The same limits on this service in the congregate setting (480 hours per calendar year per household) shall apply regardless of the type of waiver.

4. 5. Limits on service.

a. The unit of service shall be one hour. Respite services shall be limited to 480 hours per individual per state fiscal year, to be service authorized. If an individual changes waiver programs, this same maximum number of respite hours shall apply. No additional respite hours beyond the 480 maximum limit shall be approved for payment for individuals who change waiver programs. Additionally, individuals who are receiving respite services in this waiver through both the agency-directed and CD models shall not exceed 480 hours per state fiscal year combined.

b. If agency-directed respite service is the only service received by the waiver individual, it must be received at least as often as every 30 days. If this service is not required at this minimal level of frequency, then the provider agency shall notify the local department of social services for its redetermination of eligibility for the waiver individual.

c. The individual or family/caregiver shall have a backup plan for the provision of services in the event the agency is unable to provide an aide.

F. Services facilitation for consumer-directed services. Consumer-directed personal care and respite care services

shall only be offered to persons who meet the preadmission screening criteria at 12VAC30-60-303 and ~~12VAC30-60-307~~ 12VAC30-60-313 and for whom there shall be appropriate alternatives to institutional care.

1. Individuals who choose CD services shall receive support from a DMAS-enrolled CD services facilitator or a provider designated by the managed care organization contractor as required in conjunction with CD services. The services facilitator shall document the waiver individual's choice of the CD model and whether there is a need for another person to serve as the EOR on behalf of the individual. The CD services facilitator shall be responsible for assessing the waiver individual's particular needs for a requested CD service, assisting in the development of the POC, providing training to the EOR on his responsibilities as an employer, and for providing ongoing support of the CD services.

2. Individuals who are eligible for CD services shall have, or have an EOR who has, the capability to hire and train the personal care attendant or attendants and supervise the attendant's performance, including approving the attendant's timesheets.

a. If a waiver individual is unwilling or unable to direct his own care or is younger than 18 years of age, a family/caregiver/designated person shall serve as the EOR on behalf of the waiver individual in order to perform these supervisory and approval functions.

b. Specific employer duties shall include checking references of personal care attendants and determining that personal care attendants meet qualifications.

3. The individual or family/caregiver shall have a backup plan for the provision of services in case the attendant does not show up for work as scheduled or terminates employment without prior notice.

4. The CD services facilitator shall not be the waiver individual, a CD attendant, a provider of other Medicaid-covered services, spouse of the individual, parent (natural, adoptive, step, or foster parent) of the individual who is a minor child, or the EOR who is employing the CD attendant.

5. DMAS shall either provide for fiscal employer/agent services or contract for the services of a fiscal employer/agent for CD services. The fiscal employer/agent shall be reimbursed by DMAS or DMAS contractor (if the fiscal/employer agent service is contracted) to perform certain tasks as an agent for the EOR. The fiscal employer/agent shall handle responsibilities for the waiver individual including, but not limited to, employment taxes and background checks for attendants. The fiscal employer/agent shall seek and obtain all necessary authorizations and approvals of the Internal Revenue Service in order to fulfill all of these duties.

G. Consumer-directed personal care services. CD personal care services shall be comprised of hands-on care of either a supportive or health-related nature and shall include assistance with ADLs and may include, but shall not be limited to, access to the community, monitoring of self-administered medications or other medical needs, supervision, and monitoring health status and physical condition. Where the waiver individual requires assistance with ADLs and when specified in the POC, such supportive services may include assistance with IADLs. This service shall not include skilled nursing services with the exception of skilled nursing tasks (e.g., catheterization) that may be delegated pursuant to Part ~~VIII (18VAC90-20-420 VI~~ (18VAC90-19-240 through 18VAC90-20-460) 18VAC90-19-280) of ~~18VAC90-20 18VAC90-19~~ and as permitted by Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia. CD personal care services may be provided in a home or community setting to enable an individual to maintain the health status and functional skills necessary to live in the community or participate in community activities. Personal care may be offered either as the sole home and community-based waiver service or in conjunction with adult day health care, respite care (agency-directed or consumer-directed), or PERS.

1. In order to qualify for this service, the waiver individual shall have met the NF LOC criteria as set out in 12VAC30-60-303 and ~~12VAC30-60-307~~ 12VAC30-60-313 as documented on the UAI assessment instrument, and for whom it shall be an appropriate alternative to institutional care.

a. A waiver individual may receive both CD and agency-directed personal care services if the individual meets the criteria. Hours received by the waiver individual who is receiving both CD and agency-directed services shall not exceed the total number of hours that would be otherwise authorized had the individual chosen to receive personal care services through a single delivery model.

b. CD and agency-directed services shall not be simultaneously provided but may be provided sequentially or alternately from each other.

2. Limits on covered CD personal care services.

a. DMAS shall not duplicate services that are required as a reasonable accommodation as a part of the Americans with Disabilities Act (42 USC §§ 12131 through 12165) or the Rehabilitation Act of 1973 (29 USC § 794).

b. There shall be a limit of eight hours per 24-hour day for supervision services included in the POC. Supervision services shall be authorized to ensure the health, safety, or welfare of the waiver individual who cannot be left alone at any time or is unable to call for help in case of an emergency, and when there is no one

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else in the home who is competent and able to call for help in case of an emergency.

c. Consumer-directed personal care services shall be limited to 56 hours of services per week for 52 weeks per year. Individual exceptions may be granted based on criteria ~~established by DMAS set forth in 12VAC30-120-927.~~

d. Due to the complex medical needs of waiver individuals requiring skilled PDN services and the need for 24-hour supervision, the trained primary caregiver shall be present in the home and shall render the required skilled services during the entire time that the aide is providing unskilled care.

3. CD personal care services at work or school shall be limited as follows:

a. DMAS or its contractor shall reimburse for services delivered, consistent with the approved POC, for CD personal care that the attendant provides to the waiver individual to assist him while he is at work or postsecondary school or both.

b. DMAS or the designated ~~Srv Auth contractor~~ entity shall review the waiver individual's needs and the complexity of the disability, as applicable, when determining the services that will be provided to him in the workplace or postsecondary school or both.

c. DMAS shall not pay for the personal care attendant to assist the waiver individual with any functions or tasks related to the individual completing his job or postsecondary school functions or for supervision time during work or postsecondary school or both.

d. Consumer-directed personal care services shall not be available to waiver individuals younger than 21 years of age. Personal care services for individuals younger than 21 shall be accessed through the EPSDT benefit.

H. Consumer-directed respite services. CD respite care services are unskilled care and shall be comprised of hands-on care of either a supportive or health-related nature and may include, but shall not be limited to, assistance with ADLs, access to the community, monitoring of self-administration of medications or other medical needs, supervision, monitoring health status and physical condition, and personal care services in a work environment.

1. In order to qualify for this service, the waiver individual shall have met the ~~NE CCC Plus~~ LOC criteria as set out in 12VAC30-60-303 and ~~12VAC30-60-307~~ 12VAC30-60-313 as documented on the UAI assessment instrument, and for whom it shall be an appropriate alternative to institutional care.

2. CD respite services shall only be offered to individuals who have an unpaid primary caregiver who requires

temporary relief to avoid institutionalization of the waiver individual. This service shall be provided in the waiver individual's home or other community settings.

3. When the waiver individual requires assistance with ADLs, and where such assistance is specified in the individual's POC, such supportive services may also include assistance with IADLs.

4. Limits on covered CD respite care services.

a. The unit of service shall be one hour. Respite services shall be limited to 480 hours per waiver individual per state fiscal year. If a waiver individual changes waiver programs, this same maximum number of respite hours shall apply. No additional respite hours beyond the 480 maximum limit shall be approved for payment. Individuals who are receiving respite services in this waiver through both the agency-directed and CD models shall not exceed 480 hours per state fiscal year combined.

b. CD respite care services shall not include skilled nursing services with the exception of skilled nursing tasks (e.g., catheterization) that may be delegated pursuant to Part ~~VIII (18VAC90-20-420)~~ VI (18VAC90-19-240 through 18VAC90-20-460) 18VAC90-19-280 of ~~18VAC90-20~~ 18VAC90-19 and as permitted by Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia).

c. If consumer-directed respite service is the only service received by the waiver individual, it shall be received at least as often as every 30 days. If this service is not required at this minimal level of frequency, then the services facilitator shall refer the waiver individual to the local department of social services for its redetermination of eligibility for the waiver individual.

I. Personal emergency response system (PERS).

1. Service description. PERS is a service that monitors waiver individual safety in the home and provides access to emergency assistance for medical or environmental emergencies through the provision of a two-way voice communication system that dials a 24-hour response or monitoring center upon activation and via the individual's home telephone line or system. PERS may also include medication monitoring devices.

a. PERS may be authorized only when there is no one else in the home with the waiver individual who is competent or continuously available to call for help in an emergency or when the individual is in imminent danger.

b. The use of PERS equipment shall not relieve the backup caregiver of his responsibilities.

c. Service units and service limitations.

(1) PERS shall be limited to waiver individuals who are ages 14 years and older who also either live alone or are

alone for significant parts of the day and who have no regular caregiver for extended periods of time. PERS shall only be provided in conjunction with receipt of personal care services (either agency-directed or consumer-directed), respite services (either agency-directed or consumer-directed), or adult day health care. A waiver individual shall not receive PERS if he has a cognitive impairment as defined in 12VAC30-120-900.

(2) A unit of service shall include administrative costs, time, labor, and supplies associated with the installation, maintenance, monitoring, and adjustments of the PERS. A unit of service shall be the one-month rental price set by DMAS in its fee schedule. The one-time installation of the unit shall include installation, account activation, individual and family/caregiver instruction, and subsequent removal of PERS equipment when it is no longer needed.

(3) PERS services shall be capable of being activated by a remote wireless device and shall be connected to the waiver individual's telephone line or system. The PERS console unit must provide hands-free voice-to-voice communication with the response center. The activating device must be (i) waterproof, (ii) able to automatically transmit to the response center an activator low battery alert signal prior to the battery losing power, (iii) able to be worn by the waiver individual, and (iv) automatically reset by the response center after each activation, thereby ensuring that subsequent signals can be transmitted without requiring manual resetting by the waiver individual.

(4) All PERS equipment shall be approved by the Federal Communications Commission and meet the Underwriters' Laboratories, Inc. (UL) safety standard.

(5) Medication monitoring units shall be physician ordered. In order to be approved to receive the medication monitoring service, a waiver individual shall also receive PERS services. Physician orders shall be maintained in the waiver individual's record. In cases where the medical monitoring unit must be filled by the provider, the person who is filling the unit shall be either an RN or an LPN. The units may be filled as frequently as a minimum of every 14 days. There must be documentation of this action in the waiver individual's record.

J. ~~Transition coordination and transition~~ services. Transition ~~coordination and transition~~ services, as defined at ~~12VAC30-120-2000 and~~ 12VAC30-120-2010, provide for applicants to move from institutional placements or licensed or certified provider-operated living arrangements to private homes or other qualified settings. The applicant's transition from an institution to the community shall be coordinated by the facility's discharge planning team. The discharge planner

shall ~~coordinate with the transition coordinator~~ to ensure that ~~EDCD CCC Plus~~ Waiver eligibility criteria shall be met.

1. Transition ~~coordination and transition~~ services shall be authorized by DMAS or its designated agent in order for reimbursement to occur.

2. For the purposes of transition services, an institution must meet the requirements as specified by CMS in the Money Follows the Person demonstration program at http://www.ssa.gov/OP_Home/comp2/F109-171.html#ft262.

~~3. Transition coordination shall be authorized for a maximum of 12 consecutive months upon discharge from an institutional placement and shall be initiated within 30 days of discharge from the institution.~~

4. ~~3.~~ Transition ~~coordination and transition~~ services shall be provided in conjunction with personal care (agency-directed or consumer-directed), respite (agency-directed or consumer-directed), skilled private duty nursing, or adult day health care services.

4. Transition services may be provided by DMAS enrolled area agencies on aging, centers for independent living, and local departments of social services.

K. Assistive technology (AT).

1. Service description. Assistive technology (AT), as defined in 12VAC30-120-900, shall ~~only be available to waiver individuals who are participating in the MFP program pursuant to Part XX (12VAC30-120-2000 et seq.)~~ be portable and shall be authorized per calendar year. AT services are the specialized medical equipment and supplies, including those devices, controls, or appliances, specified in the individual's plan of care, but that are not available under the State Plan for Medical Assistance, that enable waiver individuals to increase their abilities to perform ADLs or IADLs, or to perceive, control, or communicate with the environment in which they live.

2. In order to qualify for these services, the individual shall have a demonstrated need for specialized medical equipment and supplies for remedial or direct medical benefit primarily in an individual's primary home, primary vehicle used by the individual, community activity setting, or day program to specifically serve to improve the individual's personal functioning. This shall encompass those items not otherwise covered under the State Plan for Medical Assistance. AT shall be covered in the least expensive, most cost-effective manner.

3. AT services shall be available for enrolled waiver individuals who have a demonstrated need for equipment for remedial or direct medical benefit. This service includes ancillary supplies and equipment necessary to the proper functioning of such items.

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3- 4. Service units and service limitations.

a. ~~All requests for AT shall be made by the transition coordinator to DMAS or the Srv Auth contractor. The cost for AT shall not be carried over from one calendar year to the next. Each item must be service authorized by either DMAS or the DMAS designated entity for each calendar year.~~

b. The maximum funded expenditure per individual for all AT covered procedure codes (combined total of AT items and labor related to these items) shall be \$5,000 per year for individuals regardless of waiver, or regardless of whether the individual changes waiver programs, for which AT is approved. The service unit shall always be one, for the total cost of all AT being requested for a specific timeframe.

c. AT may be provided in the individual's home or community setting.

d. AT shall not be approved for purposes of convenience of the caregiver/provider or restraint of the individual, recreation or leisure, educational purposes, or diversion activities.

e. An independent, professional consultation shall be obtained from a qualified professional who is knowledgeable of that item for each AT request prior to approval by the ~~Srv Auth~~ service authorization contractor or other DMAS designated entity and may include training on such AT by the qualified professional. The consultation shall not be performed by the provider of AT to the individual.

f. All AT shall be prior authorized by the ~~Srv Auth~~ service authorization contractor or other DMAS designated entity prior to billing.

g. ~~Excluded shall be items~~ Items that are reasonable accommodation requirements, ~~for example,~~ of the Americans with Disabilities Act, the Virginians with Disabilities Act (§ 51.5-1 et seq. of the Code of Virginia), ~~or~~ the Rehabilitation Act (20 USC § 794), ~~or that~~ are required to be provided through other funding sources shall be excluded.

h. AT services or equipment shall not be rented but shall be purchased.

i. Shipping, freight, or delivery charges are not billable to DMAS or the waiver individual, as such charges are considered noncovered items.

(1) All products must be delivered, demonstrated, installed, and in working order prior to submitting any claim for them to Medicaid.

(2) The date of service on the claim shall be within the service authorization approval dates, which may be prior

to the delivery date as long as the initiation of services commenced during the approved dates.

(3) The service authorization shall not be modified to accommodate delays in product deliveries. In such situations, new service authorizations must be sought by the provider.

(4) When two or more waiver individuals live in the same home or congregate living arrangement, the AT shall be shared to the extent practicable consistent with the type of AT.

j. Assistive technology shall not be available to waiver individuals younger than 21 years of age. Assistive technology for individuals younger than 21 shall be accessed through the EPSDT benefit.

k. AT exclusions.

(1) Medicaid shall not reimburse for any AT devices or services that may have been rendered prior to authorization from DMAS or the designated service authorization contractor.

(2) Providers of AT shall not be spouses or parents (natural, adoptive, step, or foster parents) of the individual who is receiving waiver services. Providers that supply AT for the waiver individual may not perform assessments or consultation or write specifications for that individual. Any request for a change in cost (either an increase or a decrease) requires justification and supporting documentation of medical need and service authorization by DMAS or the designated service authorization contractor. The vendor shall receive a copy of the professional evaluation in order to purchase the items recommended by the professional. If a change is necessary, then the vendor shall notify the assessor to ensure the changed items meet the individual's needs.

(3) All equipment or supplies already covered by a service provided for in the State Plan shall not be purchased under the waiver as AT. Such examples are, but shall not necessarily be limited to:

(a) Specialized medical equipment, durable or nondurable medical equipment, ancillary equipment, and supplies necessary for life support;

(b) Adaptive devices, appliances, and controls that enable an individual to be more independent in areas of personal care and ADLs or IADLs; and

(c) Equipment and devices that enable an individual to communicate more effectively.

L. Environmental modifications (EM).

1. Service description. Environmental modifications (EM), as defined herein, shall only be available to waiver

individuals ~~who are participating in the MFP program pursuant to Part XX (12VAC30-120-2000 et seq.).~~ Adaptations shall be documented in the waiver individual's POC and may include, but shall not necessarily be limited to, the installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, or installation of specialized electrical and plumbing systems that are necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the waiver individual. Excluded are those adaptations or improvements to the home that are of general utility and are not of direct medical or remedial benefit to the individual, such as carpeting, flooring, roof repairs, central air conditioning, or decks. Adaptations that add to the total square footage of the home shall be excluded from this benefit, except when necessary to complete an authorized adaptation, as determined by DMAS or its designated agent. All services shall be provided in the individual's primary home in accordance with applicable state or local building codes. All modifications must be prior authorized by the ~~Srv Auth~~ service authorization contractor or other DMAS designated entity. Modifications may only be made to a vehicle if it is the primary vehicle being used by the waiver individual. This service does not include the purchase or lease of vehicles.

2. In order to qualify for these services, the waiver individual shall have a demonstrated need for modifications of a remedial or direct medical benefit offered in his primary home or primary vehicle used by the waiver individual to ensure his health, welfare, or safety or specifically to improve the individual's personal functioning. Modifications may include a generator for waiver individuals who are dependent on mechanical ventilation for 24 hours a day and when the generator is used to support the medical equipment and supplies necessary for the individual's welfare. This service shall encompass those items not otherwise covered in the State Plan for Medical Assistance or through another program. EM shall be covered in the least expensive, most cost-effective manner.

3. Service units and service limitations.

~~a. All requests for EM shall be made by the MFP transition coordinator to DMAS or the Srv Auth contractor.~~

~~b. a.~~ The maximum funded expenditure per individual for all EM covered procedure codes (combined total of EM items and labor related to these items) shall be \$5,000 per year for individuals regardless of waiver, or regardless of whether the individual changes waiver programs, for which EM is approved. Unexpended portions of this maximum amount shall not be accumulated across one or more years to be expended in a later year. The service

unit shall always be one, for the total cost of all EM being requested for a specific timeframe.

~~e. b.~~ All EM shall be authorized by ~~the Srv Auth contractor~~ DMAS or the DMAS designated entity prior to billing.

~~d. c.~~ Modifications shall not be used to bring a substandard dwelling up to minimum habitation standards. Also excluded shall be modifications that are reasonable accommodation requirements of the Americans with Disabilities Act, the Virginians with Disabilities Act (§ 51.5-1 et seq. of the Code of Virginia), and the Rehabilitation Act (20 USC§ § 794).

~~e. Transition coordinators~~ d. Care coordinators shall, upon completion of each modification, meet face-to-face with the waiver individual and his family/caregiver, as appropriate, to ensure that the modification is completed satisfactorily and is able to be used by the individual.

~~f. e.~~ EM shall not be approved for purposes of convenience of the caregiver/provider or restraint of the waiver individual.

f. Only the actual cost of material and labor is reimbursed. There shall be no additional markup.

g. EM shall be carried out in the most cost-effective manner possible to achieve the goal required for the individual's health, safety, and welfare.

h. All services shall be provided in the individual's primary residence in accordance with applicable state or local building codes and appropriate permits or building inspections, which shall be provided to DMAS or the DMAS contractor.

i. Proposed modifications that are to be made to rental properties must have prior written approval of the property's owner. Modifications to rental properties shall only be valid if it is an independently operated rental facility with no direct or indirect ties to any other Medicaid service provider.

j. Modifications may be made to a vehicle if it is the primary vehicle used by the individual. This service shall not include the purchase of or the general repair of vehicles. Repairs of modifications that have been reimbursed by DMAS shall be covered.

k. The EM provider shall ensure that all work and products are delivered, installed, and in good working order prior to seeking reimbursement from DMAS. The date of service on this provider's claim shall be within the service authorization approval dates, which may be prior to the completion date as long as the work commenced during the approval dates. The service authorization shall not be modified to accommodate installation delays. All requests for cost changes (either increases or decreases)

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shall be submitted to DMAS or the DMAS-designated service authorization contractor for revision to the previously issued service authorization and shall include justification and supporting documentation of medical needs.

4. EM exclusions.

a. There shall be no duplication of previous EM services within the same residence such as multiple wheelchair ramps or previous modifications to the same room.

b. Adaptations or improvements to the primary home that shall be excluded are of general utility and are not of direct medical or remedial benefit to the waiver individual, such as, but not limited to, carpeting; flooring; roof repairs; central air conditioning or heating; general maintenance and repairs to a home; additions or maintenance of decks; maintenance, replacement, or addition of sidewalks, driveways, or carports; or adaptations that only increase the total square footage of the home.

c. EM shall not be covered by Medicaid for general leisure or diversion items or those items that are recreational in nature or those items that may be used as an outlet for adaptive or maladaptive behavioral issues. Such noncovered items may include swing sets, playhouses, climbing walls, trampolines, protective matting or ground cover, sporting equipment, or exercise equipment, such as special bicycles or tricycles.

d. EM shall not be covered by Medicaid if, for example, the Fair Housing Act (42 USC § 3601 et seq.), the Virginia Fair Housing Law (§ 36-96.1 et seq. of the Code of Virginia) or the Americans with Disabilities Act (42 USC § 12101 et seq.) requires the modification and the payment for such modifications are to be made by a third party.

e. EM shall not include the costs of removal or disposal, or any other costs, of previously installed modifications, whether paid for by DMAS or any other source.

f. Providers of EM shall not be the waiver individual's spouse, parent (natural, adoptive, step, or foster parent), other legal guardians, or conservator. Providers who supply EM to waiver individuals shall not perform assessments or consultations or write EM specifications for such individuals.

M. Skilled private duty nursing. Skilled PDN, for a single individual and individuals residing in congregate living arrangements, as defined in 12VAC30-120-900, shall be provided for waiver enrolled individuals who have serious medical conditions or complex health care needs. To receive this service, an individual must require specific skilled and continuous nursing care on a regularly scheduled or intermittent basis performed by an RN or an LPN. Upon

completion of the required screening and required assessments and a determination that the individual requires substantial and ongoing skilled nursing care and waiver enrollment then the skilled PDN hours shall be authorized by the DMAS designated entity.

1. Skilled PDN services shall be rendered according to a POC authorized by DMAS or the DMAS designated entity and shall have been certified by a physician as medically necessary to enable the individual to remain at home.

2. No reimbursement shall be provided by DMAS for either RN or LPN services without signed physician orders that specifically identify skilled nursing tasks to be performed for the individual.

3. Limits placed on the amount of skilled PDN that will be approved for reimbursement shall be consistent with the individual's support needs and medical necessity. The maximum skilled PDN hours authorized per week for adult individuals shall be based on their technology and medical necessity justification documented.

4. For adult individuals, whether living separately or in a congregate setting, skilled PDN shall be reimbursed up to a maximum 112 hours per week (Sunday through Saturday) per waiver individual living in the household. The number of hours per week shall be based on the individual's documented medical needs.

5. The adult individual shall be determined to need a medical device and ongoing skilled nursing care when such individual meets Category A or all eight criteria in Category B:

a. Category A. Individuals who depend on mechanical ventilators; or

b. Category B. Individuals who have a complex tracheostomy as defined by:

(1) Tracheostomy with the potential for weaning off of it, or documentation of attempts to wean, with subsequent inability to wean;

(2) Nebulizer treatments ordered at least four times a day or nebulizer treatments followed by chest physiotherapy provided by a nurse or respiratory therapist at least four times a day;

(3) Pulse oximetry monitoring at least every shift due to unstable oxygen saturation levels;

(4) Respiratory assessment and documentation every shift by a licensed respiratory therapist or nurse;

(5) Have a physician's order for oxygen therapy with documented usage;

(6) Receives tracheostomy care at least daily;

(7) Has a physician's order for tracheostomy suctioning; and

(8) Deemed at risk to require subsequent mechanical ventilation.

6. Skilled PDN services may include consultation and training for the primary caregiver.

7. The provider shall be responsible for notifying DMAS or the DMAS designated entity should the primary residence of the individual be changed, should the individual be hospitalized, should the individual die, or should the individual be out of the Commonwealth for 48 hours or more.

8. Exclusions from DMAS coverage of skilled PDN:

a. This service shall not be authorized when intermittent skilled nursing visits could be satisfactorily utilized while protecting the health, safety, and welfare of the individual.

b. Skilled PDN hours shall not be reimbursed while the individual is receiving emergency care or during emergency transport of the individual to such facilities. The RN or LPN shall not transport the waiver individual to such facilities.

c. Skilled PDN services may be ordered but shall not be provided simultaneously with skilled respite care or personal care services.

d. Parents (natural, adoptive, step, or foster parents), spouses, siblings, grandparents, grandchildren, adult children, other legal guardians, or any person living under the same roof with the individual shall not provide skilled PDN services for the purpose of Medicaid reimbursement for the waiver individual.

e. Providers shall not bill prior to receiving the physician's dated signature on the individual's POC for services provided and the DMAS or DMAS designated entity's authorization or determination of skilled PDN hours.

f. Time spent driving the waiver individual shall not be reimbursed by DMAS.

9. Congregate skilled PDN.

a. If more than one waiver individual reside in the home, the same waiver provider shall be chosen to provide all skilled PDN services for all waiver individuals in the home.

b. Only one nurse shall be authorized to care for no more than two waiver individuals in such arrangements. In instances when three waiver individuals share a home, nursing ratios shall be determined by DMAS or its designated agent based on the needs of all the individuals

who are living together. These congregate skilled PDN hours shall be at the same scheduled shifts.

c. The primary caregiver shall be shared and shall be responsible for providing all care needs when a private duty nurse is not available.

d. DMAS shall not reimburse for skilled PDN services through the CCC Plus waiver and skilled PDN services through the EPSDT benefit for the same individual at the same time. Waiver individuals younger than 21 years of age shall not receive skilled PDN services through the CCC Plus waiver. Individuals younger than 21 shall receive skilled PDN services through the EPSDT benefit.

12VAC30-120-925. Respite coverage in children's residential facilities.

A. Individuals with special needs who are enrolled in the ~~EDCD~~ CCC Plus Waiver and who have a diagnosis of intellectual disability (ID) shall be eligible to receive respite services in children's residential facilities that are licensed for respite services for children with ID.

B. These respite services shall be covered consistent with the requirements of 12VAC30-120-924, 12VAC30-120-930, and 12VAC30-120-935, whichever is in effect at the time of service delivery.

12VAC30-120-930. General requirements for home and community-based participating providers.

A. Requests for participation shall be screened by DMAS or the designated DMAS contractor to determine whether the provider applicant meets the requirements for participation, as set out in the provider agreement, and demonstrates the abilities to perform, at a minimum, the following activities:

1. Screen all new and existing employees and contractors to determine whether any are excluded from eligibility for payment from federal health care programs, including Medicaid (i.e., via the United States Department of Health and Human Services Office of Inspector General List of Excluded Individuals or Entities (LEIE) website). Immediately report in writing to DMAS any exclusion information discovered to: DMAS, ATTN: Program Integrity/Exclusions, 600 East Broad Street, Suite 1300, Richmond, VA 23219, or email to providerexclusions@dmass.virginia.gov;

2. Immediately notify DMAS in writing of any change in the information that the provider previously submitted to DMAS;

3. Except for waiver individuals who are subject to the DMAS Client Medical Management program Part VIII (12VAC30-130-800 et seq.) of 12VAC30-130 or are enrolled in a Medicaid managed care ~~program~~ organization, ensure freedom of choice to individuals in seeking services from any institution, pharmacy,

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practitioner, or other provider qualified to perform the service or services required and participating in the Medicaid Program at the time the service or services are performed;

4. Ensure the individual's freedom to refuse medical care, treatment, and services;

5. Accept referrals for services only when staff is available to initiate and perform such services on an ongoing basis;

6. Provide services and supplies to individuals in full compliance with Title VI (42 USC § 2000d et seq.) of the Civil Rights Act of 1964 which prohibits discrimination on the grounds of race, color, religion, or national origin; the Virginians with Disabilities Act (§ 51.5-1 et seq. of the Code of Virginia); § 504 of the Rehabilitation Act of 1973 (29 USC § 794), which prohibits discrimination on the basis of a disability; and the Americans with Disabilities Act of 1990 (42 USC § 12101 et seq.), which provides comprehensive civil rights protections to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications;

7. Provide services and supplies to individuals of the same quality and in the same mode of delivery as are provided to the general public;

8. Submit charges to DMAS for the provision of services and supplies to individuals in amounts not to exceed the provider's usual and customary charges to the general public and accept as payment in full the amount established by DMAS payment methodology beginning with the individual's authorization date for the waiver services;

9. Use only DMAS-designated forms for service documentation except when otherwise permitted. The provider shall not alter the DMAS forms in any manner without prior written approval from DMAS;

10. Use DMAS-designated billing forms for submission of charges;

11. Perform no type of direct marketing activities to Medicaid individuals;

12. Maintain and retain business and professional records sufficient to document fully and accurately the nature, scope, and details of the services provided.

a. In general, such records shall be retained for a period of at least six years from the last date of service or as provided by applicable federal and state laws, whichever period is longer. However, if an audit is initiated within the required retention period, the records shall be retained until the audit is completed and every exception resolved. Records of minors shall be kept for a period of

at least six years after such minor has reached 18 years of age.

b. Policies regarding retention of records shall apply even if the provider discontinues operation. DMAS shall be notified in writing of the storage location and procedures for obtaining records for review should the need arise. The location, agent, or trustee shall be within the Commonwealth;

13. Furnish information on the request of and in the form requested to DMAS, the Attorney General of Virginia or their authorized representatives, federal personnel, and the state Medicaid Fraud Control Unit. The Commonwealth's right of access to provider agencies and records shall survive any termination of the provider agreement;

14. Disclose, as requested by DMAS, all financial, beneficial, ownership, equity, surety, or other interests in any and all firms, corporations, partnerships, associations, business enterprises, joint ventures, agencies, institutions, or other legal entities providing any form of health care services to recipients of Medicaid;

15. Pursuant to 42 CFR 431.300 et seq., § 32.1-325.3 of the Code of Virginia, and the Health Insurance Portability and Accountability Act (HIPAA), safeguard and hold confidential all information associated with an applicant or enrollee or individual that could disclose the applicant's/enrollee's/individual's identity. Access to information concerning the applicant/enrollee/individual shall be restricted to persons or agency representatives who are subject to the standards of confidentiality that are consistent with that of the agency and any such access must be in accordance with the provisions found in 42 CFR 431.306 and 12VAC30-20-90;

16. When ownership of the provider changes, notify DMAS in writing at least 15 calendar days before the date of change;

17. Pursuant to §§ 63.2-100, 63.2-1509, and 63.2-1606 of the Code of Virginia, if a participating provider or the provider's staff knows or suspects that a home and community-based waiver services individual is being abused, neglected, or exploited, the party having knowledge or suspicion of the abuse, neglect, or exploitation shall report this immediately from first knowledge or suspicion of such knowledge to the local department of social services adult or child protective services worker as applicable or to the toll-free, 24-hour hotline as described on the local department of social services' website. Employers shall ensure and document that their staff is aware of this requirement;

18. In addition to compliance with the general conditions and requirements, adhere to the conditions of participation outlined in the individual provider's participation agreements, in the applicable DMAS provider manual, and

in other DMAS laws, regulations, and policies. DMAS shall conduct ongoing monitoring of compliance with provider participation standards and DMAS policies. A provider's noncompliance with DMAS policies and procedures may result in a retraction of Medicaid payment or termination of the provider agreement, or both;

19. Meet minimum qualifications of staff.

a. For reasons of Medicaid individuals' safety and welfare, all employees shall have a satisfactory work record, as evidenced by at least two references from prior job experience, including no evidence of abuse, neglect, or exploitation of incapacitated or older adults or children. In instances of employees who have worked for only one employer, such employees shall be permitted to provide one appropriate employment reference and one appropriate personal reference including no evidence of abuse, neglect, or exploitation of incapacitated or older adults or children.

~~b. Criminal record checks for both employees and volunteers conducted by the Virginia State Police. Proof that these checks were performed with satisfactory results shall be available for review by DMAS staff or its designated agent who are authorized by the agency to review these files. DMAS shall not reimburse the provider for any services provided by an employee or volunteer who has been convicted of committing a barrier crime as defined in § 32.1-162.9:1 of the Code of Virginia. Providers shall be responsible for complying with § 32.1-162.9:1 of the Code of Virginia regarding criminal record checks. Provider staff shall not be reimbursed for services provided to the waiver individual effective on the date and thereafter that the criminal record check confirms the provider's staff person or volunteer was convicted of a barrier crime. Pursuant to 42 CFR 441.302 and 42 CFR 441.352, within 30 calendar days of employment, the staff or volunteer shall obtain an original criminal record clearance with respect to convictions for offenses specified in § 19.2-392.02 of the Code of Virginia or an original criminal history record from the Central Criminal Records Exchange.~~

(1) DMAS shall not reimburse a provider for services provided by an individual who works in a position that involves direct contact with a waiver individual until an original criminal record clearance or original criminal history record has been received. DMAS shall reimburse services provided by such an individual during only the first 30 calendar days of employment if the provider can produce documented evidence that such person worked only under the direct supervision of another individual for whom a background check was completed in accordance with the requirements of this section. If an original criminal record clearance or original criminal history record is not received within the first 30 calendar

days of employment, DMAS shall not reimburse the provider for services provided by such employee on the 31st calendar day through the date on which the provider receives an original criminal record clearance or an original criminal history record.

(2) DMAS shall not reimburse a provider for services provided by an individual who has been convicted of any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 of the Code of Virginia unless all of the following conditions are met: (i) the offense was punishable as a misdemeanor; (ii) the individual has been convicted of only one such offense; (iii) the offense did not involve abuse or neglect; and (iv) at least five years have elapsed since the conviction.

c. The staff or volunteer shall provide the hiring facility with a sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or outside of the Commonwealth.

~~e. d.~~ Provider staff and volunteers who serve waiver individuals who are minor children shall also be screened through the VDSS Child Protective Services (CPS) Central Registry. Provider staff and volunteers shall not be reimbursed for services provided to the waiver individual effective on the date and thereafter that the VDSS CPS Central Registry check confirms the provider's staff person or volunteer has a finding.

20. Providers shall comply with requirements for person-centered planning and home and community based settings as described in 42 CFR 441.301.

B. DMAS shall terminate the provider's Medicaid provider agreement pursuant to § 32.1-325 of the Code of Virginia and as may be required for federal financial participation. A provider who has been convicted of a felony, or who has otherwise pled guilty to a felony, in Virginia or in any other of the 50 states, the District of Columbia, or the U.S. territories shall within 30 days of such conviction notify DMAS of this conviction and relinquish its provider agreement. Such provider agreement terminations, subject to applicable appeal rights, shall conform to § 32.1-325 D and E of the Code of Virginia and Part XII (12VAC30-20-500 et seq.) of 12VAC30-20.

C. For DMAS to approve provider agreements with home and community-based waiver providers, the following standards shall be met:

1. Staffing, financial solvency, disclosure of ownership, and ensuring comparability of services requirements as specified in the applicable provider manual;
2. The ability to document and maintain waiver individuals' case records in accordance with state and federal requirements;

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3. Compliance with all applicable laws, regulations, and policies pertaining to ~~EDCD~~ CCC Plus Waiver services.

D. The waiver individual shall have the option of selecting the provider of his choice from among those providers who are approved and who can appropriately meet his needs.

E. A participating provider may voluntarily terminate his participation in Medicaid by providing 30 days' written notification to DMAS.

F. Except as otherwise provided by state or federal law, DMAS may terminate at will a provider's participation agreement on 30 days' written notice as specified in the DMAS participation agreement. DMAS may immediately terminate a provider's participation agreement if the provider is no longer eligible to participate in the Medicaid program. Such action precludes further payment by DMAS for services provided to individuals on or after the date specified in the termination notice.

G. The provider shall be responsible for completing the DMAS-225 form. The provider shall notify the designated ~~Srv-Auth~~ service authorization contractor, as appropriate, and the local department of social services, in writing, when any of the following events occur. Furthermore, it shall be the responsibility of the designated ~~Srv-Auth~~ service authorization contractor to also update DMAS, as requested, when any of the following events occur:

1. Home and community-based waiver services are implemented;
2. A waiver individual dies;
3. A waiver individual is discharged from the provider's ~~EDCD~~ CCC Plus Waiver services;
4. Any other events (including hospitalization) that cause home and community-based waiver services to cease or be interrupted for more than 30 consecutive calendar days; or
5. The initial selection by the waiver individual or family/caregiver of a provider to provide services, or a change by the waiver individual or family/caregiver of a provider, if it affects the individual's patient pay amount.

H. Changes or termination of services.

1. The provider may decrease the amount of authorized care if the revised POC is appropriate and based on the medical needs of the waiver individual. The participating provider shall collaborate with the waiver individual or the family/caregiver/EOR, or both as appropriate, to develop the new POC and calculate the new hours of service delivery. The provider shall discuss the decrease in care with the waiver individual or family/caregiver/EOR, document the conversation in the waiver individual's record, and notify the designated ~~Srv-Auth~~ service authorization contractor. The ~~Srv-Auth~~ service authorization contractor shall process the decrease request

and the waiver individual shall be notified of the change by letter. This letter shall clearly state the waiver individual's right to appeal this change.

2. If a change in the waiver individual's condition necessitates an increase in care, the participating provider shall assess the need for the increase and, collaborate with the waiver individual and family/caregiver/EOR, as appropriate, to develop a POC for services to meet the changed needs. The provider may implement the increase in personal/respite care hours without approval from DMAS, or the designated ~~Srv-Auth~~ service authorization contractor, if the amount of services does not exceed the total amount established by DMAS as the maximum for the level of care designated for that individual on the plan of care.

3. Any increase to a waiver individual's POC that exceeds the number of hours allowed for that individual's level of care or any change in the waiver individual's level of care shall be authorized by DMAS or the designated ~~Srv-Auth~~ service authorization contractor prior to the increase and be accompanied by adequate documentation justifying the increase.

4. In an emergency situation when either the health, safety, or welfare of the waiver individual or provider personnel is endangered, or both, DMAS, or the designated ~~Srv-Auth~~ service authorization contractor, shall be notified prior to discontinuing services. The written notification period set out below shall not be required. If appropriate, local department of social services adult or child protective services, as may be appropriate, shall be notified immediately. Appeal rights shall be afforded to the waiver individual.

5. In a nonemergency situation, when neither the health, safety, nor welfare of the waiver individual or provider personnel is endangered, the participating provider shall give the waiver individual at least 10 calendar days' written notification (plus three days for mail transit for a total of 13 calendar days from the letter's date) of the intent to discontinue services. The notification letter shall provide the reasons for and the effective date the provider will be discontinuing services. Appeal rights shall be afforded to the waiver individual.

I. Staff education and training requirements.

1. RNs shall (i) be currently licensed to practice in the Commonwealth as an RN, or shall hold multi-state licensure privilege pursuant to Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia; (ii) have at least one year of related clinical nursing experience, which may include work in an acute care hospital, public health clinic, home health agency, rehabilitation hospital, or ~~NF~~ nursing facility, or as an LPN who worked for at least one year in one of these settings; and (iii) ~~submit to a criminal records~~

~~check~~ meet the requirements of subdivision A 19 of this section regarding criminal record checks and consent to a search of the VDSS Child Protective Services Central Registry if the waiver individual is a minor child. The RN shall not be compensated for services provided to the waiver individual if this record check verifies that the RN has been convicted of a barrier crime described in § 32.1-162.9:1 of the Code of Virginia or if the RN has a founded complaint confirmed by the VDSS Child Protective Services Central Registry.

2. LPNs shall work under supervision as set out in ~~18VAC90-20-37~~ 18VAC90-19-70. LPNs shall (i) be currently licensed to practice in the Commonwealth as an LPN, or shall hold multi-state licensure privilege pursuant to Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia; (ii) shall have at least one year of related clinical nursing experience, which may include work in an acute care hospital, public health clinic, home health agency, rehabilitation hospital, or NF. The LPN shall meet the qualifications and skills, prior to being assigned to care for the waiver individual, that are required by the individual's POC; and (iii) ~~submit to a criminal records check~~ meet the requirements of subdivision A 19 of this section regarding criminal record checks and consent to a search of the VDSS Child Protective Services Central Registry if the waiver individual is a minor child. The LPN shall not be compensated for services provided to the waiver individual if this record check verifies that the LPN has been convicted of a barrier crime described in § 32.1-162.9:1 of the Code of Virginia or if the LPN has a founded complaint confirmed by the VDSS Child Protective Services Central Registry.

3. All RNs and LPNs who provide skilled PDN services shall have either (i) at least six months of related clinical experience as documented in their history, which may include work in acute care hospitals, long-stay hospitals, rehabilitation hospitals, or specialized care nursing facilities or (ii) completed a provider training program related to the care and technology needs of the assigned waiver individual.

a. Training programs established by providers shall include, at a minimum, the following:

(1) Trainers (either RNs or respiratory therapists) shall have at least six months hands-on successful experience in the areas in which they provide training, such as ventilators, tracheostomies, peg tubes, and nasogastric tubes.

(2) Training shall include classroom time as well as direct hands-on demonstration of mastery by the trainee of the specialized skills required to work with individuals who have technology dependencies.

(3) The training program shall include the following subject areas as they relate to the care to be provided by the nurse: (i) human anatomy and physiology, (ii) medications frequently used by technology dependent individuals, (iii) emergency management, and (iv) the operation of the relevant equipment.

(4) Providers shall assure the competency and mastery of the skills necessary to successfully care for waiver individuals by the nurses prior to assigning them to a waiver individual. Documentation of successful completion of such training course and mastery of the specialized skills required to work with individuals who have technology dependencies shall be maintained in the provider's personnel records. This documentation shall be provided to DMAS upon request.

b. The RN supervisor for nurses providing skilled PDN shall be currently licensed to practice nursing in the Commonwealth and have at least one year of related clinical nursing experience, which may include work in an acute care hospital, long-stay hospital, rehabilitation hospital, or specialized care nursing facility.

3. 4. Personal care aides who are employed by personal care agencies that are licensed by VDH shall meet the requirements of 12VAC5-381. In addition, personal care aides shall also receive annually a minimum of 12 documented hours of agency-provided training in the performance of these services.

4. 5. Personal care aides who are employed by personal care agencies that are not licensed by the VDH shall have completed an educational curriculum of at least 40 hours of study related to the needs of individuals who are either elderly or who have disabilities, as ensured by the provider prior to being assigned to the care of an individual, and shall have the required skills and training to perform the services as specified in the waiver individual's POC and related supporting documentation.

a. Personal care aides' required initial (that is, at the onset of employment) training, ~~as further detailed in the applicable provider manual,~~ shall be met in one of the following ways: (i) registration with the Board of Nursing as a certified nurse aide; (ii) graduation from an approved educational curriculum as listed by the Board of Nursing; or (iii) completion of the provider's educational curriculum, which must be a minimum of 40 hours in duration, as taught by an RN who meets the same requirements as the RN listed in subdivision 1 of this subsection.

b. In addition, personal care aides shall also be required to receive annually a minimum of 12 documented hours of agency-provided training in the performance of these services.

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5. 6. Personal care aides shall:

- a. Be at least 18 years of age or older;
- b. Be able to read and write English to the degree necessary to perform the expected tasks and create and maintain the required documentation;
- c. Be physically able to perform the required tasks and have the required skills to perform services as specified in the waiver individual's supporting documentation;
- d. Have a valid social security number that has been issued to the personal care aide by the Social Security Administration;
- e. ~~Submit to a criminal records check~~ Meet the requirements of subdivision A 19 of this section regarding criminal record checks and, if the waiver individual is a minor, consent to a search of the VDSS Child Protective Services Central Registry. ~~The aide shall not be compensated for services provided to the waiver individual effective the date in which the record check verifies that the aide has been convicted of barrier crimes described in § 32.1-162.9:1 of the Code of Virginia or if the aide has a founded complaint confirmed by the VDSS Child Protective Services Central Registry;~~
- f. Understand and agree to comply with the DMAS ~~EDCD CCC Plus~~ Waiver requirements; and
- g. Receive tuberculosis (TB) screening as specified in the criteria used by the VDH.

6. 7. Consumer-directed personal care attendants shall:

- a. Be 18 years of age or older;
- b. Be able to read and write in English to the degree necessary to perform the tasks expected and create and maintain the required documentation;
- c. Be physically able to perform the required tasks and have the required skills to perform consumer-directed services as specified in the waiver individual's supporting documentation;
- d. Have a valid social security number that has been issued to the personal care attendant by the Social Security Administration;
- e. ~~Submit to a criminal records check~~ Meet the requirements of subdivision A 19 of this section and, if the waiver individual is a minor, consent to a search of the VDSS Child Protective Services Central Registry. ~~The attendant shall not be compensated for services provided to the waiver individual effective the date in which the record check verifies that the attendant has been convicted of barrier crimes described in § 32.1-162.9:1 of the Code of Virginia or if the attendant has a founded complaint confirmed by the VDSS Child Protective Services Central Registry;~~

f. Understand and agree to comply with the DMAS ~~EDCD CCC Plus~~ Waiver requirements;

g. Receive tuberculosis (TB) screening as specified in the criteria used by the VDH; and

h. Be willing to attend training at the individual's or family/caregiver's request.

12VAC30-120-935. Participation standards for specific covered services.

A. The personal care providers, respite care providers, ADHC providers, skilled private duty nursing providers, and CD services facilitators shall develop an individualized POC that addresses the waiver individual's service needs. Such plan shall be developed in collaboration with the waiver individual or the individual's family/caregiver/EOR, as appropriate.

B. Agency providers shall employ appropriately licensed professional staff who can provide the covered waiver services required by the waiver individuals. Providers shall require that the supervising RN/LPN be available by phone at all times that the LPN/attendant and consumer-directed services facilitators, as appropriate, are providing services to the waiver individual.

C. Agency staff (RN, LPNs, or aides) or CD ~~employees (attendants)~~ attendants shall not be reimbursed by DMAS for services rendered to waiver individuals when the agency staff or the CD ~~employee attendant~~ attendant is either (i) the spouse of the waiver individual or (ii) the parent (~~biological, adoptive, legal guardian~~) (natural, adoptive, step, or foster parent) or other legal guardian of the minor child waiver individual.

1. Payment shall not be made for services furnished by other family members living under the same roof as the individual enrolled in the waiver receiving services unless there is objective written documentation completed by the services facilitator as to why there are no other providers available to render the personal services. The consumer-directed services facilitator shall initially make this determination and document it fully in the individual's record.

2. Family members who are approved to be reimbursed for providing personal services shall meet the same qualifications as all other CD attendants.

D. Failure to provide the required services, conduct the required reviews, and meet the documentation standards as stated ~~herein may in this section shall~~ result in ~~DMAS charging audited providers with returning overpayments and requiring the return of the overpaid funds to DMAS.~~

E. In addition to meeting the general conditions and requirements, home and community-based waiver services participating providers shall also meet the following requirements:

1. ADHC services provider. In order to provide these services, the ~~ADCC~~ adult day care center (ADCC) shall:

a. Make available a copy of the current VDSS license for ~~DMAS' DMAS~~ review and verification purposes prior to the provider applicant's enrollment as a Medicaid provider;

b. ~~Adhere to VDSS' ADCC standards as defined in 22VAC40-60 including, but not limited to, provision of activities for waiver individuals~~ Hold a license with VDSS for ADCC; and

c. Employ the following:

(1) A director who shall be responsible for overall management of the center's programs and employees pursuant to 22VAC40-60-320. The director shall be the provider contact person for DMAS and the designated ~~Srv Auth~~ service authorization contractor and shall be responsible for responding to communication from DMAS and the designated ~~Srv Auth~~ service authorization contractor. The director shall be responsible for ensuring the development of the POCs for waiver individuals. The director shall assign either himself, the activities director if there is one, RN, or therapist to act as the care coordinator for each waiver individual and shall document in the individual's medical record the identity of the care coordinator. The care coordinator shall be responsible for management of the waiver individual's POC and for its review with the program aides and any other staff, as necessary.

(2) A RN who shall be responsible for administering to and monitoring the health needs of waiver individuals. The RN may also contract with the center. The RN shall be responsible for the planning and implementation of the POC involving multiple services where specialized health care knowledge may be needed. The RN shall be present a minimum of eight hours each month at the center. DMAS may require the RN's presence at the center for more than this minimum standard depending on the number of waiver individuals who are in attendance and according to the medical and nursing needs of the waiver individuals who attend the center. Although DMAS does not require that the RN be a full-time staff position, there shall be a RN available, either in person or by telephone, to the center's waiver individuals and staff during all times that the center is in operation. The RN shall be responsible for:

(a) Providing periodic evaluation, at least every 90 days, of the nursing needs of each waiver individual;

(b) Providing the nursing care and treatment as documented in individuals' POCs; and

(c) Monitoring, recording, and administering of prescribed medications or supervising the waiver individual in self-administered medication.

(3) Personal care aides who shall be responsible for overall care of waiver individuals such as assistance with ADLs, social/recreational activities, and other health and therapeutic-related activities. Each program aide hired by the provider shall be screened to ensure compliance with training and skill mastery qualifications required by DMAS. The aide shall, at a minimum, have the following qualifications:

(a) Be 18 years of age or older;

(b) Be able to read and write in English to the degree necessary to perform the tasks expected and create and maintain the required waiver individual documentation of services rendered;

(c) Be physically able to perform the work and have the skills required to perform the tasks required in the waiver individual's POC;

(d) Have a valid social security number issued to the program aide by the Social Security Administration;

(e) Have satisfactorily completed an educational curriculum as set out in ~~clauses (i), (ii), and (iii) of this subdivision E-1-e-3 (e)~~. Documentation of successful completion shall be maintained in the aide's personnel file and be available for review by DMAS' staff. Prior to assigning a program aide to a waiver individual, the center shall ensure that the aide has either (i) registered with the Board of Nursing as a certified nurse aide; (ii) graduated from an approved educational curriculum as listed by the Board of Nursing; or (iii) completed the provider's educational curriculum, at least 40 hours in duration, as taught by an RN who is licensed in the Commonwealth or who holds a multi-state licensing privilege.

(4) The ADHC coordinator who shall coordinate, pursuant to 22VAC40-60-695, the delivery of the activities and services as prescribed in the waiver individuals' POCs and keep such plans updated, record 30-day progress notes concerning each waiver individual, and review the waiver individuals' daily records each week. If a waiver individual's condition changes more frequently, more frequent reviews and recording of progress notes shall be required to reflect the individual's changing condition.

2. Recreation and social activities responsibilities. The center shall provide planned recreational and social activities suited to the waiver individuals' needs and interests and designed to encourage physical exercise, prevent deterioration of each waiver individual's condition, and stimulate social interaction.

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3. The center shall maintain all records of each Medicaid individual. These records shall be reviewed periodically by DMAS staff or its designated agent who is authorized by DMAS to review these files. At a minimum, these records shall contain, ~~but shall not necessarily be limited to:~~

a. DMAS required forms as specified in the center's provider-appropriate guidance documents;

b. Interdisciplinary POCs developed, in collaboration with the waiver individual or family/caregiver, or both as may be appropriate, by the center's director, RN, and therapist, as may be appropriate, and any other relevant support persons;

c. Documentation of interdisciplinary staff meetings that shall be held at least every three months to reassess each waiver individual and evaluate the adequacy of the POC and make any necessary revisions;

d. At a minimum, 30-day goal-oriented progress notes recorded by the designated ADHC care coordinator. If a waiver individual's condition and treatment POC changes more often, progress notes shall be written more frequently than every 30 days;

e. The daily record of services provided shall contain the specific services delivered by center staff. The record shall also contain the arrival and departure times of the waiver individual and shall be signed weekly by either the director, activities director, RN, or therapist employed by the center. The record shall be completed on a daily basis, neither before nor after the date of services delivery. At least once a week, a staff member shall chart significant comments regarding care given to the waiver individual. If the staff member writing comments is different from the staff signing the weekly record, that staff member shall sign the weekly comments. A copy of this record shall be given weekly to the waiver individual or family/caregiver, and it shall also be maintained in the waiver individual-specific medical record; and

f. All contacts shall be documented in the waiver individual's medical record, including correspondence made to and from the individual with family/caregivers, physicians, DMAS, the designated ~~Srv Auth~~ service authorization contractor, formal and informal services providers, and all other professionals related to the waiver individual's Medicaid services or medical care.

F. Agency-directed personal care services. The personal care provider agency shall hire or contract with and directly supervise a RN who provides ongoing supervision of all personal care aides and LPNs. LPNs may supervise, pursuant to their licenses, personal care aides based upon RN assessment of the waiver individuals' health, safety, and welfare needs.

1. The RN supervisor shall make an initial home assessment visit on or before the start of care for all individuals admitted to personal care, when a waiver individual is readmitted after being discharged from services, or if he is transferred from another provider, ADHC, or from a CD services program.

2. During a home visit, the RN supervisor shall evaluate, at least every 90 days, the LPN supervisor's performance and the waiver individual's needs to ensure the LPN supervisor's abilities to function competently and shall provide training as necessary. This shall be documented in the waiver individual's record. A reassessment of the individual's needs and review of the POC shall be performed and documented during these visits.

3. The RN/LPN supervisor shall also make supervisory visits based on the assessment and evaluation of the care needs of waiver individuals as often as needed and as defined in this subdivision to ensure both quality and appropriateness of services.

a. The personal care provider agency shall have the responsibility of determining when supervisory visits are appropriate for the waiver individual's health, safety, and welfare. Supervisory visits shall be at least every 90 days. This determination must be documented in the waiver individuals' records by the RN on the initial assessment and in the ongoing assessment records.

b. If DMAS determines that the waiver individual's health, safety, or welfare is in jeopardy, DMAS may require the provider's RN or LPN supervisor to supervise the personal care aides more frequently than once every 90 days. These visits shall be conducted at this designated increased frequency until DMAS determines that the waiver individual's health, safety, or welfare is no longer in jeopardy. This shall be documented by the provider and entered into the individual's record.

c. During visits to the waiver individual's home, the RN/LPN supervisor shall observe, evaluate, and document the adequacy and appropriateness of personal care services with regard to the individual's current functioning status and medical and social needs. The personal care aide's record shall be reviewed and the waiver individual's or family's/caregiver's, or both, satisfaction with the type and amount of services discussed.

d. If the supervising RN/LPN must be delayed in conducting the regular supervisory visit, such delay shall be documented in the waiver individual's record with the reasons for the delay. Such supervisory visits shall be conducted within 15 calendar days of the waiver individual's first availability.

e. A RN/LPN supervisor shall be available to the personal care aide for conferences pertaining to waiver individuals being served by the aide.

(1) The RN/LPN supervisor shall be available to the aide by telephone at all times that the aide is providing services to waiver individuals.

(2) The RN/LPN supervisor shall evaluate the personal care aide's performance and the waiver individual's needs to identify any insufficiencies in the personal care aide's abilities to function competently and shall provide training as indicated. This shall be documented in the waiver individual's record.

f. Licensed practical nurses (LPNs). As permitted by his license, the LPN may supervise personal care aides. To ensure both quality and appropriateness of services, the LPN supervisor shall make supervisory visits of the aides as often as needed, but no fewer visits than provided in waiver individuals' POCs as developed by the RN in collaboration with individuals and the individuals' family/caregivers, or both, as appropriate.

(1) During visits to the waiver individual's home, a LPN-supervisor shall observe, evaluate, and document the adequacy and appropriateness of personal care services, the individual's current functioning status and social needs. The personal care aide's record shall be reviewed and the waiver individual's or family/caregiver's, or both, satisfaction with the type and amount of services discussed.

(2) The LPN supervisor shall evaluate the personal care aide's performance and the waiver individual's needs to identify any insufficiencies in the aide's abilities to function competently and shall provide training as required to resolve the insufficiencies. This shall be documented in the waiver individual's record and reported to the RN supervisor.

(3) An LPN supervisor shall be available to personal care aides for conferences pertaining to waiver individuals being served by them.

g. Personal care aides. The agency provider may employ and the RN/LPN supervisor shall directly supervise personal care aides who provide direct care to waiver individuals. Each aide hired to provide personal care shall be evaluated by the provider agency to ensure compliance with qualifications and skills required by DMAS pursuant to 12VAC30-120-930.

4. Payment shall not be made for services furnished by family members or caregivers who are living under the same roof as the waiver individual receiving services, unless there is objective written documentation as to why there are no other providers or aides available to provide the care. The provider shall initially make this

determination and document it fully in the waiver individual's record.

5. Required documentation for waiver individuals' records. The provider shall maintain all records for each individual receiving personal care services. These records shall be separate from those of non-home and community-based ~~care~~ waiver services, such as companion or home health services. These records shall be reviewed periodically by DMAS or its designated agent. At a minimum, the record shall contain:

a. All personal care aides' records (DMAS-90) to include (i) the specific services delivered to the waiver individual by the aide; (ii) the personal care aide's actual daily arrival and departure times; (iii) the aide's weekly comments or observations about the waiver individual, including observations of the individual's physical and emotional condition, daily activities, and responses to services rendered; and (iv) any other information appropriate and relevant to the waiver individual's care and need for services.

b. The personal care aide's and individual's or responsible caregiver's signatures, including the date, shall be recorded on these records verifying that personal care services have been rendered during the week of the service delivery.

(1) An employee of the provider shall not sign for the waiver individual unless he is a family member or unpaid caregiver of the waiver individual.

(2) Signatures, times, and dates shall not be placed on the personal care aide record earlier than the last day of the week in which services were provided nor later than seven calendar days from the date of the last service.

G. Agency-directed respite care services.

1. To be approved as a respite care provider with DMAS, the respite care agency provider shall:

a. Employ or contract with and directly supervise either a RN or LPN, or both, who will provide ongoing supervision of all respite care aides/LPNs, as appropriate. A RN shall provide supervision to all direct care and supervisory LPNs.

(1) When respite care services are received on a routine basis, the minimum acceptable frequency of the required RN/LPN supervisor's visits shall not exceed every 90 days, based on the initial assessment. If an individual is also receiving personal care services, the respite care RN/LPN supervisory visit may coincide with the personal care RN/LPN supervisory visits. However, the RN/LPN supervisor shall document supervision of respite care separately from the personal care documentation. For this purpose, the same individual

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record may be used with a separate section for respite care documentation.

(2) When respite care services are not received on a routine basis but are episodic in nature, a RN/LPN supervisor shall conduct the home supervisory visit with the aide/LPN on or before the start of care. The RN/LPN shall review the utilization of respite services either every six months or upon the use of half of the approved respite hours, whichever comes first. If a waiver individual is also receiving personal care services, the respite care RN/LPN supervisory visit may coincide with the personal care RN/LPN supervisory visit.

(3) During visits to the waiver individual's home, the RN/LPN supervisor shall observe, evaluate, and document the adequacy and appropriateness of respite care services to the waiver individual's current functioning status and medical and social needs. The aide's/LPN's record shall be reviewed along with the waiver individual's or family's/caregiver's, or both, satisfaction with the type and amount of services discussed.

(4) Should the required RN/LPN supervisory visit be delayed, the reason for the delay shall be documented in the waiver individual's record. This visit shall be completed within 15 days of the waiver individual's first availability.

b. Employ or contract with aides to provide respite care services who shall meet the same education and training requirements as personal care aides.

c. Not hire respite care aides for DMAS' reimbursement for services that are rendered to waiver individuals when the aide is either (i) the spouse of the waiver individual or (ii) the parent (biological, adoptive, ~~legal guardian~~ step, or foster parent) legal guardian, or other guardian of the minor child waiver individual.

d. Employ an LPN to perform skilled respite care services. When skilled respite services are offered in conjunction with skilled PDN, the provider shall employ either a LPN or RN to provide skilled respite services. Such services shall be reimbursed by DMAS under the following circumstances:

(1) The waiver individual shall have a documented need for routine skilled respite care that cannot be provided by unlicensed personnel, such as an aide. These waiver individuals would typically require a skilled level of care involving, for example but not necessarily limited to, ventilators for assistance with breathing or either nasogastric or gastrostomy feedings;

(2) No other person in the waiver individual's support system is willing and able to supply the skilled

component of the individual's care during the primary caregiver's absence; and

(3) The waiver individual is unable to receive skilled nursing visits from any other source that could provide the skilled care usually given by the caregiver.

e. Document in the waiver individual's record the circumstances that require the provision of services by an LPN or RN. At the time of the LPN's or RN's service, the LPN or RN shall also provide all of the services normally provided by an aide.

2. Payment shall not be made for services furnished by other family members or caregivers who are living under the same roof as the waiver individual receiving services unless there is objective written documentation as to why there are no other providers or aides available to provide the care. The provider shall initially make this determination and document it fully in the waiver individual's record.

3. Required documentation for waiver individuals' records. The provider shall maintain all records for each waiver individual receiving respite services. These records shall be separate clearly labelled and maintained separately from those of non-home and community-based ~~care~~ waiver services, such as companion or home health services. These records shall be reviewed periodically either by the DMAS staff or a contracted entity who is authorized by DMAS to review these files. At a minimum these records shall contain:

~~a. Forms as specified in the DMAS guidance documents.~~

~~b. a.~~ All respite care ~~LPN/aide~~ LPN, RN, or aide records shall contain:

(1) The specific services delivered to the waiver individual by the ~~LPN/aide~~ LPN, RN, or aide;

(2) The respite care ~~LPN's/aide's~~ LPN, RN, or aide's daily arrival and departure times;

(3) Comments or observations recorded weekly about the waiver individual. ~~LPN/aide~~ LPN, RN, or aide comments shall include, but shall not be limited to, observation of the waiver individual's physical and emotional condition, daily activities, the individual's response to services rendered, and documentation of vital signs if taken as part of the POC.

~~e. All~~ b. Skilled respite care LPN records (~~DMAS 90A~~), which may be documented on the DMAS 90-A, shall be reviewed and signed by the supervising RN and shall contain:

(1) The respite care LPN/aide's and waiver individual's or responsible family/caregiver's signatures, including the date, verifying that respite care services have been

rendered during the week of service delivery as documented in the record.

(2) An employee of the provider shall not sign for the waiver individual unless he is a family member or unpaid caregiver of the waiver individual.

(3) Signatures, times, and dates shall not be placed on the respite care LPN/aide record earlier than the last day of the week in which services were provided. Nor shall signatures be placed on the respite care LPN/aide records later than seven calendar days from the date of the last service.

H. Consumer directed (CD) services facilitation for personal care and respite services.

1. Any services rendered by attendants prior to dates authorized by DMAS or the Srv Auth contractor shall not be eligible for Medicaid reimbursement and shall be the responsibility of the waiver individual.

2. The CD services facilitator shall meet the following qualifications:

a. To be enrolled as a Medicaid CD services facilitator and maintain provider status, the CD services facilitator shall have sufficient knowledge, skills, and abilities to perform the activities required of such providers. In addition, the CD services facilitator shall have the ability to maintain and retain business and professional records sufficient to fully and accurately document the nature, scope, and details of the services provided.

b. It is preferred that the CD services facilitator possess, at a minimum, an undergraduate degree in a human services field or be a registered nurse currently licensed to practice in the Commonwealth. In addition, it is preferable that the CD services facilitator have at least two years of satisfactory experience in a human services field working with individuals who are disabled or elderly. The CD services facilitator must possess a combination of work experience and relevant education that indicates possession of the following knowledge, skills, and abilities described below in this subdivision H 2 b. Such knowledge, skills, and abilities must be documented on the CD services facilitator's application form, found in supporting documentation, or be observed during a job interview. Observations during the interview must be documented. The knowledge, skills, and abilities include:

(1) Knowledge of:

(a) Types of functional limitations and health problems that may occur in individuals who are elderly or individuals with disabilities, as well as strategies to reduce limitations and health problems;

(b) Physical care that may be required by individuals who are elderly or individuals with disabilities, such as transferring, bathing techniques, bowel and bladder care, and the approximate time those activities normally take;

(c) Equipment and environmental modifications that may be required by individuals who are elderly or individuals with disabilities that reduce the need for human help and improve safety;

(d) Various long term care program requirements, including nursing facility and assisted living facility placement criteria, Medicaid waiver services, and other federal, state, and local resources that provide personal care and respite services;

(e) Elderly or Disabled with Consumer Direction Waiver requirements, as well as the administrative duties for which the services facilitator will be responsible;

(f) How to conduct assessments (including environmental, psychosocial, health, and functional factors) and their uses in services planning;

(g) Interviewing techniques;

(h) The individual's right to make decisions about, direct the provisions of, and control his consumer directed services, including hiring, training, managing, approving time sheets of, and firing an aide;

(i) The principles of human behavior and interpersonal relationships; and

(j) General principles of record documentation.

(2) Skills in:

(a) Negotiating with individuals, family/caregivers, and service providers;

(b) Assessing, supporting, observing, recording, and reporting behaviors;

(c) Identifying, developing, or providing services to individuals who are elderly or individuals with disabilities; and

(d) Identifying services within the established services system to meet the individual's needs.

(3) Abilities to:

(a) Report findings of the assessment or onsite visit, either in writing or an alternative format for individuals who have visual impairments;

(b) Demonstrate a positive regard for individuals and their families;

(c) Be persistent and remain objective;

(d) Work independently, performing position duties under general supervision;

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(e) Communicate effectively orally and in writing; and

(f) Develop a rapport and communicate with individuals from diverse cultural backgrounds.

~~e. If the CD services facilitator is not a RN, the CD services facilitator shall inform the waiver individual's primary health care provider that services are being provided and request consultation as needed. These contacts shall be documented in the waiver individual's record.~~

3. Initiation of services and service monitoring.

~~a. For CD services, the CD services facilitator shall make an initial comprehensive in home visit at the primary residence of the waiver individual to collaborate with the waiver individual or family/caregiver to identify the needs, assist in the development of the POC with the waiver individual or family/caregiver, as appropriate, and provide employer of record (EOR) employee management training within seven days of the initial visit. The initial comprehensive home visit shall be conducted only once upon the waiver individual's entry into CD services. If the waiver individual changes, either voluntarily or involuntarily, the CD services facilitator, the new CD services facilitator must complete a reassessment visit in lieu of an initial comprehensive visit.~~

~~b. After the initial comprehensive visit, the CD services facilitator shall continue to monitor the POC on an as-needed basis, but in no event less frequently than every 90 days for personal care, and shall conduct face to face meetings with the waiver individual and may include the family/caregiver. The CD services facilitator shall review the utilization of CD respite services, either every six months or upon the use of half of the approved respite services hours, whichever comes first, and shall conduct a face to face meeting with the waiver individual and may include the family/caregiver.~~

~~c. During visits with the waiver individual, the CD services facilitator shall observe, evaluate, and consult with the individual/EOR and may include the family/caregiver, and document the adequacy and appropriateness of CD services with regard to the waiver individual's current functioning, cognitive status, and medical and social needs. The CD services facilitator's written summary of the visit shall include, but shall not necessarily be limited to:~~

~~(1) A discussion with the waiver individual or family/caregiver/EOR concerning whether the service is adequate to meet the waiver individual's needs;~~

~~(2) Any suspected abuse, neglect, or exploitation and to whom it was reported;~~

~~(3) Any special tasks performed by the attendant and the attendant's qualifications to perform these tasks;~~

~~(4) The waiver individual's or family/caregiver's/EOR's satisfaction with the service;~~

~~(5) Any hospitalization or change in medical condition, functioning, or cognitive status; and~~

~~(6) The presence or absence of the attendant in the home during the CD services facilitator's visit.~~

~~4. DMAS, its designated contractor, or the fiscal/employer agent shall request a criminal record check and a check of the VDSS Child Protective Services Central Registry if the waiver individual is a minor child, in accordance with 12VAC30-120-930, pertaining to the attendant on behalf of the waiver individual and report findings of these records checks to the EOR.~~

~~5. The CD services facilitator shall review copies of timesheets during the face to face visits to ensure that the hours approved in the POC are being provided and are not exceeded. If discrepancies are identified, the CD services facilitator shall discuss these with the waiver individual or EOR to resolve discrepancies and shall notify the fiscal/employer agent. The CD services facilitator shall also review the waiver individual's POC to ensure that the waiver individual's needs are being met.~~

~~6. The CD services facilitator shall maintain records of each waiver individual that he serves. At a minimum, these records shall contain:~~

~~a. Results of the initial comprehensive home visit completed prior to or on the date services are initiated and subsequent reassessments and changes to the supporting documentation;~~

~~b. The personal care POC. Such plans shall be reviewed by the provider every 90 days, annually, and more often as needed, and modified as appropriate. The respite services POC shall be included in the record and shall be reviewed by the provider every six months or when half of the approved respite service hours have been used whichever comes first. For the annual review and in cases where either the personal care or respite care POC is modified, the POC shall be reviewed with the waiver individual, the family/caregiver, and EOR, as appropriate;~~

~~c. CD services facilitator's dated notes documenting any contacts with the waiver individual or family/caregiver/EOR and visits to the individual;~~

~~d. All contacts, including correspondence, made to and from the waiver individual, EOR, family/caregiver, physicians, DMAS, the designated SrV Auth contractor, formal and informal services provider, and all other~~

professionals related to the individual's Medicaid services or medical care;

e. All employer management training provided to the waiver individual or EOR to include, but not necessarily be limited to (i) the individual's or EOR's receipt of training on their responsibilities for the accuracy of the attendant's timesheets and (ii) the availability of the Consumer Directed Waiver Services Employer Manual available at www.dmas.virginia.gov;

f. All documents signed by the waiver individual or EOR, as appropriate, that acknowledge the responsibilities as the employer; and

g. The DMAS required forms as specified in the agency's waiver specific guidance document.

7. Payment shall not be made for services furnished by other family members or caregivers who are living under the same roof as the waiver individual receiving services unless there is objective written documentation by the CD services facilitator as to why there are no other providers or aides available to provide the required care.

8. In instances when either the waiver individual is consistently unable to hire and retain the employment of a personal care attendant to provide CD personal care or respite services such as, but not limited to, a pattern of discrepancies with the attendant's timesheets, the CD services facilitator shall make arrangements, after conferring with DMAS, to have the needed services transferred to an agency directed services provider of the individual's choice or discuss with the waiver individual or family/caregiver/EOR, or both, other service options.

9. Waiver individual responsibilities.

a. The waiver individual shall be authorized for CD services and the EOR shall successfully complete consumer/employee management training performed by the CD services facilitator before the individual shall be permitted to hire an attendant for Medicaid reimbursement. Any services that may be rendered by an attendant prior to authorization by Medicaid shall not be eligible for reimbursement by Medicaid. Waiver individuals who are eligible for CD services shall have the capability to hire and train their own attendants and supervise the attendants' performance. Waiver individuals may have a family/caregiver or other designated person serve as the EOR on their behalf. The EOR shall be prohibited from also being the Medicaid-reimbursed attendant for respite or personal care or the services facilitator for the waiver individual.

b. Waiver individuals shall acknowledge that they will not knowingly continue to accept CD personal care services when the service is no longer appropriate or necessary for their care needs and shall inform the

services facilitator of their change in care needs. If CD services continue after services have been terminated by DMAS or the designated Srv Auth contractor, the waiver individual shall be held liable for attendant compensation.

e. Waiver individuals shall notify the CD services facilitator of all hospitalizations or admissions, such as but not necessarily limited to, any rehabilitation facility, rehabilitation unit, or NF as CD attendant services shall not be reimbursed during such admissions. Failure to do so may result in the waiver individual being held liable for attendant compensation.

d. Waiver individuals shall not employ attendants for DMAS reimbursement for services rendered to themselves when the attendant is the (i) spouse of the waiver individual; (ii) parent (biological, adoptive, legal guardian) or other guardian of the minor child waiver individual; or (iii) family/caregiver or caregivers/EOR who may be directing the waiver individual's care.

H. Consumer-directed (CD) services facilitation for personal care and respite services.

1. Any services rendered by attendants prior to dates authorized by DMAS or the service authorization contractor shall not be eligible for Medicaid reimbursement and shall be the responsibility of the waiver individual.

2. If the services facilitator is not an RN, then the services facilitator shall inform the primary health care provider for the individual who is enrolled in the waiver that services are being provided within 30 days from the start of such services and request consultation with the primary health care provider, as needed. This shall be done after the services facilitator secures written permission from the individual to contact the primary health care provider. The documentation of this written permission to contact the primary health care provider shall be retained in the individual's medical record. All contacts with the primary health care provider shall be documented in the individual's medical record.

3. The consumer-directed services facilitator, whether employed or contracted by a DMAS enrolled services facilitator, shall meet the following qualifications:

a. To be enrolled as a Medicaid consumer-directed services facilitator and maintain provider status, the consumer-directed services facilitator shall have sufficient knowledge, skills, and abilities as provided for in subdivision H 3 i of this section to perform the activities required of such providers. In addition, the consumer-directed services facilitator shall have the ability to maintain and retain business and professional records sufficient to fully and accurately document the nature, scope, and details of the services provided.

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b. Effective January 11, 2016, prior to reimbursement for services provided to waiver individuals, all consumer-directed services facilitators shall:

(1) Have a satisfactory work record as evidenced by two references from prior job experiences from any human services work; such references shall not include any evidence of abuse, neglect, or exploitation of the elderly or persons with disabilities or children;

(2) Within 30 calendar days of employment, the staff or volunteer shall obtain an original criminal record clearance with respect to convictions for offenses specified in § 19.2-392.02 of the Code of Virginia or an original criminal history record from the Central Criminal Records Exchange.

(a) DMAS shall not reimburse a provider for services provided by an individual who works in a position that involves direct contact with a waiver individual until an original criminal record clearance or original criminal history record has been received. DMAS shall reimburse services provided by such an individual during only the first 30 calendar days of employment if the provider can produce documented evidence that such person worked only under the direct supervision of another individual for whom a background check was completed in accordance with the requirements of this section. If an original criminal record clearance or original criminal history record is not received within the first 30 calendar days of employment, DMAS shall not reimburse the provider for services provided by such employee on the 31st calendar day through the date on which the provider receives an original criminal record clearance or an original criminal history record.

(b) DMAS shall not reimburse a provider for services provided by an individual who has been convicted of any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 of the Code of Virginia unless all of the following conditions are met: (i) the offense was punishable as a misdemeanor; (ii) the individual has been convicted of only one such offense; (iii) the offense did not involve abuse or neglect; and (iv) at least five years have elapsed since the conviction.

(3) The staff or volunteer shall provide the hiring facility with a sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or outside of the Commonwealth.

(4) Submit to a search of the VDSS Child Protective Services Central Registry. A consumer-directed services facilitator shall not be reimbursed for services provided to the waiver individual effective on the date and thereafter that the VDSS CPS Central Registry check confirms the consumer-directed services facilitator has a finding; and

(5) Not be debarred, suspended, or otherwise excluded from participating in federal health care programs, as listed on the federal List of Excluded Individuals/Entities (LEIE) database at <http://www.olg.hhs.gov/fraud/exclusions%20/exclusions%20list.asp>.

c. Persons who are consumer-directed services facilitators prior to January 11, 2016, shall not be required to meet the degree and experience requirements of this subsection unless required to submit a new application to be a consumer-directed services facilitator after January 11, 2016. Effective January 11, 2016, consumer-directed services facilitators shall possess the required degree and experience, as follows:

(1) Prior to enrollment by the department as a consumer-directed services facilitator, all new applicants shall possess, at a minimum, either an associate's degree or higher from an accredited college in a health or human services field or be a registered nurse currently licensed to practice in Commonwealth and possess a minimum of two years of satisfactory direct care experience supporting individuals with disabilities or older adults; or

(2) Possess a bachelor's degree or higher in a non-health or human services field and have a minimum of three years of satisfactory direct care experience supporting individuals with disabilities or older adults.

d. Effective April 10, 2016, all consumer-directed services facilitators shall complete required training and competency assessments. Satisfactory competency assessment results shall be kept in the service facilitator's record.

(1) All new consumer-directed services facilitators shall complete the DMAS-approved consumer-directed services facilitator training and pass the corresponding competency assessment with a score of at least 80% prior to being approved as a consumer-directed services facilitator and being reimbursed for working with waiver individuals.

(2) Persons who are consumer-directed services facilitators prior to January 11, 2016, shall be required to complete the DMAS-approved consumer-directed services facilitator training and pass the corresponding competency assessment with a score of at least 80% in order to continue being reimbursed for and working with waiver individuals for the purpose of Medicaid reimbursement.

e. Failure to satisfy the competency assessment requirements and meet all other requirements shall result in a retraction of Medicaid payment or the termination of the provider agreement, or both.

f. Failure to satisfy the competency assessment requirements and meet all other requirements may also result in the termination of a CD services facilitator employed by or contracted with a Medicaid enrolled services facilitator provider.

g. As a component of the renewal of the Medicaid provider agreement, all CD services facilitators shall pass the competency assessment every five years and achieve a score of at least 80%.

h. The consumer-directed services facilitator shall have access to a computer with secure Internet access that meets the requirements of 45 CFR Part 164 for the electronic exchange of information. Electronic exchange of information shall include, for example, checking individual eligibility, submission of service authorizations, submission of information to the fiscal employer agent, and billing for services.

i. The consumer-directed services facilitator must possess a combination of work experience and relevant education that indicates possession of the following knowledge, skills, and abilities. Such knowledge, skills, and abilities must be documented on the consumer-directed services facilitator's application form, found in supporting documentation, or be observed during a job interview. Observations during the interview must be documented. The knowledge, skills, and abilities include:

(1) Knowledge of:

(a) Types of functional limitations and health problems that may occur in older adults or individuals with disabilities, as well as strategies to reduce limitations and health problems;

(b) Physical care that may be required by older adults or individuals with disabilities, such as transferring, bathing techniques, bowel and bladder care, and the approximate time those activities normally take;

(c) Equipment and environmental modifications that may be required by individuals who are elderly or individuals with disabilities that reduce the need for human help and improve safety;

(d) Various long-term services and supports program requirements, including nursing facility and assisted living facility placement criteria, Medicaid waiver services, and other federal, state, and local resources that provide personal care and respite services;

(e) CCC Plus Waiver requirements, as well as the administrative duties for which the services facilitator will be responsible;

(f) How to conduct assessments (including environmental, psychosocial, health, and functional factors) and their uses in services planning;

(g) Interviewing techniques;

(h) The individual's right to make decisions about, direct the provisions of, and control his consumer-directed services, including hiring, training, managing, approving timesheets, and firing an aide;

(i) The principles of human behavior and interpersonal relationships; and

(j) General principles of record documentation.

(2) Skills in:

(a) Negotiating with individuals, family/caregivers, and service providers;

(b) Assessing, supporting, observing, recording, and reporting behaviors;

(c) Identifying, developing, or providing services to individuals who are elderly or individuals with disabilities; and

(d) Identifying services within the established services system to meet the individual's needs.

(3) Abilities to:

(a) Report findings of the assessment or onsite visit, either in writing or an alternative format for individuals who have visual impairments;

(b) Demonstrate a positive regard for individuals and their families;

(c) Be persistent and remain objective;

(d) Work independently, performing position duties under general supervision;

(e) Communicate effectively, orally and in writing; and

(f) Develop a rapport and communicate with individuals from diverse cultural backgrounds.

4. Initiation of services and service monitoring.

a. For consumer-directed model of service, the consumer-directed services facilitator shall make an initial comprehensive home visit at the primary residence of the individual to collaborate with the individual or the individual's family/caregiver, as appropriate, to identify the individual's needs, assist in the development of the plan of care with the waiver individual and individual's family/caregiver, as appropriate, and provide EOR management training within seven days of the initial visit. The initial comprehensive home visit shall be conducted only once upon the individual's entry into consumer-directed services. If the individual changes, either voluntarily or involuntarily, the consumer-directed services facilitator, the new consumer-directed services facilitator shall complete a reassessment visit in lieu of a comprehensive visit.

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b. After the initial comprehensive visit, the services facilitator shall continue to monitor the plan of care on an as-needed basis, but in no event less frequently than every 90 days for personal care, and shall conduct face-to-face meetings with the individual and may include the family/caregiver. The services facilitator shall review the utilization of consumer-directed respite services and shall conduct a face-to-face meeting with the individual and may include the family/caregiver either every six months or upon the use of half of the approved respite services hours, whichever comes first. Such monitoring reviews shall be documented in the individual's medical record.

c. During visits with the individual, the services facilitator shall observe, evaluate, and consult with the individual/EOR and may include the family/caregiver and document the adequacy and appropriateness of CD services with regard to the individual's current functioning, cognitive status, and medical and social needs. The consumer-directed services facilitator's written summary of the visit shall include at a minimum:

(1) Discussion with the waiver individual or family/caregiver/EOR, as appropriate, concerning whether the service is adequate to meet the waiver individual's needs;

(2) Any suspected abuse, neglect, or exploitation and to whom it was reported;

(3) Any special tasks (tasks outside of the normal ADLs or IADLs) performed by the consumer-directed attendant and the consumer-directed attendant's qualifications to perform these tasks;

(4) The individual's or family/caregiver's/EOR's satisfaction with the service;

(5) Any hospitalization or change in medical condition, functioning, or cognitive status; and

(6) The presence or absence of the consumer-directed attendant in the home during the consumer-directed services facilitator's visit.

5. DMAS, its designated contractor, or the fiscal/employer agent shall request a criminal record check, and a check of the VDSS Child Protective Services Central Registry if the waiver individual is a minor child, and shall comply with the requirements of subdivision H 3 b of this section.

6. The consumer-directed services facilitator shall review and verify copies of timesheets during the face-to-face visits to ensure that the hours approved in the plan of care are being provided and are not exceeded. If discrepancies are identified, the consumer-directed services facilitator shall discuss these with the individual or EOR to resolve discrepancies and shall notify the fiscal/employer agent. The consumer-directed services facilitator shall also review the individual's plan of care to ensure that the individual's

needs are being met. Failure to conduct such reviews and verifications of timesheets and maintain the documentation of these reviews shall result in a DMAS recovery of payments made.

7. Failure to maintain all required documentation shall result in a DMAS action to recover payments made. Repeated instances of failure to maintain documentation may result in cancellation of the Medicaid provider agreement. The consumer-directed services facilitator shall maintain records of each individual that he serves. At a minimum, these records shall contain:

a. Results of the initial comprehensive home visit completed prior to or on the date services are initiated and subsequent reassessments and changes to the supporting documentation;

b. The personal care plan of care. Such plans shall be reviewed by the provider every 90 days, annually, and more often as needed, and modified as appropriate. The respite services plan of care shall be included in the record and shall be reviewed by the provider every six months or when half of the approved respite service hours have been used, whichever comes first. For the annual review and in cases where either the personal care or respite care plan of care is modified, the plan of care shall be reviewed with the individual, the family/caregiver, and EOR, as appropriate;

c. The consumer-directed services facilitator's dated notes documenting any contacts with the individual or family/caregiver/EOR and visits to the individual;

d. All contacts, including correspondence, made to and from the waiver individual, EOR, family/caregiver, physicians, DMAS, the designated service authorization contractor, formal and informal services provider, and all other professionals related to the individual's Medicaid services or medical care;

e. All employer management training provided to the waiver individual or EOR to include (i) the individual's or EOR's receipt of training on their responsibilities for the accuracy of the consumer-directed attendant's timesheets and (ii) the availability of the Consumer-Directed Waiver Services Employer Manual available at <http://lis.virginia.gov/000/noc/www.dmas.virginia.gov>;

f. All documents signed by the individual or EOR, as appropriate, that acknowledge the responsibilities as the employer; and

g. The DMAS required forms as specified in the agency's waiver-specific guidance document.

8. Waiver individual, family/caregiver, and EOR responsibilities.

a. The individual shall be authorized for the consumer-directed model of service, and the EOR shall successfully complete EOR management training performed by the consumer-directed services facilitator before the individual or EOR shall be permitted to hire a consumer-directed attendant for Medicaid reimbursement. Any services that may be rendered by a consumer-directed attendant prior to authorization by Medicaid shall not be eligible for reimbursement by Medicaid. Individuals who are eligible for consumer-directed services shall have the capability to hire and train their own consumer-directed attendants and supervise the consumer-directed attendants' performances. In lieu of being the EOR themselves, individuals may have a family/caregiver or other designated person serve as the EOR on their behalf. The EOR shall be prohibited from also being the Medicaid-reimbursed consumer-directed attendant for respite or personal care or the services facilitator for the individual.

b. Individuals shall acknowledge that they will not knowingly continue to accept consumer-directed personal care services when the service is no longer appropriate or necessary for their care needs and shall inform the services facilitator of their change in care needs. If the consumer-directed model of services continues after services have been terminated by DMAS or the designated service authorization contractor, the individual shall be held liable for the consumer-directed attendant compensation.

c. Waiver individuals shall notify the consumer-directed services facilitator of all hospitalizations or admissions, for example, to any rehabilitation facility rehabilitation unit or nursing facility as consumer-directed attendant services shall not be reimbursed during such admissions. Failure to do so may result in the individual being held liable for the consumer-directed employee compensation.

I. Personal emergency response systems. In addition to meeting the general conditions and requirements for home and community-based waiver services participating providers as specified in 12VAC30-120-930, PERS providers must also meet the following qualifications and requirements:

1. A PERS provider shall be either, but not necessarily limited to, a personal care agency, a durable medical equipment provider, a licensed home health provider, or a PERS manufacturer. All such providers shall have the ability to provide PERS equipment, direct services (i.e., installation, equipment maintenance, and service calls), and PERS monitoring;
2. The PERS provider shall provide an emergency response center with fully trained operators who are

capable of (i) receiving signals for help from an individual's PERS equipment 24 hours a day, 365 or 366 days per year, as appropriate; (ii) determining whether an emergency exists; and (iii) notifying an emergency response organization or an emergency responder that the PERS individual needs emergency help;

3. A PERS provider shall comply with all applicable Virginia statutes, all applicable regulations of DMAS, and all other governmental agencies having jurisdiction over the services to be performed;

4. The PERS provider shall have the primary responsibility to furnish, install, maintain, test, and service the PERS equipment, as required, to keep it fully operational. The provider shall replace or repair the PERS device within 24 hours of the waiver individual's notification of a malfunction of the console unit, activating devices, or medication monitoring unit and shall provide temporary equipment, as may be necessary for the waiver individual's health, safety, and welfare, while the original equipment is being repaired or replaced;

5. The PERS provider shall install, consistent with the manufacturer's instructions, all PERS equipment into a waiver individual's functioning telephone line or system within seven days of the request of such installation unless there is appropriate documentation of why this timeframe cannot be met. The PERS provider shall furnish all supplies necessary to ensure that the system is installed and working properly. The PERS provider shall test the PERS device monthly, or more frequently if needed, to ensure that the device is fully operational;

6. The PERS installation shall include local seize line circuitry, which guarantees that the unit shall have priority over the telephone connected to the console unit should the telephone be off the hook or in use when the unit is activated;

7. A PERS provider shall maintain a data record for each waiver individual at no additional cost to DMAS or the waiver individual. The record shall document all of the following:

- a. Delivery date and installation date of the PERS equipment;
- b. Waiver individual/caregiver signature verifying receipt of the PERS equipment;
- c. Verification by a test that the PERS device is operational and the waiver individual is still using it monthly or more frequently as needed;
- d. Waiver individual contact information, to be updated annually or more frequently as needed, as provided by the individual or the individual's caregiver/EOR;

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- e. A case log documenting the waiver individual's utilization of the system, all contacts, and all communications with the individual, caregiver/EOR, and responders;
 - f. Documentation that the waiver individual is able to use the PERS equipment through return demonstration; and
 - g. Copies of all equipment checks performed on the PERS unit;
8. The PERS provider shall have backup monitoring capacity in case the primary system cannot handle incoming emergency signals;
9. The emergency response activator shall be capable of being activated either by breath, touch, or some other means and shall be usable by waiver individuals who are visually or hearing impaired or physically disabled. The emergency response communicator shall be capable of operating without external power during a power failure at the waiver individual's home for a minimum period of 24 hours. The emergency response console unit shall also be able to self-disconnect and redial the backup monitoring site without the waiver individual resetting the system in the event it cannot get its signal accepted at the response center;
10. PERS providers shall be capable of continuously monitoring and responding to emergencies under all conditions, including power failures and mechanical malfunctions. It shall be the PERS provider's responsibility to ensure that the monitoring agency and the monitoring agency's equipment meet the following requirements. The PERS provider shall be capable of simultaneously responding to multiple signals for help from the waiver individuals' PERS equipment. The PERS provider's equipment shall include the following:
- a. A primary receiver and a backup receiver, which shall be independent and interchangeable;
 - b. A backup information retrieval system;
 - c. A clock printer, which shall print out the time and date of the emergency signal, the waiver individual's identification code, and the emergency code that indicates whether the signal is active, passive, or a responder test;
 - d. A backup power supply;
 - e. A separate telephone service;
 - f. A toll-free number to be used by the PERS equipment in order to contact the primary or backup response center; and
 - g. A telephone line monitor, which shall give visual and audible signals when the incoming telephone line is disconnected for more than 10 seconds;

11. The PERS provider shall maintain detailed technical and operation manuals that describe PERS elements, including the installation, functioning, and testing of PERS equipment; emergency response protocols; and recordkeeping and reporting procedures;

12. The PERS provider shall document and furnish within 30 days of the action taken, a written report for each emergency signal that results in action being taken on behalf of the waiver individual. This excludes test signals or activations made in error. This written report shall be furnished to (i) the personal care provider; (ii) the respite care provider; (iii) the CD services facilitation provider; (iv) in cases where the individual only receives ADHC services, to the ADCC provider; or (v) to the transition coordinator for the service in which the individual is enrolled; and

13. The PERS provider shall obtain and keep on file a copy of the most recently completed DMAS-225 form. Until the PERS provider obtains a copy of the DMAS-225 form, the PERS provider shall clearly document efforts to obtain the completed DMAS-225 form from the personal care provider, respite care provider, CD services facilitation provider, or ADCC provider.

J. Assistive technology (AT) and environmental modification (EM) services. AT and EM shall be provided ~~only to waiver individuals who also participate in the MFP demonstration program~~ by providers who have current provider participation agreements with DMAS.

1. AT shall be rendered by providers having a current provider participation agreement with DMAS as durable medical equipment and supply providers. An independent, professional consultation shall be obtained, as may be required, from qualified professionals who are knowledgeable of that item for each AT request prior to approval by either DMAS or the ~~Src-Auth~~ service authorization contractor and may include training on such AT by the qualified professional. Independent, professional consultants shall include, but shall not necessarily be limited to, speech/language therapists, physical therapists, occupational therapists, physicians, behavioral therapists, certified rehabilitation specialists, or rehabilitation engineers. Providers that supply AT for a waiver individual may not perform assessment/consultation, write specifications, or inspect the AT for that individual. Providers of services shall not be (i) spouses of the waiver individual or (ii) parents (~~biological,~~ natural, adoptive, step, or foster, ~~or legal guardian~~) parent or legal guardian of the waiver individual. AT shall be delivered within 60 days from the start date of the authorization. The AT provider shall ensure that the AT functions properly.

2. In addition to meeting the general conditions and requirements for home and community-based waiver services participating providers as specified in

12VAC30-120-930, as appropriate, environmental modifications shall be provided in accordance with all applicable state or local building codes by contractors who have provider agreements with DMAS. Providers of services shall not be (i) the spouse of the waiver individual or (ii) the parent ~~(biological, (natural, adoptive, step, or foster, or legal guardian) parent)~~ or legal guardian of the waiver individual who is a minor child. Modifications shall be completed within a year of the start date of the authorization.

3. Providers of AT and EM services shall not be permitted to recover equipment that has been provided to waiver individuals whenever the provider has been charged, by either DMAS or its designated service authorization agent, with overpayments and is therefore being required to return payments to DMAS.

~~K. Transition coordination. This service shall be provided consistent with 12VAC30-120-2000 and 12VAC30-120-2010.~~

~~L. K. Transition services. This service shall be provided consistent with 12VAC30-120-2000 and 12VAC30-120-2010.~~

L. Skilled private duty nursing.

1. This service shall be provided through either a home health agency licensed or certified by the VDH for Medicaid participation and with which DMAS has a contract for either skilled PDN or congregate skilled PDN or both;

2. Demonstrate a prior successful health care delivery;

3. Operate from a business office; and

4. Employ (or subcontract with) and directly supervise an RN or an LPN. The LPN and RN shall be currently licensed to practice in the Commonwealth. Prior to providing skilled PDN services, the RN or LPN shall have either (i) at least six months of related clinical nursing experience or (ii) completed a provider training program related to the care and technology needs of the waiver individual as described in 12VAC30-120-930 I 3. Regardless of whether a nurse has six months of experience or completes a provider training course, the provider agency shall be responsible for assuring all nurses who are assigned to an individual are competent in the care needs of that individual.

5. As part of direct supervision, the RN supervisor shall make, at a minimum, a visit every 30 days to ensure both quality and appropriateness of PDN to assess the individual's and the individual's representative's satisfaction with the services being provided, to review the medication and treatments, and to update and verify that the most current physician signed orders are in the home.

a. The waiver individual shall be present when the supervisory visits are made;

b. At least every other visit shall be in the individual's primary residence;

c. When a delay occurs in the RN supervisor's visits because the individual is unavailable, the reason for the delay shall be documented in the individual's record, and the visit shall occur as soon as the individual is available. Failure to meet this standard may result in a DMAS recovery of payments made.

d. The RN supervisor may delegate personal care aide supervisory visits to an LPN. The provider's RN or LPN supervisor shall make supervisory visits at least every 90 days. During visits to the waiver individual's home, the RN/LPN supervisor shall observe, evaluate, and document the adequacy and appropriateness of personal care services with regard to the individual's current functioning status and medical and social needs. The personal care aide's record shall be reviewed and the waiver individual's or family/caregiver's, or both, satisfaction with the type and amount of services discussed.

e. Additional supervisory visits may be required under the following circumstances: (i) at the provider's discretion; (ii) at the request of the individual; (iii) when a change in the individual's condition has occurred; (iv) any time the health, safety, or welfare of the individual could be at risk; and (v) at the request of the DMAS staff.

6. When skilled respite services are routine in nature and offered in conjunction with personal care (PC) services for adults, the RN supervisory visit conducted for personal care may serve as the supervisory visit for respite services. However, the supervisor shall document supervision of skilled respite services separately. For this purpose, the same individual record can be used with a separate section clearly labelled for documentation of skilled respite services.

7. For DMAS-enrolled skilled PDN providers that also provide PC services, the provider shall employ or subcontract with and directly supervise an RN who will provide ongoing supervision of all PCAs. The supervising RN shall be currently licensed to practice nursing in the Commonwealth and have at least one year of related clinical nursing experience, which may include work in an acute care hospital, long-stay hospital, rehabilitation hospital, or specialized care nursing facility. In addition to meeting the general conditions and requirements for home and community-based waiver services participating providers as specified in 12VAC30-120-930 and 12VAC30-120-935, the provision of PC services shall also comply with the requirements of 12VAC30-120-930.

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8. The following documentation shall be maintained for every individual for whom DMAS-enrolled providers render these services:

a. Physicians' orders for these services shall be maintained in the individual's record as well as at the individual's primary residence. All recertifications of the POC shall be performed within the last five business days of each current 60-day period. The physician shall sign the recertification before Medicaid reimbursement shall occur;

b. All assessments, reassessments, and evaluations (including the complete UAI screening packet or risk evaluations) made during the provision of services, including any required initial assessments by the RN supervisor completed prior to or on the date services are initiated and changes to the supporting documentation by the RN supervisor;

c. Progress notes reflecting the individual's status and, as appropriate, progress toward the identified goals in the POC;

d. All related communication with the individual and the individual's representative, the DMAS designated agent for service authorization, consultants, DMAS, VDSS, formal and informal service providers, all required referrals, as appropriate, to Adult Protective Services or Child Protective Services and all other professionals concerning the individual;

e. All service authorization decisions rendered by the DMAS staff or the DMAS-designated service authorization contractor; and

f. All POCs completed with the individual, or family/caregiver, as appropriate, and specific to the service being provided and all supporting documentation related to any changes in the POC.

12VAC30-120-945. Payment for covered services.

A. DMAS shall not reimburse providers, either agency-directed or consumer-directed, for any staff training required by these waiver regulations or any other training that may be required.

B. All services provided in the EDCD CCC Plus Waiver shall be reimbursed at a rate established by DMAS in its agency fee schedule.

1. DMAS or its contractor shall reimburse a per diem fee for ADHC services that shall be considered as payment in full for all services rendered to that waiver individual as part of the individual's approved ADHC plan of care.

2. Agency personal ~~care/respite~~ care and respite care services shall be reimbursed on an hourly basis consistent with the agency's fee schedule.

3. Consumer-directed personal ~~care/respite~~ care and respite care services and skilled PDN shall be reimbursed on ~~an hourly~~ a quarter-hour basis and consistent with the agency's fee schedule.

4. Transition services. The total costs of these transition services shall be limited to \$5,000 per waiver individual per lifetime and shall be expended within nine months from the start date of authorization. Transition services shall be reimbursed at the actual cost of the item; no mark ups shall be permitted.

5. Reimbursement for assistive technology (AT) and environmental modification (EM) services shall be ~~limited to those waiver individuals who are also participating in the MFP demonstration program~~ as follows:

a. All AT services provided in the ~~EDCD CCC Plus~~ Waiver shall be reimbursed as a service limit of one and up to a per member annual maximum of \$5,000 per calendar year regardless of waiver. ~~AT services in this waiver shall be reimbursed up to a per individual annual MFP enrollment period not to exceed 12 months.~~ These limits shall apply regardless of whether the waiver individual remains in this waiver or changes to another waiver program. AT services shall be reimbursed in a manner that is reasonable and customary not to exceed the provider's usual and customary charges to the general public.

b. All EM services provided in the ~~EDCD CCC Plus~~ Waiver shall be reimbursed ~~per individual annual MFP enrollment period not to exceed 12 months~~ as a service limit of one and up to a per member annual maximum of \$5,000 per calendar year regardless of waiver. All EM services shall be reimbursed at the actual cost of material and labor and no mark ups shall be permitted.

~~6. DMAS shall reimburse a monthly fee for transition coordination consistent with the agency's fee schedule.~~

~~7. 6.~~ PERS monthly fee payments shall be consistent with the agency's fee schedule.

C. Duplication of services.

1. DMAS shall not duplicate services that are required as a reasonable accommodation as a part of the American with Disabilities Act (42 USC §§ 12131 through 12165), the Rehabilitation Act of 1973 (29 USC § 794), or the Virginians with Disabilities Act (§ 51.5-1 et seq. of the Code of Virginia).

2. Payment for waiver services shall not duplicate payments made to public agencies or private entities under other program authorities for this same purpose. All private insurance benefits for these waiver covered services shall be exhausted before Medicaid reimbursement can occur as Medicaid shall be the payer of last resort.

3. DMAS payments for EM services shall not be duplicative in homes where multiple waiver individuals reside.

Part XVII

Home and Community-Based Services for Technology Assisted Individuals Waiver (Repealed)

12VAC30-120-1700. Definitions. (Repealed.)

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

~~"Activities of daily living" or "ADLs" means personal care tasks such as bathing, dressing, toileting, transferring, and eating or feeding. An individual's degree of independence in performing these activities is a part of determining appropriate level of care and service needs.~~

~~"Adult" means an individual who is either 21 years of age or older.~~

~~"Adult foster care" means room and board, supervision, and a locally optional program that may be provided by a single provider for up to three adults, each of whom has a physical or mental condition. The provider must be approved by the local department of social services for the locality in which the provider renders services.~~

~~"Adult Protective Services" or "APS" means a program overseen by the Virginia Department of Social Services that investigates reports of abuse, neglect, and exploitation of adults 60 years of age and older and incapacitated adults 18 years of age and older and provides services when such persons are found to be in need of protective services.~~

~~"Agency provider" means a public or private organization or entity that holds a Medicaid provider agreement and furnishes services to individuals using its own employees or subcontractors.~~

~~"Alternate back up facility" means the alternate facility placement that the technology assisted individuals must use when home and community based waiver services are interrupted. Such facilities may be, for the purpose of this waiver, an intermediate care facility for the intellectually disabled (ICF/ID), a long stay hospital, a specialized care nursing facility, or an acute care hospital when all technology assisted waiver criteria are met.~~

~~"Americans with Disabilities Act" or "ADA" means the United States Code pursuant to 42 USC § 12101 et seq., as amended.~~

~~"Appeal" means the process used to challenge actions regarding services, benefits, and reimbursement provided by Medicaid pursuant to 12VAC30-110 and Part XII (12VAC30-20-500 et seq.) of 12VAC30-20.~~

~~"Applicant" means an individual (or representative on his behalf) who has applied for or is in the process of applying for and is awaiting a determination of eligibility for admission to the technology assisted waiver.~~

~~"Assess" means to evaluate an applicant's or an individual's condition, including functional status, current medical status, psychosocial history, and environment. Information is collected from the applicant or individual, applicant's or individual's representative, family, and medical professionals, as well as the assessor's observation of the applicant or individual.~~

~~"Assessment" means one or more processes that are used to obtain information about an applicant, including his condition, personal goals and preferences, functional limitations, health status, financial status and other factors that are relevant to the determination of eligibility for services and is required for the authorization of and provision of services, and forms the basis for the development of the plan of care.~~

~~"Assistive technology" or "AT" means specialized medical equipment and supplies, including those devices, controls, or appliances specified in the plan of care but not available under the State Plan for Medical Assistance, that (i) enable individuals to increase their abilities to perform ADLs/IADLs and to perceive, control, or communicate with the environment in which they live or (ii) are necessary for the proper functioning of the specialized equipment; cost effective; and appropriate for the individual's assessed medical needs and physical deficits.~~

~~"Backup caregiver" means the secondary person who will assume the role of providing direct care to and support of the waiver individual in instances of emergencies and in the absence of the primary caregiver who is unable to care for the individual. Such secondary persons shall perform the duties needed by the waiver individual without compensation and shall be trained in the skilled needs and technologies required by the waiver individual. Such secondary persons must be identified in the waiver individual's records.~~

~~"Barrier crime" means those crimes as defined in § 32.1-162.9:1 of the Code of Virginia that would prohibit either the employment or the continuation of employment if a person is found, through a Virginia State Police criminal history record check, to have been convicted of such a crime.~~

~~"CMS 485 Home Health Certification form" means the federal Home Health Service Plan form.~~

~~"Center for Medicare and Medicaid Services" or "CMS" means the unit of the U.S. Department of Health and Human Services that administers the Medicare and Medicaid programs.~~

~~"Child Protective Services" or "CPS" means a program overseen by the Department of Social Services that~~

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investigates reports of abuse, neglect, and exploitation of children younger than 18 years of age and provides services when persons are found to be in need of protective services.

"Code of Federal Regulations" or "CFR" contains the regulations that have been officially adopted by federal agencies and have the force and effect of federal law.

"Congregate living arrangement" means a living arrangement in which three or fewer waiver individuals live in the same household and share receipt of health care services from the same provider or providers.

"Congregate skilled private duty nursing" means skilled in-home nursing provided to three or fewer waiver individuals in the individuals' primary residence or a group setting.

"Congregate private duty respite" means skilled respite care provided to three or fewer waiver individuals. This service shall be limited to 360 hours per calendar year per household.

"Cost effective" means the anticipated annual cost to Medicaid for technology assisted waiver services shall be less than or equal to the anticipated annual institutional costs to Medicaid for individuals receiving care in hospitals or specialized care nursing facilities.

"Day" means, for the purpose of reimbursement under this waiver, a 24 hour period beginning at 12 a.m. and ending at 11:59 p.m.

"DBHDS" means the Department of Behavioral Health and Developmental Services.

"DMAS" means the Department of Medical Assistance Services.

"Direct marketing" means one of the following: (i) conducting directly or indirectly door to door, telephonic or other "cold call" marketing of services at residences and provider sites; (ii) mailing directly; (iii) paying "finders' fees"; (iv) offering financial incentives, rewards, gifts, or special opportunities to eligible individuals and the individual's family/caregiver, as appropriate, as inducements to use the providers' services; (v) continuous, periodic marketing activities to the same prospective individual and the individual's family/caregiver, as appropriate, for example, monthly, quarterly, or annual giveaways as inducements to use the providers' services; or (vi) engaging in marketing activities that offer potential customers rebates or discounts in conjunction with the use of the providers' services or other benefits as a means of influencing the individual and the individual's family/caregiver, as appropriate, use of the providers' services.

"Direct medical benefit" means services or supplies that are proper and needed for the diagnosis or treatment of a medical condition; are provided for the diagnosis, direct care, and treatment of the condition; and meet the standards of good professional medical practice.

"Direct supervision" means that the supervising registered nurse (RN) is immediately accessible by phone to the RN, licensed practical nurse or personal care aide who is delivering waiver covered services to individuals.

"Durable medical equipment (DME) and supplies" means those items prescribed by the attending physician, generally recognized by the medical community as serving a diagnostic or therapeutic purpose to assist the waiver individual in the home environment, and as being a medically necessary element of the service plan without regard to whether those items are covered by the State Plan for Medical Assistance.

"Eligibility determination" is the process to determine whether an individual meets the eligibility requirements specified by DMAS to receive Medicaid benefits and continues to be eligible as determined annually.

"Enrolled provider" means those professional entities or facilities who are registered, certified, or licensed, as appropriate, and who are also enrolled by DMAS to render services to eligible waiver individuals and receive reimbursement for such services.

"Enrollment" means the process where an individual has been determined to meet the eligibility requirements for a Medicaid program or service and the approving entity has verified the availability of services for the individual requesting waiver enrollment and services.

"Environmental modifications" or "EM" means physical adaptations to an individual's primary residence or primary vehicle that are necessary to ensure the individual's health, safety, or welfare or that enable the individual to function with greater independence and without which the individual would require institutionalization.

"EPSDT" means the Early Periodic Screening, Diagnosis and Treatment program administered by DMAS for children younger than 21 years of age according to federal guidelines that prescribe preventive and treatment services for Medicaid-eligible children as set out in 12VAC30-50-130.

"Evaluation tool" means the tool that is used to determine the medical appropriateness for technology assisted waiver enrollment or services. Individuals younger than 21 years of age shall be assessed using the Technology Assisted Waiver Pediatric Referral Form (DMAS 109) and individuals 21 years of age or older shall be assessed using the Technology Assisted Waiver Adult Referral form (DMAS 108).

"Freedom of choice" means the right afforded an individual who is determined to require a level of care specified in a waiver to choose (i) either institutional or home and community based services provided there are available funded slots, (ii) providers of services, and (iii) waiver services as may be limited by medical necessity.

"Functional status" means an individual's degree of dependence in performing ADLs/IADLs.

"Health, safety, and welfare standard" means that an individual's right to receive a waiver service is dependent on a DMAS determination that the waiver individual needs the medically necessary service based on appropriate assessment criteria and an approved written plan of care and that medically necessary services can be safely provided in the community.

"Home and community based waiver services" or "waiver services" means the range of home and community services approved by the CMS pursuant to § 1915(c) of the Social Security Act to be offered to individuals as an alternative to institutionalization.

"Individual" means the person who has applied for and been approved to receive technology assisted waiver services.

"Individual's representative" means a spouse, guardian, adult child, parent (natural, adoptive, step, or foster) of a minor child, or other person chosen by the member to represent him in matters relating to his care or to function as the member's primary caregiver as defined herein.

"Instrumental activities of daily living" or "IADLs" means tasks such as meal preparation, shopping, housekeeping, and laundry. An individual's degree of independence in performing these activities is a part of determining the appropriate level of care and service needs.

"Legally responsible person" means one who has a legal obligation under the provisions of state law to care for and make decisions for an individual. Legally responsible persons shall include the parents (natural, adoptive, or legal guardian) of minor children, and legally assigned caregiver relatives of minor children.

"Level of care" or "LOC" means the specification of the minimum amount of assistance an individual must require in order to receive services in an institutional setting under the State Plan for Medical Assistance Services or to receive waiver services.

"License" means proof of official or legal permission issued by the government for an entity or person to perform an activity or service. In the absence of a license that may be required by either statute or regulation, the entity or person shall be prohibited from performing the activity or service for reimbursement by DMAS.

"Licensed practical nurse" or "LPN" means a person who is licensed or holds a multi-state licensure privilege, pursuant to Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia, to practice practical nursing as defined.

"Long term care" or "LTC" means a variety of services that help individuals with health or personal care needs and ADLs over a period of time. Long term care can be provided in the home, in the community, or in various types of facilities, including nursing facilities, long stay hospitals, and ICF/IDs.

"Medicaid" means the joint federal and state program to assist the states in furnishing medical assistance to eligible needy persons pursuant to Title XIX of the Social Security Act (42 USC § 1396 et seq.).

"Medicaid Long Term Care Communication Form" or "DMAS 225" means the form used to exchange eligibility information of a Medicaid eligible individual or other information that may affect the individual's eligibility status.

"Medically necessary" means those services or specialized medical equipment or supplies that are covered for reimbursement under either the State Plan for Medical Assistance or in a waiver program that are reasonable, proper, and necessary for the treatment of an illness, injury, or deficit; are provided for direct care of the condition or to maintain or improve the functioning of a malformed body part; and that meet the standards of good professional medical practice as determined by DMAS.

"Minor child" means an individual who is younger than 21 years of age.

"Money Follows the Person" or "MFP" means the demonstration program as set out in 12VAC30-120-2000 and 12VAC30-120-2010.

"Monitoring" means the ongoing oversight of the provision of waiver and other services to determine that they are furnished according to the waiver individual's plan of care and effectively meet his needs, thereby assuring his health, safety, and welfare. Monitoring activities may include, but shall not be limited to, telephone contact; observation; interviewing the individual or the trained individual representative, as appropriate, in person or by telephone; or interviewing service providers.

"Participating provider" or "provider" means an entity that meets the standards and requirements set forth by the appropriate licensing or certification agencies and who has a current, signed provider participation agreement with DMAS.

"Payor of last resort" means all other payment sources must be exhausted before enrollment in the technology assisted waiver and Medicaid reimbursement may occur.

"Personal care aide" or "PCA" means an appropriately licensed or certified person who provides personal care services.

"Personal care provider" means an enrolled provider that renders services that prevent or reduce institutional care by providing eligible waiver individuals with PCAs who provide personal care services.

"Personal care (PC) services" means a range of support services that includes assistance with ADLs/IADLs, access to the community, and self administration of medication or other medical needs, and the monitoring of health status and physical condition provided through the agency directed

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model. Personal care services shall be provided by PCAs within the scope of their licenses or certifications, as appropriate.

"Person centered planning" means a process, directed by the individual or his representative, as appropriate, that is intended to identify the strengths, capacities, preferences, needs, and desired outcomes for the individual.

"Plan of care" or "POC" means the written plan of waiver services and supplies ordered and certified by the attending physician as being medically needed by the individual to ensure optimal health and safety for an extended period of time while the individual is living in the community. This POC shall be developed collaboratively by the individual or individual representative, as appropriate.

"Preadmission screening" or "PAS" means the process to (i) evaluate the functional, nursing, and social support needs of applicants referred for preadmission screening; (ii) assist applicants in determining what specific services the applicants need; (iii) evaluate whether a service or a combination of existing community services are available to meet the applicants' needs; and (iv) refer applicants to the appropriate provider for Medicaid-funded facility or home and community based care for those who meet specialized care nursing facility level of care.

"Preadmission screening team" or "PAS team" means the entity contracted with DMAS that is responsible for performing preadmission screening pursuant to § 32.1-330 of the Code of Virginia.

"Primary caregiver" means the primary person who consistently assumes the role of providing direct care and support of the individual to live successfully in the community without compensation for providing such care.

"Provider agreement" means the contract between DMAS and a participating provider under which the provider agrees to furnish services to Medicaid eligible individuals in compliance with state and federal statutes and regulations and Medicaid contract requirements.

"Reevaluation" means the periodic but at least annual review of an individual's condition and service needs to determine whether the individual continues to meet the LOC specified for persons approved for waiver participation.

"Registered nurse" or "RN" means a person who is licensed or holds a multi-state licensure privilege pursuant to Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia to practice professional nursing as defined.

"Service authorization" or "serv auth" means the DMAS approval of a requested medical service for reimbursement prior to the provision of the service. Service authorizations shall be performed by DMAS or its service authorization contractor.

"Service authorization contractor" means DMAS or the entity that has been contracted by DMAS to perform service authorization for medically necessary Medicaid reimbursed home and community based services.

"Single state agency" means the agency within state government that has been designated pursuant to § 1902(a)(5) of the Act as responsible for the administration of the State Plan for Medical Assistance. In Virginia, the single state agency is DMAS.

"Skilled private duty nursing respite care provider" means a DMAS participating provider that renders services in the individual's designated primary care residence to offer periodic or routine relief for unpaid primary caregivers.

"Skilled private duty nursing respite care services" means temporary skilled nursing services provided in the waiver individual's primary residence that are designed to relieve the unpaid primary caregiver on an episodic or routine basis for short periods or for specified longer periods of time.

"Skilled private duty nursing services" or "skilled PDN" means skilled in-home nursing services listed in the POC that are (i) not otherwise covered under the State Plan for Medical Assistance Services home health benefit; (ii) required to prevent institutionalization; (iii) provided within the scope of the Commonwealth's Nurse Practice Act and Drug Control Act (Chapters 30 (§ 54.1-3000 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia, respectively); and (iv) provided by a licensed RN, or by an LPN under the supervision of an RN, to waiver members who have serious medical conditions or complex health care needs. Skilled nursing services are to be used as hands on member care, training, consultation, as appropriate, and oversight of direct care staff, as appropriate.

"State Plan for Medical Assistance" or "State Plan" means the Commonwealth's legal document approved by CMS identifying the covered groups, covered services and their limitations, and provider reimbursement methodologies as provided for under Title XIX of the Social Security Act.

"Technology assisted waiver" or "tech waiver" means the CMS approved waiver that provides medically necessary covered services to individuals who are chronically ill or severely impaired, having experienced loss of a vital body function, and who require substantial and ongoing skilled nursing care to avert death or further disability and whose illness or disability would, in the absence of services approved under this waiver, require their admission for a prolonged stay in a hospital or specialized care nursing facility.

"Termination" means disenrollment from a waiver by DMAS or a DMAS-designated agent.

"Transition services" means set up expenses for individuals as defined at 12VAC30-120-2010.

"VDH" or "Department of Health" means the Virginia Department of Health.

"VDSS" means the Virginia Department of Social Services.

"Ventilator dependence" means that the waiver individual is dependent on such machines in order to sustain life or compensate for the loss of body function.

"Virginia Uniform Assessment Instrument" or "UAI" means the standardized multidimensional questionnaire that assesses an individual's physical health, mental health, psychosocial, and functional abilities to determine if the individual meets the nursing facility LOC.

12VAC30-120-1705. Waiver description and legal authority. (Repealed.)

A. Home and community based waiver services shall be available through a § 1915(c) waiver of the Social Security Act. Under this waiver, DMAS has waived § 1902(a)(10)(B) and (C) of the Social Security Act related to comparability of services.

B. Technology assisted waiver services shall be covered only for Medicaid eligible individuals who have been determined eligible for waiver services and who also require the level of care provided in either long stay hospitals or specialized care nursing facilities as long as age appropriate criteria are met. These services shall be the critical service necessary to delay or avoid the individual's placement in an appropriate facility. These waiver services shall not be covered for Medicaid eligible individuals who reside in, but not necessarily limited to, the following types of facilities: assisted living facilities, nursing facilities, rehabilitation hospitals, long stay hospitals, skilled or intermediate care nursing facilities, Intermediate Care Facilities for the Intellectually Disabled, group homes licensed by DBHDS, general acute care hospitals, or adult foster care homes.

C. An individual shall demonstrate the medical necessity for skilled private duty nursing services in order to be approved for this waiver.

D. The cost effectiveness standard that shall be applied for individuals in this waiver shall be in the aggregate.

E. Payments for tech waiver services shall not be provided to any financial institution or entity located outside of the United States pursuant to the Social Security Act § 1902(a)(80). Payments for tech waiver services furnished in another state shall (i) be provided for an individual who meets the requirements of 42 CFR § 431.52 and (ii) be limited to the same number of skilled PDN hours approved for the individual's home based skilled PDN.

F. An individual shall not simultaneously be in a managed care program and enrolled in this waiver. An individual shall not be simultaneously enrolled in more than one waiver program.

G. For individuals admitted to this waiver, when their waiver services must be interrupted due to their primary caregiver's emergency unavailability, then hospitalization or placement in a specialized nursing facility, should a specialized care nursing facility bed be available, shall occur.

H. DMAS shall be responsible for assuring appropriate placement of the individual in home and community based waiver services and shall have the authority to terminate such services.

I. No waiver services shall be reimbursed until after both the provider enrollment process and individual eligibility process have been completed.

12VAC30-120-1710. Individual eligibility requirements; preadmission screening. (Repealed.)

A. Individual eligibility requirements.

1. The Commonwealth covers these optional categorically needy groups: ADC and AFDC related individuals; SSI and SSA related individuals; aged, blind, or disabled Medicaid eligible individuals under 42 CFR 435.121; and the home and community based waiver group at 42 CFR 435.217 that includes individuals who are eligible under the State Plan if they were institutionalized.

a. The income level used for the home and community based waiver group at 42 CFR 435.217 shall be 300% of the current Supplemental Security Income payment standard for one person.

b. Medically needy Medicaid eligible individuals shall be eligible if they meet the medically needy financial requirements for income and resources.

2. Under this waiver, the coverage groups authorized under § 1902(a)(10)(A)(ii)(VI) of the Social Security Act shall be considered as if they were institutionalized for the purpose of applying institutional deeming rules. All individuals in the waiver must meet the financial and non financial Medicaid eligibility criteria and meet the institutional LOC criteria. The deeming rules shall be applied to waiver eligible individuals as if they were residing in an institution or would require that level of care.

3. An applicant for technology assisted waiver shall meet specialized care nursing facility criteria, including both medical and functional needs, and also be dependent on waiver services to avoid or delay facility placement and meet all criteria for the age appropriate assessments in order to be eligible for the tech waiver. Applicants shall not be enrolled in the tech waiver unless skilled private duty nursing (PDN) hours are ordered by the physician. The number of skilled PDN hours shall be based on the total technology and nursing score on the Technology Assisted Waiver Pediatric Referral form, DMAS 109 (when individuals are younger than 21 years of age). The number of skilled PDN hours for adults shall be based on

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~~the Technology Assisted Waiver Adult Referral form (DMAS 108).~~

~~4. Applicants who are eligible for third party payment for skilled private duty nursing services shall not be eligible for these waiver services. If an individual or an individual's legally responsible party voluntarily drops any insurance plan that would have provided coverage of skilled private duty nursing services in order to become eligible for these waiver services within one year prior to the date waiver services are requested, eligibility for the waiver shall be denied. From the date that such insurance plan is discontinued, such applicants shall be barred for one year from reapplying for waiver services. After the passage of the one year time period, the applicant may reapply to DMAS for admission to the tech waiver.~~

~~5. In addition to the medical needs identified in this section, the Medicaid eligible individual shall be determined to need substantial and ongoing skilled nursing care. The Medicaid eligible individual shall be required to meet a minimum standard on the age appropriate referral forms to be eligible for enrollment in the tech waiver.~~

~~6. Medicaid eligible individuals who entered the waiver prior to their 21st birthday shall, on the date of their 21st birthday, conform to the adult medical criteria and cost-effectiveness standards.~~

~~7. Every individual who applies for Medicaid funded waiver services must have his Medicaid eligibility evaluated or re-evaluated, if already Medicaid eligible, by the local DSS in the city or county in which he resides. This determination shall be completed at the same time the preadmission screening (PAS) team completes its evaluation (via the use of the Uniform Assessment Instrument (UAI)) of whether the applicant meets waiver criteria. DMAS payment of waiver services shall be contingent upon the DSS determination that the individual is eligible for Medicaid services for the dates that waiver services are to be provided and that DMAS or the designated service authorization contractor has authorized waiver enrollment and has prior authorized the services that will be required by the individual.~~

~~8. In order for an enrolled waiver individual to retain his enrolled status, tech waiver services must be used by the individual at least once every 30 days. Individuals who do not utilize tech waiver services at least once every 30 days shall be terminated from the waiver.~~

~~9. The waiver individual shall have a trained primary caregiver, as defined in 12VAC30-120-1700, who accepts responsibility for the individual's health, safety, and welfare. This primary caregiver shall be responsible for all hours not provided by the provider agency's RN or LPN. The name of the trained primary caregiver shall be documented in the provider agency records. This trained~~

~~primary caregiver shall also have a back up system available in emergency situations.~~

~~B. Screening and community referral for authorization for tech waiver. Tech waiver services shall be considered only for individuals who are eligible for Medicaid and for admission to a specialized care nursing facility, ICF/ID, long-stay hospital, or acute care hospital when those individuals meet all the criteria for tech waiver admission. Such individuals, with the exception of those who are transferring into this tech waiver from a long stay hospital, shall have been screened using the Uniform Assessment Instrument (UAI).~~

~~1. The screening team shall provide the individual and family or caregiver with the choice of tech waiver services or specialized care nursing facility or long stay hospital placement, as appropriate, as well as the provider of those services from the time an individual seeks waiver information or application and referral. Such provision of choice includes the right to appeal pursuant to 12VAC30-110 when applicable.~~

~~2. The screening team shall explore alternative care settings and services to provide the care needed by the applicant being screened when Medicaid funded home and community based care services are determined to be the critical service necessary to delay or avoid facility placement.~~

~~3. Individuals must be screened to determine necessity for nursing facility placement if the individual is currently financially Medicaid eligible or anticipates that he will be financially eligible within 180 days of the receipt of nursing facility care or if the individual is at risk of nursing facility placement.~~

~~a. Such covered waiver services shall be critical, as certified by the participant's physician at the time of assessment, to enable the individual to remain at home and in the community rather than being placed in an institution. In order to meet criteria for tech waiver enrollment, the applicant requesting consideration for waiver enrollment must meet the level of care criteria.~~

~~b. Individuals who are younger than 21 years of age shall have the Technology Assisted Waiver Pediatric Referral form (DMAS 109) completed and must require substantial and ongoing nursing care as indicated by a minimum score of at least 50 points to qualify for waiver enrollment. This individual shall require a medical device and ongoing skilled PDN care by meeting the categories described in subdivision (1), (2), or (3) below:~~

~~(1) Applicants depending on mechanical ventilators;~~

~~(2) Applicants requiring prolonged intravenous administration of nutritional substances or drugs or requiring ongoing peritoneal dialysis; or~~

(3) Applicants having daily dependence on other device-based respiratory or nutritional support, including tracheostomy tube care, oxygen support, or tube feeding.

e. Individuals who are 21 years of age or older shall have the Technology Assisted Waiver Adult Referral form (DMAS 108) completed and must be determined to be dependent on a ventilator or must meet all eight specialized care criteria (12VAC30-60-320) for complex tracheostomy care in order to qualify for waiver enrollment.

4. When an applicant has been determined to meet the financial and waiver eligibility requirements and DMAS has verified the availability of the services for that individual and that the individual has no other payment sources for skilled PDN, tech waiver enrollment and entry into home and community-based care may occur.

5. A PAS is considered valid for the following timeframes. The validity of a PAS applies to individuals who are screened, meet the criteria for long term care services, but have not yet begun receiving services during the periods outlined in subdivisions 5 a through 5 f of this subsection.

a. Zero to 180 days. Screenings are valid and do not require revisions or a new screening.

b. 181 days to 12 months. Screening revisions are required; revisions may also be done if there is a significant change in an individual's medical or physical condition. Revisions should be entered into the ePAS system, per the Medicaid web portal instructions, resulting in a claim being generated for the screening revision. For the purposes of this subdivision, "Electronic preadmission screening" or "ePAS" means the automated system for use by all entities contracted by DMAS to perform preadmission screenings pursuant to § 32.1-330 of the Code of Virginia. DMAS will cover the cost of the PAS.

c. Over 12 months. A new screening is required and reimbursement is made by DMAS. New screenings must be entered into ePAS according to the Medicaid web portal instructions.

d. Break in services. When an individual starts and then stops services for a period of time exceeding 30 consecutive calendar days, the PAS team will need to complete a revised screening prior to service resumption if the individual has not received any Medicaid funded long term care services during the break in service delivery. DMAS will cover the cost of the PAS.

e. In any other circumstances, including hospitalization, that cause services to cease or to be interrupted for more than 30 consecutive calendar days, the individuals shall be referred back to the local department of social services for redetermination of his Medicaid eligibility. The

provider shall be responsible for notifying the local department of social services via the DMAS 225 form when there is an interruption of services for 30 consecutive calendar days or upon discharge from the provider's services.

f. If the individual has been receiving ongoing services either through a nursing facility or a home and community based service program, the screening timeframes do not apply.

6. When an individual was not screened prior to admission to a specialized care nursing facility, or the individual resides in the community at the time of referral initiation to DMAS, the locality in which the individual resides at the time of discharge shall complete the preadmission screening prior to enrollment into the tech waiver.

7. DMAS shall be the final determining body for enrollment in the tech waiver and the determination of the number of approved skilled PDN hours for which DMAS will pay. DMAS has the ultimate responsibility for authorization of waiver enrollment and Medicaid skilled PDN reimbursement for tech waiver services.

C. Waiver individuals' rights and responsibilities. DMAS shall ensure that:

1. Each waiver individual shall receive, and the provider and provider staff shall provide, the necessary care and services, to the extent of provider availability, to attain or maintain the highest practicable physical, mental, and psychosocial well being, in accordance with the individual's comprehensive assessment and POC.

2. Waiver individuals shall have the right to receive services from the provider with reasonable accommodation of the individuals' needs and preferences except when DMAS makes a determination that the health, safety, or welfare of the individuals or other waiver individuals would be endangered.

3. Waiver individuals formulate their own advance directives based on information that providers must give to adult waiver individuals at the time of their admissions to services.

4. All waiver individuals shall have the right to:

a. Voice grievances to the provider or provider staff without discrimination or reprisal. Such grievances include those with respect to treatment that has been furnished or has not been furnished;

b. Prompt efforts by the provider or staff, as appropriate, to resolve any grievances the waiver individual may have;

c. Be free from verbal, sexual, physical, and mental abuse, neglect, exploitation, and misappropriation of property;

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d. Be free from any physical or chemical restraints of any form that may be used as a means of coercion, discipline, convenience, or retaliation and that are not required to treat the individual's medical symptoms; and

e. Their personal privacy and confidentiality of their personal and clinical records.

5. Waiver individuals shall be provided by their health care providers, at the time of their admission to this waiver, with written information regarding their rights to participate in medical care decisions, including the right to accept or refuse medical treatment and the right to formulate advance directives.

6. The legally competent waiver individual, the waiver individual's legal guardian, or the parent (natural, adoptive or foster) of the minor child shall have the right to:

a. Choose whether the individual wishes to receive home and community based care waiver services instead of institutionalization in accordance with the assessed needs of the individual. The PAS team shall inform the individual of all available waiver service providers in the community in which the waiver individual resides. The tech waiver individual shall have the option of selecting the provider and services of his choice. This choice must be documented in the individual's medical record;

b. Choose his own primary care physician in the community in which he lives;

c. Be fully informed in advance about the waiver POC and treatment needs as well as any changes in that care or treatment that may affect the individual's well-being; and

d. Participate in the care planning process, choice, and scheduling of providers and services.

12VAC30-120-1720. Covered services; limits; changes to or termination of services. (Repealed.)

A. Coverage statement.

1. These waiver services shall be medically necessary, cost effective as compared to the costs of institutionalization, and necessary to maintain the individual safely in the community and prevent institutionalization.

2. Services shall be provided only to those individuals whose service needs are consistent with the service description and for which providers are available who have adequate and appropriate staffing to meet the needs of the individuals to be served.

3. All services covered through this waiver shall be rendered according to the individuals' POCs that have been certified by physicians as medically necessary and also reviewed by DMAS to enable the waiver enrolled individuals to remain at home or in the community.

4. Providers shall be required to refund payments received to DMAS if they (i) are found during any review to have billed Medicaid contrary to policy, (ii) have failed to maintain records to support their claims for services, or (iii) have billed for medically unnecessary services.

5. DMAS shall perform service authorization for skilled PDN services, PC for adults, and transition services. DMAS or the service authorization contractor shall perform service authorization for skilled private duty respite services, AT services and EM services.

6. When a particular service requires service authorization, reimbursement shall not be made until the service authorization is secured from either DMAS or the DMAS-designated service authorization contractor.

B. Covered services. Covered services shall include: skilled PDN; skilled private duty respite care; personal care only for adults, assistive technology; environmental modifications; and transition services only for individuals needing to move from a designated institution into the community or for waiver individuals who have already moved from an institution within 30 days of their transition. Coverage shall not be provided for these services for individuals who reside in any facilities enumerated in 12VAC30-120-1705. Skilled PDN shall be a required service. If an individual has no medical necessity for skilled PDN, he shall not be admitted to this waiver. All other services provided in this waiver shall be provided in conjunction with the provision of skilled PDN.

1. Skilled PDN, for a single individual and congregate group settings, as defined in 12VAC30-120-1700, shall be provided for waiver enrolled individuals who have serious medical conditions or complex health care needs. To receive this service, the individuals must require specific skilled and continuous nursing care on a regularly scheduled or intermittent basis performed by an RN or an LPN. Upon completion of the required screening and required assessments and a determination that the individual requires substantial and ongoing skilled nursing care and waiver enrollment then the PDN hours shall be authorized by the DMAS staff.

a. PDN services shall be rendered according to a POC authorized by DMAS and shall have been certified by a physician as medically necessary to enable the individual to remain at home.

b. No reimbursement shall be provided by DMAS for either RN or LPN services without signed physician orders that specifically identify skilled nursing tasks to be performed for the individual.

c. Limits placed on the amount of PDN that will be approved for reimbursement shall be consistent with the individual's age appropriate technology assisted waiver referral form (DMAS 108 or DMAS 109) and medical necessity. Except for a minor individual's care during his

first 15 days following initial enrollment into this waiver, in no instances shall the individual's POC or ongoing multiple POCs result in coverage of more than 112 hours of skilled PDN per week (Sunday through Saturday). The maximum number of approved hours authorized per week for minor children shall be based on their total approved points documented on the Technology Assisted Waiver Pediatric Referral form (DMAS 109). The maximum skilled PDN hours authorized per week for adult individuals shall be based on their technology and medical necessity justification documented on the Technology Assisted Waiver Adult Referral form (DMAS 108).

(1) The number of skilled PDN hours for minor individuals shall be based on the total technology and nursing score on the Technology Assisted Waiver Pediatric Referral form (DMAS 109) and updated by the DMAS staff when changes occur and with annual waiver eligibility redetermination by DMAS.

(2) Once the minor individual's composite score (total score) is derived, a LOC is designated for the individual as a Level A, B, or C. This LOC designation determines the maximum number of hours per week of skilled PDN that DMAS may allocate for a pediatric individual. Any hours beyond the approved maximum for such individual's LOC shall be medically necessary and service authorized by DMAS. Any POC submitted without approval for hours beyond the approved maximum for any particular LOC will only be entered for the approved maximum for that LOC.

(3) The results of the scoring assessment determine the maximum amount of hours available and authorization shall occur as follows:

- (a) 50–56 points = 70 hours per week.
- (b) 57–79 points = 84 hours per week.
- (c) 80 points or greater = 112 hours per week.

(4) For minor individuals, whether living separately or in a congregate setting, during the first 15 calendar days after such individuals' initial admission to the waiver, skilled PDN may be covered for up to 24 hours per day, if required and appropriate to assist the family in adjustment to the care associated with technology assistance. After these first 15 calendar days, skilled PDN shall be reimbursed up to the maximum allowable hours per week based on the individual's total technology and nursing scores and provided that the aggregate cost-effectiveness standard is not exceeded for the individual's care.

(5) When reimbursement is to be made for skilled PDN services to be provided in schools, the nurse shall be in the same room as the waiver individual for the hours of

skilled PDN care billed. When an individual receives skilled PDN while attending school, the total skilled PDN hours shall not exceed the authorized number of hours under his nursing score category on the Technology Assisted Waiver Pediatric Referral form (DMAS 109).

(6) For adult individuals, whether living separately or in a congregate setting, skilled PDN shall be reimbursed up to a maximum of 112 hours per week (Sunday through Saturday) per tech waiver individual living in the household based on the individual's technology and medical justification and provided that the aggregate cost-effectiveness standard is not exceeded for the individual's care.

(7) The adult individual shall be determined to need a medical device and ongoing skilled nursing care when such individual meets Category A or all eight criteria in Category B:

(a) Category A. Individuals who depend on mechanical ventilators; or

(b) Category B. Individuals who have a complex tracheostomy as defined by:

(i) Tracheostomy with the potential for weaning off of it, or documentation of attempts to wean, with subsequent inability to wean;

(ii) Nebulizer treatments ordered at least four times a day or nebulizer treatments followed by chest physiotherapy provided by a nurse or respiratory therapist at least four times a day;

(iii) Pulse oximetry monitoring at least every shift due to unstable oxygen saturation levels;

(iv) Respiratory assessment and documentation every shift by a licensed respiratory therapist or nurse;

(v) Have a physician's order for oxygen therapy with documented usage;

(vi) Receives tracheostomy care at least daily;

(vii) Has a physician's order for tracheostomy suctioning; and

(viii) Deemed at risk to require subsequent mechanical ventilation.

(8) Skilled PDN services shall be available to individuals in their primary residence with some community integration (e.g., medical appointments and school) permitted.

(9) Skilled PDN services may include consultation and training for the primary caregiver.

d. The provider shall be responsible for notifying DMAS should the primary residence of the individual be

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changed, should the individual be hospitalized, should the individual die, or should the individual be out of the Commonwealth for 48 hours or more.

e. Exclusions from DMAS' coverage of skilled PDN:

(1) This service shall not be authorized when intermittent skilled nursing visits could be satisfactorily utilized while protecting the health, safety, and welfare of the individual.

(2) Skilled PDN hours shall not be reimbursed while the individual is receiving emergency care or during emergency transport of the individual to such facilities. The RN or LPN shall not transport the waiver individual to such facilities.

(3) Skilled PDN services may be ordered but shall not be provided simultaneously with PDN respite care or personal care services as described in this section.

(4) Parents (natural, adoptive, legal guardians), spouses, siblings, grandparents, grandchildren, adult children, other legal guardians, or any person living under the same roof with the individual shall not provide skilled PDN services for the purpose of Medicaid reimbursement for the waiver individual.

(5) Providers shall not bill prior to receiving the physician's dated signature on the individual's POC for services provided and the DMAS staff's authorization/determination of skilled PDN hours.

(6) Time spent driving the waiver individual shall not be reimbursed by DMAS.

f. Congregate skilled PDN.

(1) If more than one waiver individual will reside in the home, the same waiver provider or providers shall be chosen to provide all skilled PDN services for all waiver individuals in the home.

(2) Only one nurse shall be authorized to care for no more than two waiver individuals in such arrangements. In instances when three waiver individuals share a home, nursing ratios shall be determined by DMAS or its designated agent based on the needs of all the individuals who are living together. These congregate skilled PDN hours shall be at the same scheduled shifts.

(3) The primary caregiver shall be shared and shall be responsible for providing all care needs when a private duty nurse is not available.

(4) DMAS shall not reimburse for skilled PDN services through the tech waiver and skilled PDN services through the EPSDT benefit for the same individual at the same time.

2. Skilled private duty respite care services. Skilled private duty respite care services may be covered for a maximum

of 360 hours per calendar year for individuals who are qualified for tech waiver services and regardless of whether the waiver individual changes waivers and whose primary caregiver requires temporary or intermittent relief from the burden of caregiving.

a. This service shall be provided by skilled nursing staff licensed to practice in the Commonwealth under the direct supervision of a licensed, certified, or accredited home health agency and with which DMAS has a provider agreement to provide skilled PDN.

b. Skilled private duty respite care services shall be comprised of both skilled and hands on care of either a supportive or health related nature and includes (i) all skilled nursing care as ordered on the physician certified POC, (ii) assistance with ADLs and IADLs, (iii) administration of medications or other medical needs, and (iv) monitoring of the health status and physical condition of the individual or individuals.

e. When skilled private duty respite services are offered in conjunction with skilled PDN, the same individual record may be used with a separate section for skilled private duty respite services documentation.

d. Individuals who are living in congregate arrangements shall be permitted to share skilled private duty respite care service providers. The same limits on this service in the congregate setting (360 hours per calendar year per household) shall apply.

e. Skilled private duty respite care services shall be provided in the individual's primary residence as is designated upon admission to the waiver.

3. Assistive technology (AT) services. Assistive technology, as defined in 12VAC30-120-1700, devices shall be portable and shall be authorized per calendar year.

a. AT services shall be available for enrolled waiver individuals who are receiving skilled PDN. AT services are the specialized medical equipment and supplies, including those devices, controls, or appliances, specified in the individual's plan of care, but that are not available under the State Plan for Medical Assistance, that enable waiver individuals to increase their abilities to perform ADLs/IADLs, or to perceive, control, or communicate with the environment in which they live. This service includes ancillary supplies and equipment necessary to the proper functioning of such items.

b. An independent, professional consultation shall be obtained from qualified professionals who are knowledgeable of that item for each AT request prior to approval by DMAS or the designated service authorization contractor. Individual professional consultants include speech/language therapists, physical therapists, occupational therapists, physicians, certified

rehabilitation engineers or rehabilitation specialists. A prescription shall not meet the standard of an assessment.

e. In order to qualify for these services, the individual must have a demonstrated need for equipment for remedial or direct medical benefit primarily in the individual's primary residence or primary vehicle to specifically serve to improve the individual's personal functioning.

d. AT shall be covered in the least expensive, most cost-effective manner. The cost of AT services shall be included in the total cost of waiver services.

e. Service units and service limitations. AT equipment and supplies shall not be rented but shall be purchased through a Medicaid-enrolled durable medical equipment provider.

(1) The service unit is always one, for the total cost of all AT being requested for a specific timeframe. The maximum Medicaid-funded expenditure per individual for all AT covered procedure codes combined shall be \$5,000 per individual per calendar year.

(2) The cost for AT shall not be carried over from one calendar year to the next. Each item must be service authorized by either DMAS or the DMAS-designated contractor for each calendar year.

(3) Unexpended portions of the maximum amount shall not be accumulated across one or more calendar years to be expended in a later year.

(4) Shipping/freight/delivery charges are not billable to DMAS or the waiver individual, as such charges are considered noncovered items.

(5) All products must be delivered, demonstrated, installed and in working order prior to submitting any claim for them to Medicaid.

(6) The date of service on the claim shall be within the service authorization approval dates, which may be prior to the delivery date as long as the initiation of services commenced during the approved dates.

(7) The service authorization shall not be modified to accommodate delays in product deliveries. In such situations, new service authorizations must be sought by the provider.

(8) When two or more waiver individuals live in the same home or congregate living arrangement, the AT shall be shared to the extent practicable consistent with the type of AT.

f. AT exclusions.

(1) Medicaid shall not reimburse for any AT devices or services that may have been rendered prior to

authorization from DMAS or the designated service authorization contractor.

(2) Providers of AT shall not be spouses, parents (natural, adoptive, or foster), or stepparents of the individual who is receiving waiver services. Providers that supply AT for the waiver individual may not perform assessments/consultation or write specifications for that individual. Any request for a change in cost (either an increase or a decrease) requires justification and supporting documentation of medical need and service authorization by DMAS or the designated service authorization contractor. The vendor shall receive a copy of the professional evaluation in order to purchase the items recommended by the professional. If a change is necessary then the vendor shall notify the assessor to ensure the changed items meet the individual's needs.

(3) All equipment or supplies already covered by the State Plan shall not be purchased under the waiver as AT. Such examples include:

(a) Specialized medical equipment, durable or nondurable medical equipment (DME), ancillary equipment, and supplies necessary for life support;

(b) Adaptive devices, appliances, and controls that enable an individual to be more independent in areas of personal care and ADLs/IADLs; and

(c) Equipment and devices that enable an individual to communicate more effectively.

(4) AT services shall not be approved for purposes of the convenience of the caregiver, restraint of the individual, recreation or leisure, educational purposes, or diversion activities. Examples of these types of items shall be listed in DMAS guidance documents.

4. Environmental modifications services shall be covered as defined in 12VAC30-120-1700. Medicaid reimbursement shall not occur before service authorization of EM services is completed by DMAS or the DMAS-designated service authorization contractor. EM services shall entail limited physical adaptations to preexisting structures and shall not include new additions to an existing structure that simply increase the structure's square footage.

a. In order to qualify for EM services, the individual shall have a demonstrated need for modifications of a remedial nature or medical benefit to the primary residence to specifically improve the individual's personal functioning. Such modifications may include, but shall not necessarily be limited to, the installation of ramps and grab bars, widening of doorways and other adaptations to accommodate wheelchairs, modification of bathroom facilities to accommodate wheelchairs (but not strictly for cosmetic purposes), or installation of

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specialized electrical and plumbing systems required to accommodate the medical equipment and supplies that are necessary for the individual's welfare. Modifications may include a generator for waiver individuals who are dependent on mechanical ventilation for 24 hours a day and when the generator is used to support the medical equipment and supplies necessary for the individual's welfare.

b. EM shall be available costing up to a maximum amount of \$5,000 per calendar year regardless of waiver for individuals who are receiving skilled PDN services.

c. Costs for EM shall not be carried over from one calendar year to the next year. Each item shall be service authorized by DMAS or the DMAS designated agent for each calendar year. Unexpended portions of this maximum amount shall not be accumulated across one or more years to be expended in a later year.

d. When two or more waiver individuals live in the same home or congregate living arrangement, the EM shall be shared to the extent practicable consistent with the type of requested modification.

e. Only the actual cost of material and labor is reimbursed. There shall be no additional markup.

f. EM shall be carried out in the most cost effective manner possible to achieve the goal required for the individual's health, safety, and welfare. The cost of EM waiver services shall be included in the individual's costs of all other waiver services, which shall not exceed the total annual cost for placement in an institution.

g. All services shall be provided in the individual's primary residence in accordance with applicable state or local building codes and appropriate permits or building inspections, which shall be provided to DMAS or the DMAS contractor.

h. Proposed modifications that are to be made to rental properties must have prior written approval of the property's owner. Modifications to rental properties shall only be valid if it is an independently operated rental facility with no direct or indirect ties to any other Medicaid service provider.

i. Modifications may be made to a vehicle if it is the primary vehicle used by the individual. This service shall not include the purchase of or the general repair of vehicles. Repairs or modifications that have been reimbursed by DMAS shall be covered.

j. The EM provider shall ensure that all work and products are delivered, installed, and in good working order prior to seeking reimbursement from DMAS. The date of service on this provider's claim shall be within the service authorization approval dates, which may be prior to the completion date as long as the work commenced

during the approval dates. The service authorization shall not be modified to accommodate installation delays. All requests for cost changes (either increases or decreases) shall be submitted to DMAS or the DMAS designated service authorization contractor for revision to the previously issued service authorization and shall include justification and supporting documentation of medical needs.

k. EM exclusions.

(1) There shall be no duplication of previous EM services within the same residence such as (i) multiple wheelchair ramps or (ii) previous modifications to the same room. There shall be no duplication of EM within the same plan year.

(2) Adaptations or improvements to the primary home that shall be excluded are of general utility and are not of direct medical or remedial benefit to the waiver individual, such as, but not necessarily limited to, carpeting, flooring, roof repairs, central air conditioning or heating, general maintenance and repairs to a home, additions or maintenance of decks, maintenance/replacement or addition of sidewalks, driveways, carports, or adaptations that only increase the total square footage of the home.

(3) EM shall not be covered by Medicaid for general leisure or diversion items or those items that are recreational in nature or those items that may be used as an outlet for adaptive/maladaptive behavioral issues. Such noncovered items may include, but shall not necessarily be limited to, swing sets, playhouses, climbing walls, trampolines, protective matting or ground cover, sporting equipment or exercise equipment, such as special bicycles or tricycles.

(4) EM shall not be approved for Medicaid coverage when the waiver individual resides in a residential provider's facility program, such as sponsored homes and congregate residential and supported living settings. EM shall not be covered by Medicaid if, for example, the Fair Housing Act (42 USC § 3601 et seq.), the Virginia Fair Housing Law (§ 36-96.1 et seq. of the Code of Virginia) or the Americans with Disabilities Act (42 USC § 12101 et seq.) requires the modification and the payment for such modifications are to be made by a third party.

(5) EM shall not include the costs of removal or disposal, or any other costs, of previously installed modifications, whether paid for by DMAS or any other source.

(6) Providers of EM shall not be the waiver individual's spouse, parent (natural, adoptive, legal guardians), other legal guardians, or conservator. Providers who supply EM to waiver individuals shall not perform assessments/consultations or write EM specifications for such individuals.

5. Personal care (PC) services as defined in 12VAC30-120 1700, shall be covered for individuals older than 21 years of age who have a demonstrated need for assistance with ADLs and IADLs and who have a trained primary caregiver for skilled PDN interventions during portions of their day. PC services shall be rendered by a provider who has a DMAS provider agreement to provide PC, home health care, or skilled PDN. Due to the complex medical needs of this waiver population and the need for 24 hour supervision, the trained primary caregiver shall be present in the home and rendering the required skilled services during the entire time that the PCA is providing nonskilled care.

a. PC services are either of a supportive or health related nature and include assistance with ADLs/IADLs, community access (such as, but not necessarily limited to, going to medical appointments), monitoring of self-administration of medication or other medical needs, and monitoring of health status and physical condition. In order to receive PC, the individual must require assistance with ADLs/IADLs. When specified in the POC, PC services may also include assistance with IADLs to include making or changing beds, and cleaning areas used by the individual. Assistance with IADLs must be essential to the health and welfare of the individual, rather than the individual's representative, as applicable.

(1) The unit of service for PC services shall be one hour. The hours that may be authorized by DMAS or the designated service authorization contractor shall be based on the individual's need as documented in the individual's POC and assessed on the Technology Assisted Waiver Adult Aide Plan of Care (DMAS 97 T).

(2) Supervision of the waiver individual shall not be covered as part of the tech waiver personal care service.

(3) Individuals may have skilled PDN, PC, and skilled private duty nursing respite care in their plans of care but shall not be authorized to receive these services simultaneously.

b. PC services shall not include either practical or professional nursing services or those practices regulated in Chapters 30 (§ 54.1 3000 et seq.) and 34 (§ 54.1 3400 et seq.) of Title 54.1 of the Code of Virginia, as appropriate, with the exception of skilled nursing tasks that may be delegated in accordance with Part VIII (18VAC90-20 420 et seq.). The PCA may perform ADL functions such as assistance to the primary caregiver but shall not perform any nursing duties or roles except as permitted by Part VIII (18VAC90-20 420 et seq.). At a minimum, the staff providing PC must have been certified through coursework as either PCAs or home health aides.

e. DMAS will pay for any PC services that the PCA gives to individuals to assist them in preparing for school or when they return home. DMAS shall not pay for the PCA to assist the individual with any functions related to the individual completing post secondary school functions or for supervision time during school.

d. PC exclusions.

(1) Time spent driving the waiver individual shall not be reimbursed.

(2) Regardless of the combination of skilled PDN and PC hours, the total combined number of hours that shall be reimbursed by DMAS in a week shall not exceed 112 hours.

(3) The consumer directed services model shall not be covered for any services provided in the tech waiver.

(4) Spouses, parents (natural, adoptive, legal guardians), siblings, grandparents, grandchildren, adult children, other legal guardians, or any person living under the same roof with the individual shall not provide PC services for the purpose of Medicaid reimbursement for the waiver individual.

6. Transition services shall be covered two ways: (i) as defined at 12VAC30 120 1700 to provide for applicants to move from institutional placements to community private homes and shall be service authorized by DMAS or the designated service authorization contractor in order for reimbursement to occur, and (ii) for applicants who have already moved from an institution to the community within 30 days of their transition. The applicant's transition from an institution to the community shall be coordinated by the facility's discharge planning team. The discharge planner shall coordinate with the DMAS staff to ensure that technology assisted waiver eligibility criteria shall be met.

a. Transition services shall be service authorized by DMAS or its designated service authorization contractor in order for reimbursement to occur.

b. For the purposes of transition funding for the technology assisted waiver, an institution means an ICF/ID, a specialized care nursing facility or a long stay hospital as defined at 42 CFR 435.1009. Transition funding shall not be available for individuals who have been admitted to an acute care hospital.

C. Changes to services or termination of services:

1. DMAS or its designated agent shall have the final authority to approve or deny a requested change to an individual's skilled PDN and PC hours. Any request for an increase to an individual's skilled PDN or PC hours that exceeds the number of hours allowed for that individual's LOC shall be service authorized by DMAS staff and

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accompanied by adequate documentation justifying the increase.

a. The provider may decrease the amount of authorized care if the revised skilled PDN hours are appropriate and based on the needs of the individual. The provider agency shall work with the DMAS staff for coordination and final approval of any decrease in service delivery. A revised tech waiver skilled PDN authorization shall be completed by DMAS for final authorization and forwarded to the provider agency.

b. The provider shall be responsible for documenting in writing the physician's verbal orders and for inclusion of the changes on the recertification POC in accordance with the DMAS skilled private duty nursing authorization. The provider agency's RN supervisor, who is responsible for supervising the individual's care, shall use a person centered approach in discussing the change in care with the individual and the individual's representative to include documentation in the individual's record. The DMAS staff or the DMAS designated service authorization contractor shall notify in writing the individual or the individual's representative of the change.

c. The provider shall be responsible for submitting the DMAS 225 form to the local department of social services when the following situations occur: (i) when Medicaid eligibility status changes; (ii) when the individual's level of care changes; (iii) when the individual is admitted to or discharged from an institution, a home and community based waiver, or a provider agency's care; (iv) the individual dies; or (v) any other information that causes a change in the individual's eligibility status or patient pay amounts.

2. At any time the individual no longer meets LOC criteria for the waiver, termination of waiver enrollment shall be initiated by DMAS staff who is assigned to the individual. In such instances, DMAS shall forward the DMAS 225 form to the local department of social services.

3. In an emergency situation when the health, safety, or welfare of the provider staff is endangered, the provider agency may immediately initiate discharge of the individual and contact the DMAS staff. The provider must issue written notification containing the reasons for and the effective date of the termination of services. The written notification period in subdivision 4 of this subsection shall not be required. Other entities (e.g., licensing authorities, APS, CPS) shall also be notified as appropriate. A copy of this letter shall be forwarded to the DMAS staff within five business days of the letter's date.

4. In a nonemergency situation (i.e., when the health, safety, or welfare of the waiver individual or provider personnel is not endangered), the provider shall provide the

individual and the individual's representative 14 calendar days' written notification (plus three days to allow for mail transmission) of the intent to discharge the individual from agency services. Written notification shall provide the reasons for and the effective date of the termination of services as well as the individual's appeal rights. A copy of the written notification shall also be forwarded to the DMAS staff within five business days of the date of the notification.

5. Individuals who no longer meet the tech waiver criteria as certified by the physician for either children or adults shall be terminated from the waiver. In such cases, a reduction in skilled PDN hours may occur that shall not exceed two weeks in duration as long as such skilled PDN was previously approved in the individual's POC. The agency provider of skilled PDN for such individuals shall document with DMAS the decrease in skilled PDN hours and prepare for cessation of skilled PDN hours and waiver services.

6. When a waiver individual, regardless of age, requires admission to a specialized care nursing facility or long stay hospital, the individual shall be discharged from waiver services while he is in the specialized care nursing facility or long stay hospital. Readmission to waiver services may resume once the individual has been discharged from the specialized care nursing facility or long stay hospital as long as the waiver eligibility and medical necessity criteria continue to be met. For individuals 21 years of age and older, the individual shall follow the criteria for specialized care nursing facility admission. For individuals who are younger than 21 years of age, the individual shall follow the criteria for long stay hospital admissions as well as the age appropriate criteria.

7. When a waiver individual, regardless of age, requires admission to an acute care hospital for 30 days or more, the individual shall be discharged from waiver services. When such hospitalization exceeds 30 days and upon hospital discharge, readmission to waiver services is required. Such readmission requires reassessment by the discharge team and a determination that the individual continues to meet Medicaid eligibility, level of care criteria and medical criteria on the DMAS 108 or DMAS 109 form, as appropriate. If these criteria are met, the individual shall be readmitted to waiver services. For adults, ages 21 years and older, the individual shall meet the criteria for specialized care admissions. For children, younger than 21 years of age, the individual shall meet the criteria for long stay hospital admissions and the age appropriate criteria.

8. Waiver individuals, regardless of age, who require admission to any type of acute care facility for less than 30 days shall, upon discharge from such acute care facility, be eligible for waiver services as long as all other requirements continue to be met.

12VAC30-120-1730. General requirements for participating providers. (Repealed.)

A. All agency providers shall sign the appropriate technology assisted waiver provider agreement in order to bill and receive Medicaid payment for services rendered. Requests for provider enrollment shall be reviewed by DMAS to determine whether the provider applicant meets the requirements for Medicaid participation and demonstrates the abilities to perform, at a minimum, the following activities:

1. Be able to render the medically necessary services required by the waiver individuals. Accept referrals for services only when staff is available and qualified to initiate and perform the required services on an ongoing basis.

2. Assure the individual's freedom to reject medical care and treatment.

3. Assure freedom of choice to individuals in seeking medical care from any institution, pharmacy, or practitioner qualified to perform the service or services that may be required and participating in the Medicaid program at the time the service or services are performed.

4. Actively involve the individual and the authorized representative, as applicable, in the assessment of needs, strengths, goals, preferences, and abilities and incorporate this information into the person centered planning process. A provider shall protect and promote the rights of each individual for whom he is providing services and shall provide for each of the following individual rights:

a. The individual's rights are exercised by the person appointed under state law to act on the individual's behalf in the case of an individual adjudged incompetent under the laws of the Commonwealth by a court of competent jurisdiction.

b. The individual, who has not been adjudged incompetent by the state court, may designate any legal surrogate in accordance with state law to exercise the individual's rights to the extent provided by state law.

c. The individual shall have the right to receive services from the provider with reasonable accommodation of individual needs and preferences, except when the health or safety of the individual or other waiver individuals would be endangered.

5. Perform a criminal background check on all employees, including the business owner, who may have any contact or provide services to the waiver individual. Such record checks shall be performed by the Virginia State Police for the Commonwealth. When the Medicaid individual is a minor child, searches shall also be made of the Virginia CPS Central Registry.

a. Provider documentation of the results of these searches must be made available upon request of DMAS or its authorized representatives. Persons convicted of having committed barrier crimes as defined in § 32.1-162.9:1 of the Code of Virginia shall not render services to waiver individuals for the purposes of seeking Medicaid reimbursement.

b. Persons having founded dispositions in the CPS Central Registry at DSS shall not be permitted to render services to children in this waiver and seek Medicaid reimbursement. Medicaid reimbursement shall not be made for providers' employees who have findings with the Virginia Board of Nursing of the Department of Health Professions concerning abuse, neglect, or mistreatment of individuals or misappropriation of their property.

6. Screen all new and existing employees and contractors to determine whether any of them have been excluded from participation in federal programs. Search the HHS-OIG List of Excluded Individuals and Entities (LEIE) website monthly by name for employees, contractors and entities to validate the eligibility of such persons and entities for federal programs.

a. Immediately report to DMAS any exclusion information identified.

b. Such information shall be sent in writing and shall include the individual or business name, provider identification number (if applicable), and what, if any, action has been taken to date.

c. Such information shall be sent to: DMAS, ATTN: Program Integrity/Exclusions, 600 E. Broad St., Suite 1300, Richmond, VA 23219 or emailed to providerexclusion@dmas.virginia.gov.

7. Provide services and supplies to individuals in full compliance with Title VI of the Civil Rights Act of 1964, as amended (42 USC § 2000 et seq.), which prohibits discrimination on the grounds of race, color, religion, or national origin; the Virginians with Disabilities Act (§ 51.5-1 et seq. of the Code of Virginia); § 504 of the Rehabilitation Act of 1973, as amended (29 USC § 794), which prohibits discrimination on the basis of a disability; and the ADA of 1990, as amended (42 USC § 12101 et seq.), which provides comprehensive civil rights protections to individuals with disabilities.

8. Report all suspected violations, pursuant to § 63.2-100, §§ 63.2-1508 through 63.2-1513, and § 63.2-1606 et seq. of the Code of Virginia, involving mistreatment, neglect, or abuse, including injuries of an unknown source, and misappropriation of individual property to either CPS, APS, or other officials in accordance with state law. Providers shall also train their staff in recognizing all types of such injuries and how to report them to the appropriate

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authorities. Providers shall ensure that all employees are aware of the requirements to immediately report such suspected abuse, neglect, or exploitation to APS, CPS or human rights, as appropriate.

9. Notify DMAS or its designated agent immediately, in writing, of any change in the information that the provider previously submitted to DMAS. When ownership of the provider changes, notify DMAS at least 15 calendar days before the date of such a change.

10. Provide services and supplies to individuals in full compliance of the same quality and in the same mode of delivery as are provided to the general public. Submit charges to DMAS for the provision of services and supplies to individuals in amounts not to exceed the provider's usual and customary charges to the general public.

11. Accept as payment in full the amount established and reimbursed by DMAS' payment methodology beginning with individuals' authorization dates for the waiver services. The provider shall not attempt to collect from the individual or the individual's responsible relative or relatives any amount the provider may consider a balance due amount or an uncovered amount. Providers shall not collect balance due amounts from individuals or individuals' responsible relatives even if such persons are willing to pay such amounts. Providers shall not bill DMAS, individuals or their responsible relatives for broken or missed appointments.

12. Collect all applicable patient pay amounts pursuant to 12VAC30 40 20, 12VAC30 40 30, 12VAC30 40 40, 12VAC30 40 50, and 12VAC30 40 60.

13. Use only DMAS designated forms for service documentation. The provider shall not alter the required DMAS forms in any manner unless DMAS' approval is obtained prior to using the altered forms.

14. Not perform any type of direct marketing activities to Medicaid individuals.

15. Furnish access to the records of individuals who are receiving Medicaid services and furnish information, on request and in the form requested, to DMAS or its designated agent or agents, the Attorney General of Virginia or his authorized representatives, the state Medicaid Fraud Control Unit, the State Long-Term Care Ombudsman and any other authorized state and federal personnel. The Commonwealth's right of access to individuals receiving services and to provider agencies and records shall survive any termination of the provider agreement.

16. Disclose, as requested by DMAS, all financial, beneficial, ownership, equity, surety, or other interests in any and all firms, corporations, partnerships, associations,

and business enterprises, joint ventures, agencies, institutions, or other legal entities providing any form of services to participants of Medicaid.

17. Pursuant to 42 CFR 431.300 et seq. and § 32.1-325.3 of the Code of Virginia, all information associated with a waiver applicant or individual that could disclose the individual's identity is confidential and shall be safeguarded. Access to information concerning waiver applicants or individuals shall be restricted to persons or agency representatives who are subject to the standards of confidentiality that are consistent with that of the agency, and any such access must be in accordance with the provisions found in 12VAC30 20 90.

18. Meet staffing, financial solvency, disclosure of ownership, assurance of comparability of services requirements, and other requirements as specified in the provider's written program participation agreement with DMAS.

19. Maintain and retain business and professional records sufficient to document fully and accurately the nature, scope, and details of the services provided fully and accurately with documentation necessary to support services billed. Failure to meet this requirement may result in DMAS' recovery of expenditures resulting from claims payment.

20. Maintain a medical record for each individual who is receiving waiver services. Failure to meet this requirement may result in DMAS recovering expenditures made for claims paid that are not adequately supported by the provider's documentation.

21. Retain business and professional records at least six years from the last date of service or as provided by applicable federal and state laws, whichever period is longer. However, if an audit is initiated within the required retention period, the records shall be retained until the audit is completed and every exception resolved. Policies regarding retention of records shall apply even if the provider discontinues operation. DMAS shall be notified in writing of the storage location and procedures for obtaining records for review should the need arise. The location, agent, or trustee shall be within the Commonwealth.

22. Retain records of minors for at least six years after such minors have reached 21 years of age.

23. Ensure that all documentation in the individual's record is completed, signed, and dated with the name or names of the person or persons providing the service and the appropriate title, dated with month, day, and year, and in accordance with accepted professional practice. This documentation shall include the nurses' or PCAs', as appropriate, arrival and departure times for each shift that is worked.

~~24. Begin PDN services for which it expects reimbursement only when the admission packet is received and DMAS' authorization for skilled PDN services has been given. This authorization shall include the enrollment date that shall be issued by DMAS staff. It shall be the provider agency's responsibility to review and ensure the receipt of a complete and accurate screening packet.~~

~~25. Ensure that there is a backup caregiver who accepts responsibility for the oversight and care of the individual in order to ensure the health, safety, and welfare of the individual when the primary caregiver is ill, incapacitated, or using PDN respite. Documentation in the medical record shall include this backup caregiver's name and phone number.~~

~~26. Notify the DMAS staff every time the waiver individual's primary residence changes.~~

~~27. Ensure that minimum qualifications of provider staff are met as follows:~~

~~a. All RN and LPN employees shall have a satisfactory work record, as evidenced by at least two references from prior job experiences. In lieu of this requirement for personal care aides only, employees who have worked for only one employer shall be permitted to provide two personal references. Providers who are not able to obtain previous job references about personal care aides shall retain written documentation showing their good faith efforts to obtain such references in the new employee's work record.~~

~~b. Staff and agencies shall meet any certifications, licensure, or registration, as applicable and as required by applicable state law. Staff qualifications shall be documented and maintained for review by DMAS or its designated agent. All additional provider requirements as may be required under a specific waiver service in this part shall also be met.~~

~~c. All RNs and LPNs providing skilled PDN services shall be currently licensed to practice nursing in the Commonwealth. The LPN shall be under the direct supervision of an RN.~~

~~d. All RNs and LPNs who provide skilled PDN services shall have either (i) at least six months of related clinical experience as documented in their history, which may include work in acute care hospitals, long stay hospitals, rehabilitation hospitals, or specialized care nursing facilities, or (ii) completed a provider training program related to the care and technology needs of the assigned tech waiver individual.~~

~~e. Training programs established by providers shall include, at a minimum, the following:~~

~~(1) Trainers (either RNs or respiratory therapists) shall have at least six months hands on experience in the areas~~

~~in which they provide training, such as ventilators, tracheostomies, peg tubes, and nasogastric tubes.~~

~~(2) Training shall include classroom time as well as direct hands on demonstration of mastery of the specialized skills required to work with individuals in the technology assisted waiver by the trainee.~~

~~(3) The training program shall include the following subject areas as they relate to the care to be provided by the tech waiver nurse: (i) human anatomy and physiology, (ii) medications frequently used by technology dependent individuals, (iii) emergency management, and (iv) the operation of the relevant equipment.~~

~~(4) Providers shall assure the competency and mastery of the skills necessary to care for tech waiver individuals by the nurses prior to assigning them to a tech waiver individual. Documentation of successful completion of such training course and mastery of the specialized skills required to work with individuals in the technology assisted waiver shall be maintained in the provider's personnel records. This documentation shall be provided to DMAS upon request.~~

~~f. The RN supervisor shall be currently licensed to practice nursing in the Commonwealth and have at least one year of related clinical nursing experience, which may include work in an acute care hospital, long stay hospital, rehabilitation hospital, or specialized care nursing facility.~~

~~B. DMAS shall have the authority to require the submission of any other medical documentation or information as may be required to complete a decision for a waiver individual's eligibility, waiver enrollment, or coverage for services.~~

~~1. Review of individual specific documentation shall be conducted by DMAS or its designated agent. This documentation shall contain, up to and including the last date of service, all of the following, as may be appropriate for the service rendered:~~

~~a. All supporting documentation, including physicians' orders, from any provider rendering waiver services for the individual;~~

~~b. All assessments, reassessments, and evaluations (including the complete UAI screening packet or risk evaluations) made during the provision of services, including any required initial assessments by the RN supervisor completed prior to or on the date services are initiated and changes to the supporting documentation by the RN supervisor;~~

~~e. Progress notes reflecting individual's status and, as appropriate, progress toward the identified goals on the POC;~~

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d. All related communication with the individual and the family/caregiver, the designated agent for service authorization, consultants, DMAS, DSS, formal and informal service providers, referral to APS or CPS and all other professionals concerning the individual, as appropriate;

e. Service authorization decisions performed by the DMAS staff or the DMAS designated service authorization contractor;

f. All POCs completed for the individual and specific to the service being provided and all supporting documentation related to any changes in the POCs; and

g. Attendance logs documenting the date and times services were rendered, the amount and type of services rendered and the dated professional signature with title.

2. Review of provider participation standards and renewal of provider agreements. DMAS shall be responsible for ensuring continued adherence to provider participation standards by conducting ongoing monitoring of compliance.

a. DMAS shall recertify each provider for agreement renewal, contingent upon the provider's timely license renewal, to provide home and community-based waiver services.

b. A provider's noncompliance with DMAS policies and procedures, as required in the provider agreement, may result in a written request from DMAS for a corrective action plan that details the steps the provider shall take and the length of time required to achieve full compliance with the corrective action plan that shall correct the cited deficiencies.

c. A provider that has been convicted of a felony, or who has otherwise pled guilty to a felony, in Virginia or in any other of the 50 states, the District of Columbia, or the U.S. territories must, within 30 days of such conviction, notify DMAS of this conviction and relinquish its provider agreement. Upon such notice, DMAS shall immediately terminate the provider's Medicaid provider agreement pursuant to § 32.1-325 D of the Code of Virginia and as may be required for federal financial participation. Such provider agreement terminations shall be immediate and conform to § 32.1-325 E of the Code of Virginia.

d. Providers shall not be reimbursed for services that may be rendered between the conviction of a felony and the provider's notification to DMAS of the conviction.

e. Except as otherwise provided by applicable state or federal law, the Medicaid provider agreement may be terminated at will on 30 days' written notice. The agreement may be terminated if DMAS determines that the provider poses a threat to the health, safety, or

welfare of any individual enrolled in a DMAS administered program.

12VAC30-120-1740. Participation standards for provision of services. (Repealed.)

A. Skilled PDN, skilled PDN respite, and PC services. DMAS or its designated agent shall periodically review and audit providers' records for these services for conformance to regulations and policies, and concurrence with claims that have been submitted for payment. When an individual is receiving multiple services, the records for all services shall be separated from those of non-home and community-based care services, such as companion or home health services. The following documentation shall be maintained for every individual for whom DMAS-enrolled providers render these services:

1. Physicians' orders for these services shall be maintained in the individual's record as well as at the individual's primary residence. All recertifications of the POC shall be performed within the last five business days of each current 60 day period. The physician shall sign the recertification before Medicaid reimbursement shall occur;

2. All assessments, reassessments, and evaluations (including the complete UAI screening packet or risk evaluations) made during the provision of services, including any required initial assessments by the RN supervisor completed prior to or on the date services are initiated and changes to the supporting documentation by the RN supervisor;

3. Progress notes reflecting the individual's status and, as appropriate, progress toward the identified goals on the POC;

4. All related communication with the individual and the individual's representative, the DMAS designated agent for service authorization, consultants, DMAS, DSS, formal and informal service providers, all required referrals, as appropriate, to APS or CPS and all other professionals concerning the individual;

5. All service authorization decisions rendered by the DMAS staff or the DMAS designated service authorization contractor;

6. All POCs completed with the individual, or family/caregiver, as appropriate, and specific to the service being provided and all supporting documentation related to any changes in the POC;

7. Attendance logs documenting the date and times services were rendered, the amount and type of services rendered and the dated signatures of the professionals who rendered the specified care, with the professionals' titles. Copies of all nurses' records shall be subject to review by either state or federal Medicaid representatives or both. Any required nurses' visit notes, PCA notes, and all dated

contacts with service providers and during supervisory visits to the individual's home and shall include:

- a. The private duty nurse's or PCA's daily visit note with arrival and departure times;
- b. The RN, LPN, or PCA daily observations, care, and services that have been rendered, observations concerning the individual's physical and emotional condition, daily activities and the individual's response to service delivery; and
- c. Observations about any other services, such as and not limited to meals on wheels, companion services, and home health services, that the participant may be receiving shall be recorded in these notes;

8. Provider's HIPAA release of information form;

9. All Long Term Care Communication forms (DMAS-225);

10. Documentation of rejection or refusal of services and potential outcomes resulting from the refusal of services communicated to the individual or the individual's representative;

11. Documentation of all inpatient hospital or specialized care nursing facility admissions to include service interruption dates, the reason for the hospital or specialized care nursing facility admission, the name of the facility or facilities and primary caregiver notification when applicable including all communication to DMAS;

12. The RN, LPN, or PCA's and individual's, or individual's representative's weekly or daily, as appropriate, signatures, including the date, to verify that services have been rendered during that week as documented in the record. For records requiring weekly signatures, such signatures, times, and dates shall be placed on these records no earlier than the last day of the week in which services were provided and no later than seven calendar days from the date of the last service. An employee providing services to the tech waiver individual cannot sign for the individual. If the individual is unable to sign the nurses' records, it shall be documented in the record how the nurses' records will be signed or who will sign in the individual's place. An employee of the provider shall not sign for the individual unless he is a family member of the individual or legal guardian of the individual;

13. Contact notes or progress notes reflecting the individual's status; and

14. Any other documentation to support that services provided are appropriate and necessary to maintain the individual in the home and in the community.

B. In addition to meeting the general conditions and requirements for home and community based services

participating providers and skilled PDN, private duty respite, and PC services, providers shall also meet the following requirements:

1. This service shall be provided through either a home health agency licensed or certified by the VDH for Medicaid participation and with which DMAS has a contract for either skilled PDN or congregate PDN or both;

2. Demonstrate a prior successful health care delivery;

3. Operate from a business office; and

4. Employ (or subcontract with) and directly supervise an RN or an LPN. The LPN and RN shall be currently licensed to practice in the Commonwealth. Prior to assignment to a tech waiver individual, the RN or LPN shall have either (i) at least six months of related clinical nursing experience or (ii) completed a provider training program related to the care and technology needs of the tech waiver individual as described in 12VAC30-120-1730 A 27 e. Regardless of whether a nurse has six months of experience or completes a provider training course, the provider agency shall be responsible for assuring all nurses who are assigned to an individual are competent in the care needs of that individual.

5. As part of direct supervision, the RN supervisor shall make, at a minimum, a visit every 30 days to ensure both quality and appropriateness of PDN, PDN respite services, and personal care services to assess the individual's and the individual's representative's satisfaction with the services being provided, to review the medication and treatments and to update and verify the most current physician signed orders are in the home.

a. The waiver individual shall be present when the supervisory visits are made.

b. At least every other visit shall be in the individual's primary residence.

c. When a delay occurs in the RN supervisor's visits because the individual is unavailable, the reason for the delay shall be documented in the individual's record, and the visit shall occur as soon as the individual is available. Failure to meet this standard may result in DMAS' recovery of payments made.

d. The RN supervisor may delegate personal care aide supervisory visits to an LPN. The provider's RN or LPN supervisor shall make supervisory visits at least every 90 days. During visits to the waiver individual's home, the RN or LPN supervisor shall observe, evaluate, and document the adequacy and appropriateness of personal care services with regard to the individual's current functioning status and medical and social needs. The personal care aide's record shall be reviewed and the waiver individual's or family/caregiver's, or both,

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satisfaction with the type and amount of services discussed.

e. Additional supervisory visits may be required under the following circumstances: (i) at the provider's discretion; (ii) at the request of the individual when a change in the individual's condition has occurred; (iii) any time the health, safety, or welfare of the individual could be at risk; and (iv) at the request of the DMAS staff.

6. When private duty respite services are routine in nature and offered in conjunction with PC services for adults, the RN supervisory visit conducted for PC may serve as the supervisory visit for respite services. However, the supervisor shall document supervision of private duty respite services separately. For this purpose, the same individual record can be used with a separate section for private duty respite services documentation.

7. For this waiver, personal care services shall only be agency directed and provided by a DMAS enrolled PC provider to adult waiver individuals.

a. For DMAS enrolled skilled PDN providers that also provide PC services, the provider shall employ or subcontract with and directly supervise an RN who will provide ongoing supervision of all PCAs. The supervising RN shall be currently licensed to practice nursing in the Commonwealth and have at least one year of related clinical nursing experience, which may include work in an acute care hospital, long stay hospital, rehabilitation hospital, or specialized care nursing facility.

b. In addition to meeting the general conditions and requirements for home and community based services participating providers as specified elsewhere in this part, the provision of PC services shall also comply with the requirements of 12VAC30-120-930.

8. Skilled monthly supervisory reassessments shall be performed in accordance with regulations by the PDN agency provider. The agency RN supervisor shall complete the monthly assessment visit and submit the "Technology Assisted Waiver Supervisory Monthly Summary" form (DMAS 103) to DMAS for review by the sixth day of the month following the month when the visit occurred.

9. Failure of the provider to ensure timely submission of the required assessments may result in retraction of all skilled PDN payments for the period of time of the delinquency.

C. Assistive technology and environmental modification.

1. All AT and EM services shall be provided by DMAS-enrolled DME providers that have a DMAS provider agreement to provide AT or EM or both.

2. AT and EM shall be covered in the least expensive, most cost effective manner. The provider shall document and justify why more cost effective solutions cannot be used. DMAS and the DMAS designated service authorization contractor may request further documentation on the alternative cost effective solutions as necessary.

3. The provider documentation requirements for AT and EM shall be as follows:

a. Written documentation setting out the medical necessity for these services regarding the need for service, the process and results of ensuring that the item is not covered by the State Plan as DME and supplies and that it is not available from a DME provider when purchased elsewhere and contacts with vendors or contractors of service and cost;

b. Documentation of any or all of the evaluation, design, labor costs or supplies by a qualified professional;

c. Documentation of the date services are rendered and the amount of service needed;

d. Any other relevant information regarding the device or modification;

e. Documentation in the medical record of notification by the designated individual or the individual's representative of satisfactory completion or receipt of the service or item;

f. Instructions regarding any warranty, repairs, complaints, or servicing that may be needed; and

g. Any additional cost estimates requested by DMAS.

7. The EM or AT provider shall maintain a copy of all building permits and all building inspections for modifications, as required by code. All instructions regarding any warranty, repairs, complaints, and servicing that may be needed and the receipt for any purchased goods or services. More than one cost estimate may be required.

8. Individuals who reside in rental property shall obtain written permission from the property's owner before any EM shall be authorized by DMAS. This letter shall be maintained in the provider's record.

12VAC30-120-1750. Payment for services. (Repealed.)

A. PC services provided in the tech waiver shall be reimbursed at an hourly rate established by DMAS. All skilled PDN services and skilled PDN respite care services shall be reimbursed in increments of 15 minutes as a unit and shall be reimbursed at a rate established by DMAS.

B. Reimbursement for AT and EM shall be as follows.

1. All AT covered procedure codes provided in the tech waiver shall be reimbursed as a service limit of one and up

to a per member annual maximum of \$5,000 per calendar year regardless of waiver. Such service shall only be provided to individuals who are also receiving private duty nursing.

2. All EM services shall be reimbursed up to \$5,000 per individual per calendar year regardless of waiver year as long as such services are not duplicative. All EM services shall be reimbursed at the actual cost of material and labor and no mark ups shall be permitted. Such service shall only be provided to individuals who are also receiving private duty nursing.

C. Duplication of services.

1. DMAS shall not duplicate services that are required as a reasonable accommodation as a part of the ADA (42 USC §§ 12131 through 12165), the Rehabilitation Act of 1973 (29 USC 791 et seq.), or the Virginians with Disabilities Act (§ 51.5-1 et seq. of the Code of Virginia).

2. Payment for services under the POC shall not duplicate payments made to public agencies or private entities under other program authorities for this same purpose. All private insurance benefits for skilled PDN shall be exhausted before Medicaid reimbursement can occur as Medicaid shall be the payer of last resort.

3. DMAS payments for EM shall not be duplicative in homes where multiple waiver individuals reside. For example, one waiver individual may be approved for required medically necessary bathroom modifications while a second waiver individual in the same household would be approved for a medically necessary access ramp but not for the same improvements to the same bathroom.

D. Cost effectiveness computations for the tech waiver shall be completed by DMAS upon completion of the POC for all individuals entering the waiver. The total annual aggregate cost of the waiver shall not exceed the cost of backup facility placement. For individuals, regardless of age, the DMAS staff shall ensure the anticipated cost to DMAS for the individual's waiver services for a 12 month period shall not exceed the annual average aggregate costs to DMAS for specialized nursing facility care for those individuals 21 years of age or older or for continued hospitalization for individuals younger than 21 years of age.

12VAC30-120-1760. ~~Quality management review; utilization reviews; level of care (LOC) reviews. (Repealed.)~~

A. DMAS shall perform quality management reviews for the purpose of ensuring high quality of service delivery consistent with the attending physicians' orders, approved POCs, and service authorized services for the waiver individuals. Providers identified as not rendering reimbursed services consistent with such orders, POCs, and service authorizations shall be required to submit corrective action

plans (CAPs) to DMAS for approval. Once approved, such CAPs shall be implemented to resolve the cited deficiencies.

B. If the DMAS staff determines, during any review or at any other time, that the waiver individual no longer meets the aggregated cost effectiveness standards or medical necessity criteria, then the DMAS staff, as appropriate, shall deny payment for such waiver individual. Such waiver individuals shall be discharged from the waiver.

C. ~~Securing service authorization shall not necessarily guarantee reimbursement pursuant to DMAS utilization review of waiver services.~~

D. DMAS shall perform annual quality assurance reviews for tech waiver enrollees. Once waiver enrollment occurs, the Level of Care Eligibility Re-determination audits (LOCERI) shall be performed by DMAS. This independent electronic calculation of eligibility determination is performed and communicated to the DMAS supervisor for tech waiver. Any failure for waiver eligibility requires higher level of review by the supervisor and may include a home visit by the DMAS staff.

12VAC30-120-1770. ~~Appeals; provider and recipient. (Repealed.)~~

A. Providers shall have the right to appeal actions taken by DMAS. Provider appeals shall be considered pursuant to § 32.1-325.1 of the Code of Virginia and the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) and DMAS regulations at 12VAC30-10-1000 and 12VAC30-20-500 through 12VAC30-20-560.

B. Individuals shall have the right to appeal actions taken by DMAS. Individuals' appeals shall be considered pursuant to 12VAC30-110-10 through 12VAC30-120-370. DMAS shall provide the opportunity for a fair hearing, consistent with 42 CFR Part 431, Subpart E.

C. The individual shall be advised in writing of such denial and of his right to appeal consistent with DMAS client appeals regulations 12VAC30-110-70 through 12VAC30-110-80.

VA.R. Doc. No. R18-5055; Filed June 29, 2018, 1:49 p.m.

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Proposed Regulation

Title of Regulation: 12VAC35-250. Certification of Peer Recovery and Resiliency Specialists (adding 12VAC35-250-10 through 12VAC35-250-50).

Statutory Authority: §§ 37.2-203 and 37.2-304 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

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Public Comment Deadline: September 21, 2018.

Agency Contact: Ruth Anne Walker, Regulatory Coordinator, Department of Behavioral Health and Developmental Services, Jefferson Building, 1220 Bank Street, 11th Floor, Richmond, VA 23219, telephone (804) 225-2252, FAX (804) 786-8623, TTY (804) 371-8977, or email ruthanne.walker@dbhds.virginia.gov.

Basis: Sections 37.2-203 and 37.2-304 of the Code of Virginia authorize the State Board of Behavioral Health and Developmental Services (State Board) to adopt regulations that may be necessary to carry out the provisions of Title 37.2 of the Code of Virginia and other laws of the Commonwealth administered by the commissioner and the department.

The proposed regulation is necessary for individuals to be designated as "peer recovery specialists" and to have a pathway to provide peer services through the Virginia ARTS benefit, which was made available to Medicaid members receiving addiction treatment services at all levels of care effective on July 1, 2017.

Chapters 418 and 426 of the 2017 Acts of Assembly authorize the Virginia Board of Counseling to promulgate emergency regulations for the registration of peer recovery specialists who meet the qualifications, education, and experience requirements established by regulations of the State Board. Upon promulgation of regulations by the Board of Counseling, registration will begin with the Board of Counseling.

Upon conclusion of this action by the State Board, permanent regulations, replacing the emergency regulations effective May 17, 2017, will allow the Department of Behavioral Health and Developmental Services (DBHDS) to continue to set out the requirements for qualifications, education, and experience of individuals eligible to register with the Board of Counseling as "registered peer recovery specialists."

Purpose: With the creation of Medicaid coverage for peer services in Virginia, the proposed regulation provides administrative structure for DBHDS qualifications, education, and experience for peer recovery specialists to ensure that individuals providing peer recovery services in Virginia's public system of behavioral health services demonstrate a baseline of practical knowledge. This is a reflection of the need for a standard of commonly understood evidenced-based best practices in the support of people with behavioral health conditions. This field of practice is expected to grow, as is Virginia's network of available peer recovery specialists.

Background: The following background information on billing is taken from the U.S. Substance Abuse and Mental Health Services Administration-Health Resources and Services Administration (SAMHSA-HRSA) Center for Integrated Health Solutions (CIHS) website at <http://www.integration.samhsa.gov/work%20force/team-members/peerproviders>.

"Billing for Peer Provided Integrated Health Services

- In the field of behavioral health, Medicaid billing for peer support services began in Georgia in 1999, and quickly expanded nationally in 2007 after the Centers for Medicare and Medicaid Services (CMS) sent guidelines to states on how to be reimbursed for services delivered by peer providers. In 2012, Georgia was approved as the first state to bill for a peer whole health and wellness service delivered by WHAM-trained peer providers.

- CMS' Clarifying Guidance on Peer Services Policy from May 2013 states that any peer provider must "complete training and certification as defined by the state" before providing billable services.

- Beginning January 1, 2014, CMS expanded the type of practitioners who can provide Medicaid prevention services beyond physicians and other licensed practitioners, at a state's discretion, which can include peer providers."

The proposed regulations are needed to support a strong peer workforce through financial sustainability that is ensured when peer services meet criteria for reimbursement like Medicaid billing.

General explanation of peer recovery services: According to SAMSHA, the adoption of "recovery" by behavioral health systems in recent years has signaled a dramatic shift in the expectation for positive outcomes for individuals who experience mental or substance use conditions. Today, when individuals with mental illness or substance use disorders seek help, they are met with the knowledge and belief that anyone can recover and manage their conditions successfully. The value of recovery and recovery-oriented behavioral health systems is widely accepted by states, communities, health care providers, peers, families, researchers, and advocates, including the U.S. Surgeon General, the National Academies Health and Medicine Division (HMD), and others.

Peer recovery support services help people enter and navigate systems of care; remove barriers to recovery; stay engaged in the recovery process; and live full lives in communities of their choice.

The services include culturally and linguistically appropriate services that assist individuals and families working toward recovery from mental illness or substance use disorders. Peer recovery services support enhanced access to evidence-based practices such as supported employment, education, housing, assertive community treatment, illness management, and peer-operated services.

The services may be provided before, during, or after clinical treatment or may be provided to individuals who are not in treatment but seek support services. The services provided by peers are delivered through a variety of community and faith-

based groups, treatment providers, schools, and other specialized services.

Substance: The proposed regulations provide administrative structure for DBHDS qualifications, education, and experience for peer recovery specialists to ensure that individuals providing peer recovery services in Virginia's public system of behavioral health services demonstrate a baseline of practical knowledge, as did the emergency regulation. The changes in this proposed regulation that differ from the emergency regulation accommodate the Department of Health Profession's registration of peer recovery specialists, including assuming language for continuing education, and delete a date-specific requirement for training during the transition to permanent regulations. Specifically:

12VAC35-250-10 - the definition for "Registered peer recovery specialist" is added.

12VAC35-250-20 - a new subsection D, "Any person meeting the qualifications for a peer recovery specialist as set forth in this chapter shall be eligible for registration by the Virginia Board of Counseling." is added.

12VAC35-250-30 A 3 - the date by which training must be completed, that is, April 1, 2018, is deleted.

12VAC35-250-45 - the section is deleted.

Issues: Virginia needs comprehensive behavioral health care as it is essential to population health and cost containment.

	National average of state spending	Virginia spending
Hospitals	23% of overall BH budget	46% of overall BH budget
Community	75% of overall BH budget (~\$89 per capita)	51% of overall BH budget (\$47 per capita)

Behavioral health issues drive up to 35% of medical care costs, and individuals with mental illness or substance use disorders or co-occurring mental illness and substance use disorders cost up to two to three times as much as those without them.

Peer recovery services help to decrease reliance on institutions and increase focus on community services. The services also facilitate integration of behavioral health and primary care, as well as housing, employment, schools, and social services.

The proposed regulatory action makes permanent the formalization of the peer recovery specialist professional qualifications, education, and experience to provide collaborative services to assist individuals in achieving sustained recovery from the effects of mental illness, addiction, or both. With the creation of Medicaid coverage for peer services in Virginia, the proposed regulation provides

administrative structure for DBHDS qualifications, education, and experience for peer recovery specialists to ensure that individuals providing peer recovery services in Virginia's public system of behavioral health services demonstrate a baseline of practical knowledge. This is a reflection of the need for a standard of commonly understood evidenced-based best practices in the support of people with behavioral health conditions. For those peer recovery specialists who wish to bill Medicaid for services, the additional option of registering with the Board of Counseling will be available and is noted in the proposed DBHDS regulation.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. Pursuant to Chapters 418¹ and 426² of the 2017 Acts of Assembly, the State Board of Behavioral Health and Developmental Services (Board) proposes to promulgate a new regulation, Peer Recovery Specialists. The proposed regulation includes definitions and requirements for an individual to become professionally qualified to be a registered peer recovery specialist. This proposed regulation would replace an existing emergency regulation.³

Result of Analysis. The benefits likely exceed the costs for the proposed regulation.

Estimated Economic Impact.

Peer Support Services: Peer support services are an evidence-based mental health model of care, which consists of a qualified peer recovery specialist who assists individuals with their recovery from mental illness and substance use disorders. The provision of peer support services facilitates recovery from both serious mental illnesses and substance use disorders. Recovery is a process in which people are able to live, work, learn, and fully participate in their communities. For some individuals, recovery is the ability to live a fulfilling and productive life despite their disability. For others, recovery could mean the reduction or complete remission of symptoms.

Research has provided evidence that peer-delivered services generate superior outcomes in terms of decreased substance abuse, engagement of "difficult-to-reach" clients, and reduced rates of hospitalization.⁴ Further, peer support has been found to increase participants' sense of hope, control, and ability to effect changes in their lives; increase their self-care, sense of community belonging, and satisfaction with various life domains; and decrease participants' level of depression and psychosis.⁵

Peer Recovery Specialists: Peer support services are delivered by peers who have been successful in the recovery process and can extend the reach of treatment beyond the clinical setting into an individual's community and natural environment to support and assist an individual with staying engaged in the recovery process. Peer recovery specialists

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(PRSs) are self-identified consumers who are in successful and ongoing recovery from mental illness and/or substance use disorders, or are family members of individuals who are receiving or have received mental health or substance abuse services. PRSs are employed or seek to be employed to deliver collaborative support to others who are seeking to recover from a primary diagnosis of mental illness, addiction, or both.

As of December 31, 2016, there were 430 certified peer recovery specialists employed across Virginia in public or private mental health or substance use disorder service settings.⁶ The demand for PRS services is expected to expand through the Virginia Medicaid Addiction and Recovery Treatment Services (ARTS) new substance use disorder benefit. Under the ARTS benefit, peer support services began to be funded for Medicaid members on July 1, 2017. In order for peer support services to be funded by Medicaid,⁷ the PRS must be registered by the Department of Health Professions (DHP). This proposed regulation provides requirements that a PRS must meet in order to receive DHP registration.

Requirements: The Board proposes to require the following for persons seeking to become a registered PRS:

1. Have a high school diploma or equivalent.
2. Sign and abide by the Virginia Peer Recovery Specialist Code of Ethics.⁸
3. Complete the Department of Behavioral Health and Developmental Services (DBHDS) peer recovery specialist training.
4. Show current certification in good standing from one of the following:
 - a. U.S. Department of Veterans Affairs
 - b. National Association for Alcoholism and Drug Abuse Counselors
 - c. A member board of the International Certification and Reciprocity Consortium (IC&RC)
 - d. Any other certifying body approved by DBHDS

DBHDS peer recovery specialist training lasts 72 hours⁹ and includes training on the following topics: 1) the current body of mental health and substance abuse knowledge, 2) the recovery process, 3) promoting services, supports, and strategies for recovery, 4) peer-to-peer services, 5) crisis intervention, 6) the value of the role of a peer recovery specialist, 7) basic principles related to health and wellness, 8) recovery, resiliency, and wellness plans, 9) stage-appropriate pathways in recovery support, 10) ethics and ethical boundaries, 11) cultural sensitivity and practice, 12) trauma and its impact on recovery, 13) community resources, and 14) delivering peer services within agencies and

organizations. Currently, there is no fee for DBHDS peer recovery specialist training.

The Virginia Certification Board¹⁰ is the Virginia member board of the IC&RC. Requirements to become a Certified Peer Recovery Specialist via the Virginia Certification Board consist of:

1. High school diploma or GED.
2. Complete the DBHDS peer recovery specialist training.
3. 500 hours of volunteer or paid experience providing peer recovery support services.¹¹ Volunteer and part-time experience is acceptable if it is provided under direct supervision. Actual time spent in a supervised substance abuse or mental health internship, or practicum may be applied toward the employment requirement.
4. Pass the IC&RC Peer Recovery Specialist Examination.
5. Virginia residency.

The fee for a two-year certification from the Virginia Certification Board, which includes the application and examination, is \$175. The fee for certification renewal is \$75. Twenty hours of peer support specific continuing education, including six hours in ethics, is also required for certification renewal.¹²

Thus for a Virginian who chooses to become certified through the Virginia Certification Board in order to become professionally qualified to be a registered peer recovery specialist, she must: 1) have a high school diploma or GED, 2) sign and abide by the Virginia Peer Recovery Specialist Code of Ethics, 3) complete the DBHDS peer recovery specialist training, 4) have at least 500 hours of volunteer or paid experience providing peer recovery support services, 5) pass the IC&RC Peer Recovery Specialist Examination, and 6) pay \$175 to the Virginia Certification Board.

Conclusion

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services specifies that:

"Peer support providers must complete training and certification as defined by the State. Training must provide peer support providers with a basic set of competencies necessary to perform the peer support function. The peer must demonstrate the ability to support the recovery of others from mental illness and/or substance use disorders. Similar to other provider types, ongoing continuing educational requirements for peer support providers must be in place."

The proposed regulation meets those requirements, helping enable Virginia providers of peer support services to receive Medicaid funding.

Businesses and Entities Affected. The proposed regulation affects businesses and other entities that either provide or are considering providing peer support services. According to the

Department of Medical Assistance Services, there are approximately 5,891 provider entities with a unique National Provider Identifier that could be affected if they choose to participate in the ARTS program. At least half, if not more of these providers, are small businesses.¹³

Localities Particularly Affected. The proposed regulation does not disproportionately affect particular localities.

Projected Impact on Employment. The proposed regulation helps businesses and other entities that either provide or are considering providing peer support services qualify for Medicaid funding. This will likely increase the number of peer recovery specialist positions in the Commonwealth.

Effects on the Use and Value of Private Property. The proposed regulation helps enable Virginia providers of peer support services to receive Medicaid funding. Consequently, there may be greater provision of peer support services by private firms, and their values may increase.

Real Estate Development Costs. The proposed regulation does not affect real estate development costs.

Small Businesses:

Definition. Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

Costs and Other Effects. The proposed regulation is beneficial for small businesses in that it helps meet the federal requirements concerning set qualifications for peer support providers, helping enable small businesses that provide or are considering providing peer support services to receive Medicaid funding.

Alternative Method that Minimizes Adverse Impact. The proposed regulation is beneficial in that it helps meet the federal requirements concerning set qualifications for peer support providers, helping enable small businesses that provide or are considering providing peer support services to receive Medicaid funding. That said, there is flexibility in determining qualification requirements. Given that in order to become a registered peer recovery specialist the candidate must complete extensive training and pass a qualification exam, requiring 500 hours of supervised experience providing peer recovery support services prior to becoming certified or registered may be more than is necessary for assuring competence. Small firms looking to hire registered peer recovery specialists in order to provide peer support services and receive Medicaid funding could hire and employ registered peer recovery specialists sooner if the experience requirement were fewer hours.

Adverse Impacts:

Businesses. The proposed regulation does not adversely affect businesses.

Localities. The proposed regulation does not adversely affect localities.

Other Entities. The proposed regulation does not adversely affect other entities.

References

Davidson, L., C. Bellamy, K. Guy, and R. Miller. 2011. Peer support among persons with severe mental illnesses: a review of evidence and experience. *World Psychiatry* 11:123-128.

Rowe M., C. Bellamy et al. 2007. Reducing alcohol use, drug use, and criminality among persons with severe mental illness: outcomes of a Group- and Peer-Based Intervention. *Psychiatric Services* 58:955-61.

Solomon P, J. Draine, and M. Delaney. 1995. The working alliance and consumer case management. *Journal of Mental Health Administration* 22:126-34.

¹See <http://leg1.state.va.us/cgi-bin/legp504.exe?171+ful+CHAP0418>.

²See <http://leg1.state.va.us/cgi-bin/legp504.exe?171+ful+CHAP0426>.

³See <http://townhall.virginia.gov/l/ViewStage.cfm?stageid=7902>.

⁴See Rowe et al (2007) and Solomon et al (1995).

⁵See Davison et al (2012).

⁶Source: Department of Behavioral Health and Developmental Services.

⁷Sources: Department of Medical Assistance Services, and Department of Behavioral Health and Developmental Services.

⁸See <http://www.dbhds.virginia.gov/library/recovery/code%20of%20ethical%20conduct%20for%20cprs.pdf>.

⁹Source: Department of Behavioral Health and Developmental Services.

¹⁰See <https://www.vacertboard.org/>.

¹¹At least 25 of the hours must be supervised and specific to the four domains: advocacy, ethical responsibility, mentoring and education, and recovery/wellness support.

¹²See <https://www.vacertboard.org/sites/default/files/VCBRecertApplication.pdf>.

¹³Source: Department of Medical Assistance Services.

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

Summary:

Chapters 418 and 426 of the 2017 Acts of Assembly authorize the State Board of Behavioral Health and Developmental Specialists to adopt regulations that establish the qualifications, education, and experience for registration of peer recovery specialists by the Board of Counseling. Peer recovery specialist (PRS) staff are

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individuals who are, or family members of minor or adult children who are, receiving or have received mental health or substance abuse services. PRS staff are employed or seek to be employed to deliver collaborative support to others who are seeking to recover from a primary diagnosis of mental illness, addiction, or both. As of December 31, 2016, there were 430 certified peer recovery specialists employed across Virginia in public or private mental health or substance use disorder service settings.

The proposed regulation provides individuals who will be designated as "peer recovery specialists" a pathway to provide peer recovery services through the Virginia Medicaid Addiction and Recovery Treatment Services new substance use disorder benefit, which became available to Medicaid members receiving addiction treatment services at all levels of care effective July 1, 2017. The proposed regulations ensure that individuals providing peer recovery services in Virginia's public system of behavioral health services meet a baseline of practical knowledge and appropriate education and qualifications.

CHAPTER 250 PEER RECOVERY SPECIALISTS

12VAC35-250-10. Definitions.

"Certifying body" means an organization approved by DBHDS that has as one of its purposes the certification of peer recovery specialists.

"DBHDS" means the Department of Behavioral Health and Developmental Services.

"DBHDS peer recovery specialist training" means the curriculum developed and approved by DBHDS for the training of persons seeking registration as peer recovery specialists.

"Individual" means a person who is receiving peer recovery support services. This term includes the terms "consumer," "patient," "resident," "recipient," and "client."

"Peer recovery specialist" means a person who by education and experience is professionally qualified to provide collaborative services to assist individuals in achieving sustained recovery from the effects of mental illness, addiction, or both.

"Peer recovery support services" means collaborative nonclinical, peer-to-peer services that engage, educate, and support an individual's self-help efforts to improve his health, recovery, resiliency, and wellness to assist individuals in achieving sustained recovery from the effects of mental illness, addiction, or both.

"Recovery, resiliency, and wellness plan" means a set of goals, strategies, and actions an individual creates to guide him and his health care team to move the individual toward

the maximum achievable independence and autonomy in the community.

"Registered peer recovery specialist" means a peer recovery specialist who is registered by the Virginia Board of Counseling.

12VAC35-250-20. Peer recovery specialist.

A. Any person seeking to be a peer recovery specialist under this chapter shall (i) meet the qualifications, education, and experience requirements established in this chapter and (ii) hold a certification as a peer recovery specialist from a certifying body approved by DBHDS.

B. If the conditions in clauses (i) and (ii) of subsection A of this section are met, a person who is one of the following may act as a peer recovery specialist:

1. A parent of a minor or adult child with a mental illness or substance use disorder or co-occurring mental illness and substance use disorder similar to the individual receiving peer recovery services; or

2. An adult with personal experience with a family member with a mental illness or substance use disorder or co-occurring mental illness and substance use disorder similar to the individual receiving peer recovery services.

C. A registered peer recovery specialist shall provide such services as an employee or independent contractor of DBHDS, a provider licensed by DBHDS, a practitioner licensed by or holding a permit issued from the Department of Health Professions, or a facility licensed by the Department of Health.

D. Any person meeting the qualifications for a peer recovery specialist set forth in this chapter shall be eligible for registration by the Virginia Board of Counseling.

12VAC35-250-30. Qualifications.

A. Any person seeking to be a peer recovery specialist under this chapter shall:

1. Have a high school diploma or equivalent.

2. Sign and abide by the Virginia Peer Recovery Specialist Code of Ethics, Department of Behavioral Health and Developmental Services, effective April 4, 2017.

3. Complete the DBHDS peer recovery specialist training.

4. Show current certification in good standing by the U.S. Department of Veterans Affairs or one of the following certifying bodies:

a. National Association for Alcoholism and Drug Abuse Counselors (NAADAC);

b. A member board of the International Certification and Reciprocity Consortium (IC&RC); or

c. Any other certifying body approved by DBHDS.

B. Individuals certified through the Virginia member board of the IC&RC between April 16, 2015, through December 31, 2016, shall be exempt from completing the DBHDS peer recovery specialist training.

12VAC35-250-40. Minimum standards for certifying bodies.

DBHDS may approve a certification obtained from a certifying body that requires its certificate holders to:

1. Adhere to a code of ethics that is substantially comparable to the Virginia Peer Recovery Specialist Code of Ethics, Department of Behavioral Health and Developmental Services, effective April 4, 2017.
2. Have at least one year of recovery for persons having lived experience with mental illness or substance use disorder conditions, or lived experience as a family member of someone with mental illness or substance use disorder conditions.
3. Complete at least 46 hours of training from the list of curriculum subjects in 12VAC35-250-50.
4. Obtain a passing score on an examination offered by the certifying body testing knowledge of the curriculum subjects identified in 12VAC35-250-50.
5. Obtain and document at least 500 hours of supervised paid or volunteer experience providing peer recovery support services in the three years prior to applying for certification. The experience hours shall have been in nonclinical, peer-to-peer recovery-oriented support activities designed to address an individual's recovery and wellness goals.

12VAC35-250-50. Curriculum requirements.

A. Unless the exception in 12VAC35-250-30 B is met, any person seeking to be a peer recovery specialist under this chapter shall complete the DBHDS peer recovery specialist training.

B. The curriculum of the peer recovery specialist training shall include training on the following topics:

1. The current body of mental health and substance abuse knowledge;
2. The recovery process;
3. Promoting services, supports, and strategies for recovery;
4. Peer-to-peer services;
5. Crisis intervention;
6. The value of the role of a peer recovery specialist;
7. Basic principles related to health and wellness;

8. Recovery, resiliency, and wellness plans;

9. Stage-appropriate pathways in recovery support;

10. Ethics and ethical boundaries;

11. Cultural sensitivity and practice;

12. Trauma and its impact on recovery;

13. Community resources; and

14. Delivering peer services within agencies and organizations.

DOCUMENTS INCORPORATED BY REFERENCE (12VAC35-250)

[The Virginia Peer Recovery Support Specialist Code of Ethics, Department of Behavioral Health and Developmental Services \(eff. 4/2017\)](#)

VA.R. Doc. No. R17-4808; Filed June 29, 2018, 12:13 p.m.



TITLE 14. INSURANCE

STATE CORPORATION COMMISSION

Proposed Regulation

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

Title of Regulation: **14VAC5-300. Rules Governing Credit for Reinsurance (amending 14VAC5-300-60 through 14VAC5-300-95, 14VAC5-300-110, 14VAC5-300-150).**

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

Public Hearing Information: A public hearing will be held upon request.

Public Comment Deadline: September 20, 2018.

Agency Contact: Raquel C. Pino, Policy Advisor, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9499, FAX (804) 371-9873, or email raquel.pino@scc.virginia.gov.

Summary:

The proposed amendments correct subsection citations to § 38.2-1316.2 of the Code of Virginia pertaining to credit allowed a domestic ceding insurer. Chapter 477 of the 2017 Acts of Assembly amended § 38.2-1316.2 effective on July 1, 2017. Certain National Association of Insurance

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Commissioners documents incorporated by reference into the regulation have also been updated.

AT RICHMOND, JULY 2, 2018

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. INS-2018-00182

Ex Parte: In the matter of Amending the Rules Governing Credit for Reinsurance

ORDER TO TAKE NOTICE

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

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code are set forth in Title 14 of the Virginia Administrative Code. A copy also may be found at the Commission's website: <http://www.scc.virginia.gov/case>.

The Bureau of Insurance ("Bureau") has submitted to the Commission proposed amendments to rules set forth in Chapter 300 of Title 14 of the Virginia Administrative Code, entitled Rules Governing Credit for Reinsurance, 14 VAC 5-300-10 et seq. ("Rules"), which amend the Rules at 14 VAC 5-300-60 through 14 VAC 5-300-95, 14 VAC 5-300-110, and 14 VAC 5-300-150.

The amendments to Chapter 300 are necessary to correct subsection references to § 38.2-1316.2 of the Code pertaining to credit allowed a domestic ceding insurer. The subsection references to § 38.2-1316.2 are being changed due to the enactment of Chapter 477 of the 2017 Acts of Assembly, which took effect on July 1, 2017.

NOW THE COMMISSION is of the opinion that the proposed amendments submitted by the Bureau to amend the Rules at 14 VAC 5-300-60 through 14 VAC 5-300-95, 14 VAC 5-300-110, and 14 VAC 5-300-150, should be considered for adoption with a proposed effective date of November 1, 2018.

Accordingly, IT IS ORDERED THAT:

(1) The proposal to amend the Rules at 14 VAC 5-300-60 through 14 VAC 5-300-95, 14 VAC 5-300-110, and 14 VAC 5-300-150 is attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or request a hearing to consider the amendments to the Rules, shall file such comments or hearing

request on or before September 20, 2018, with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Interested persons desiring to submit comments electronically may do so by following the instructions at the Commission's website: <http://www.scc.virginia.gov/case>. All comments shall refer to Case No. INS-2018-00182.

(3) If no written request for a hearing on the proposal to amend the Rules, as outlined in this Order, is received on or before September 20, 2018, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposal, may adopt the Rules as submitted by the Bureau.

(4) The Bureau forthwith shall provide notice of the proposal to amend the Rules to all insurers, burial societies, fraternal benefit societies, health services plans, risk retention groups, joint underwriting associations, group self-insurance pools, and group self-insurance associations licensed by the Commission, to qualified reinsurers in Virginia, and to all interested persons.

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

(6) The Commission's Division of Information Resources shall make available this Order and the attached proposed amendment to the Rules on the Commission's website: <http://www.scc.virginia.gov/case>.

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

(8) This matter is continued.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424; and a copy hereof shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Donald C. Beatty.

14VAC5-300-60. Credit for reinsurance; reinsurer licensed in this Commonwealth.

Pursuant to § 38.2-1316.2 ~~A-1 and B C 1~~ of the Act, the commission shall allow credit when reinsurance is ceded to an assuming insurer which is licensed to transact insurance in this Commonwealth. For purposes of this section, an insurer shall not be considered so "licensed" unless it is fully authorized to actively solicit and conduct its business in this Commonwealth and in its domiciliary state.

14VAC5-300-70. Credit for reinsurance; accredited reinsurers.

A. Pursuant to § 38.2-1316.2 A C 2 of the Act, the commission shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is accredited as a reinsurer in this Commonwealth as of the date on which statutory financial statement credit for reinsurance is claimed. An accredited reinsurer shall:

1. File a properly executed Certificate of Assuming Insurer as evidence of its submission to this Commonwealth's jurisdiction and to this Commonwealth's authority to examine its books and records;
2. File with the commission a certified copy of a certificate of authority or other acceptable evidence that it is licensed to transact insurance or reinsurance in at least one state, or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;
3. File annually with the commission an electronic copy of its annual statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and
4. Maintain a surplus as regards policyholders in an amount not less than \$20 million, or obtain the affirmative approval of the commission upon a finding that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers.

B. If the commission determines that the assuming insurer has failed to meet or maintain any of these qualifications, the commission may upon written notice and opportunity for hearing, suspend, or revoke the accreditation. Credit shall not be allowed a domestic ceding insurer under this section if the assuming insurer's accreditation has been revoked by the commission, or if the reinsurance was ceded while the assuming insurer's accreditation was under suspension by the commission.

14VAC5-300-80. Credit for reinsurance; reinsurer domiciled and licensed in another state, and neither licensed nor accredited in Virginia.

A. Pursuant to the provisions of § 38.2-1316.2 A C 3 of the Act, the commission shall allow credit

for reinsurance ceded by a domestic insurer to an assuming insurer that as of any date on which statutory financial statement credit for reinsurance is claimed:

1. Is domiciled in (or, in the case of a United States branch of an alien assuming insurer, is entered through) a state

that employs standards regarding credit for reinsurance substantially similar to those applicable under the Act and this chapter;

2. Maintains a surplus as regards policyholders in an amount not less than \$20 million; and
3. Files a properly executed Certificate of Assuming Insurer with the commission as evidence of its submission to this Commonwealth's authority to examine its books and records.

B. The provisions of this section relating to surplus as regards policyholders shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. As used in this section, "substantially similar" standards means credit for reinsurance standards that the commission determines equal or exceed the standards of the Act and this chapter.

14VAC5-300-90. Credit for reinsurance; reinsurers maintaining trust funds.

A. Pursuant to § 38.2-1316.2 A C 4 of the Act, the commission shall allow credit for reinsurance ceded to a trustee assuming insurer which, as of the date of the ceding insurer's statutory financial statement:

1. Maintains a trust fund and trustee surplus that complies with the provisions of § 38.2-1316.2 A C 4;
2. Complies with the requirements set forth in subsections B, C₁ and D of this section; and
3. Reports annually to the commission on or before June 1 of each year in which a ceding insurer seeks reserve credit under the Act substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the commission to determine the sufficiency of the trust fund. The accounting shall, among other things, set forth the balance to the trust and list the trust's investments as of the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

B. The following requirements apply to the following categories of assuming insurer:

1. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States domiciled insurers, and in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20 million, except as provided in subdivision 2 of this subsection.
2. At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a

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reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

3. a. The trust fund for a group including incorporated and individual unincorporated underwriters shall consist of:

(1) For reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after January 1, 1993, funds in trust in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group;

(2) For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this chapter, funds in trust in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and

(3) In addition to these trusts, the group shall maintain a trustee surplus of which \$100 million shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all the years of account.

b. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members. The group shall, within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, provide to the commission:

(1) An annual certification by the group's domiciliary regulator of the solvency of each underwriter member of the group; or

(2) If a certification is unavailable, a financial statement, prepared by independent public accountants, of each underwriter member of the group.

4. a. The trust fund for a group of incorporated insurers under common administration, whose members possess

aggregate policyholders surplus of \$10 billion (calculated and reported in substantially the same manner as prescribed by the NAIC Annual Statement Instructions and the NAIC Accounting Practices and Procedures Manual) and which has continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation, shall:

(1) Consist of funds in trust in an amount not less than the assuming insurers' several liabilities attributable to business ceded by United States domiciled ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group;

(2) Maintain a joint trustee surplus of which \$100 million shall be held jointly for the benefit of United States domiciled ceding insurers of any member of the group; and

(3) File a properly executed Certificate of Assuming Insurer as evidence of the submission to this Commonwealth's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination.

b. Within 90 days after the statements are due to be filed with the group's domiciliary regulator, the group shall file with the commission an annual certification of each underwriter member's solvency by the member's domiciliary regulators, and financial statements, prepared by independent public accountants, of each underwriter member of the group.

C. 1. Credit for reinsurance shall not be granted unless the form of the trust and any amendments to the trust have been approved by either the commissioner of the state where the trust is domiciled or the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that:

a. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied 30 days after entry of the final order of any court of competent jurisdiction in the United States;

b. Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest;

c. The trust and the assuming insurer shall be subject to examination as determined by the commission;

d. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust; and

e. No later than February 28 of each year the trustees of the trust (i) shall report to the commission in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end and (ii) shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next December 31.

2. a. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by this subsection or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund.

b. The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of domestic insurance companies.

c. If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States beneficiaries of the trust, the commissioner with regulatory oversight over the trust shall return the assets, or any part thereof, to the trustee for distribution in accordance with the trust agreement.

d. The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this provision.

D. For purposes of this section, the term "liabilities" shall mean the assuming insurer's gross liabilities attributable to reinsurance ceded by United States domiciled insurers, excluding liabilities that are otherwise secured by acceptable means, and, shall include:

1. For business ceded by domestic insurers authorized to write accident and health, and property and casualty insurance:

a. Losses and allocated loss expenses paid by the ceding insurer, recoverable from the assuming insurer;

b. Reserves for losses reported and outstanding;

c. Reserves for losses incurred but not reported;

d. Reserves for allocated loss expenses; and

e. Unearned premiums.

2. For business ceded by domestic insurers authorized to write life, health, and annuity insurance:

a. Aggregate reserves for life policies and contracts net of policy loans and net due and deferred premiums;

b. Aggregate reserves for accident and health policies;

c. Deposit funds and other liabilities without life or disability contingencies; and

d. Liabilities for policy and contract claims.

E. Assets deposited in trusts established pursuant to § 38.2-1316.2 of the Act and this section shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States financial institution as defined in § 38.2-1316.1 of the Act, clean, irrevocable, unconditional, and "evergreen" letters of credit issued or confirmed by a qualified United States financial institution, as defined in § 38.2-1316.1, and investments of the type specified in this subsection, but investments in or issued by an entity controlling, controlled by or under common control with either the grantor or beneficiary of the trust shall not exceed 5.0% of total investments. No more than 20% of the total of the investments in the trust may be foreign investments authorized under subdivisions 1 e, 3, 5 b, or 6 of this subsection, and no more than 10% of the total of the investments in the trust may be securities denominated in foreign currencies. For purposes of applying the preceding sentence, a depository receipt denominated in United States dollars and representing rights conferred by a foreign security shall be classified as a foreign investment denominated in a foreign currency. The assets of a trust established to satisfy the requirements of § 38.2-1316.2 shall be invested only as follows:

1. Government obligations that are not in default as to principal or interest, that are valid and legally authorized and that are issued, assumed, or guaranteed by:

a. The United States or by any agency or instrumentality of the United States;

b. A state of the United States;

c. A territory, possession, or other governmental unit of the United States;

d. An agency or instrumentality of a governmental unit referred to in subdivisions 1 b and c of this subsection if the obligations shall be by law (statutory or otherwise) payable, as to both principal and interest, from taxes levied or by law required to be levied or from adequate special revenues pledged or otherwise appropriated or by

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law required to be provided for making these payments, but shall not be obligations eligible for investment under this subsection if payable solely out of special assessments on properties benefited by local improvements; or

e. The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

2. Obligations that are issued in the United States, or that are dollar denominated and issued in a non-United States market, by a solvent United States institution (other than an insurance company) or that are assumed or guaranteed by a solvent United States institution (other than an insurance company) and that are not in default as to principal or interest if the obligations:

a. Are rated A or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC, or if not so rated, are similar in structure and other material respects to other obligations of the same institution that are so rated;

b. Are insured by at least one authorized insurer (other than the investing insurer or a parent, subsidiary or affiliate of the investing insurer) licensed to insure obligations in this Commonwealth and, after considering the insurance, are rated AAA (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC; or

c. Have been designated as Class One or Class Two by the Securities Valuation Office of the NAIC;

3. Obligations issued, assumed or guaranteed by a solvent non-United States institution chartered in a country that is a member of the Organization for Economic Cooperation and Development or obligations of United States corporations issued in a non-United States currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

4. An investment made pursuant to the provisions of subdivision 1, 2, or 3 of this subsection shall be subject to the following additional limitations:

a. An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities shall not exceed 5.0% of the assets of the trust;

b. An investment in any one mortgage-related security shall not exceed 5.0% of the assets of the trust;

c. The aggregate total investment in mortgage-related securities shall not exceed 25% of the assets of the trust; and

d. Preferred or guaranteed shares issued or guaranteed by a solvent United States institution are permissible investments if all of the institution's obligations are eligible as investments under subdivisions 2 a and 2 c of this subsection, but shall not exceed 2.0% of the assets of the trust.

5. Equity interests.

a. Investments in common shares or partnership interests of a solvent United States institution are permissible if:

(1) Its obligations and preferred shares, if any, are eligible as investments under this subsection; and

(2) The equity interests of the institution (except an insurance company) are registered on a national securities exchange as provided in the Securities Exchange Act of 1934, 15 USC §§ 78 a to 78 kk or otherwise registered pursuant to that Act, and if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the Financial Industry Regulatory Authority, or successor organization. A trust shall not invest in equity interests under this subdivision an amount exceeding 1.0% of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company;

b. Investments in common shares of a solvent institution organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development, if:

(1) All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC; and

(2) The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the Organization for Economic Cooperation and Development;

c. An investment in or loan upon any one institution's outstanding equity interests shall not exceed 1.0% of the assets of the trust. The cost of an investment in equity interests made pursuant to this subdivision, when added to the aggregate cost of other investments in equity interests then held pursuant to this subdivision, shall not exceed 10% of the assets in the trust;

6. Obligations issued, assumed, or guaranteed by a multinational development bank, provided the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.

7. Investment companies.

a. Securities of an investment company registered pursuant to the Investment Company Act of 1940, 15 USC § 80 a, are permissible investments if the investment company:

(1) Invests at least 90% of its assets in the types of securities that qualify as an investment under subdivision 1, 2, or 3 of this subsection or invests in securities that are determined by the commission to be substantively similar to the types of securities set forth in subdivision 1, 2, or 3 of this subsection; or

(2) Invests at least 90% of its assets in the types of equity interests that qualify as an investment under subdivision 5 a of this subsection;

b. Investments made by a trust in investment companies under this subdivision shall not exceed the following limitations:

(1) An investment in an investment company qualifying under subdivision 7 a (1) of this subsection shall not exceed 10% of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall not exceed 25% of the assets in the trust; and

(2) Investments in an investment company qualifying under subdivision 7 a (2) of this subsection shall not exceed 5.0% of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall be included when calculating the permissible aggregate value of equity interests pursuant to subdivision 5 a of this subsection.

8. Letters of credit.

a. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the commission); to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

b. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct, or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

F. A specific security provided to a ceding insurer by an assuming insurer pursuant to 14VAC5-300-100 shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for,

presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this section.

14VAC5-300-95. Credit for reinsurance; certified reinsurers.

A. Pursuant to § 38.2-1316.2 ~~B~~ D of the Act, the commission shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this Commonwealth at all times for which statutory financial statement credit for reinsurance is claimed under this section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commission. The security shall be in a form consistent with the provisions of § 38.2-1316.2 ~~B~~ D and 14VAC5-300-110, 14VAC5-300-120, 14VAC5-300-130, or 14VAC5-300-140. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

1. Ratings	Security Required
Secure – 1	0.0%
Secure – 2	10%
Secure – 3	20%
Secure – 4	50%
Secure – 5	75%
Vulnerable – 6	100%

2. Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.

3. The commission shall require the certified reinsurer to post 100%, for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation, or conservation against the ceding insurer.

4. In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence that is likely to result in significant insured losses, as recognized by the commission. The one year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:

- a. Line 1: Fire
- b. Line 2: Allied Lines

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- c. Line 3: Farmowners multiple peril
- d. Line 4: Homeowners multiple peril
- e. Line 5: Commercial multiple peril
- f. Line 9: Inland marine
- g. Line 12: Earthquake
- h. Line 21: Auto physical damage

5. Credit for reinsurance under this section shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended by mutual agreement of the parties to the reinsurance contract after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering any risk for which collateral was provided previously, shall only be subject to this section with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract.

6. Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this section.

B. Certification procedure.

1. The commission shall post notice on the Bureau of Insurance's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The commission may not take final action on the application until at least 30 days after posting the notice required by this subdivision.

2. The commission shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with subsection A of this section. The commission shall publish a list of all certified reinsurers and their ratings.

3. In order to be eligible for certification, the assuming insurer shall meet the following requirements:

- a. The assuming insurer shall be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commission pursuant to subsection C of this section.
- b. The assuming insurer shall maintain capital and surplus, or its equivalent, of no less than \$250 million calculated in accordance with subdivision 4 h of this subsection. This requirement may also be satisfied by an

association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least \$250 million and a central fund containing a balance of at least \$250 million.

c. The assuming insurer shall maintain financial strength ratings from two or more rating agencies deemed acceptable by the commission. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the commission in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

- (1) Standard & Poor's;
- (2) Moody's Investors Service;
- (3) Fitch Ratings;
- (4) A.M. Best Company; or
- (5) Any other nationally recognized statistical rating organization.

d. The certified reinsurer shall comply with any other requirements reasonably imposed by the commission.

4. Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:

a. The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The commission shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification:

Ratings	Best	S&P	Moody's	Fitch
Secure – 1	A++	AAA	Aaa	AAA
Secure – 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
Secure – 3	A	A+, A	A1, A2	A+, A

Secure – 4	A-	A-	A3	A-
Secure – 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable – 6	B, B-, C++, C+, C, C-, D, E, F	BB+, BB, BB- , B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB- , B+, B, B-, CCC+, CC, CCC- DD

b. The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations;

c. For certified reinsurers domiciled in the United States, a review of the most recent applicable NAIC annual statement blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers);

d. For certified reinsurers not domiciled in the United States, a review annually of the Assumed Reinsurance Form CR-F (for property/casualty reinsurers) or the Reinsurance Assumed Life Insurance, Annuities, Deposit Funds and Other Liabilities Form CR-S (for life and health reinsurers) of this chapter;

e. The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than 90 days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership;

f. Regulatory actions against the certified reinsurer;

g. The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subdivision 4 h of this subsection;

h. For certified reinsurers not domiciled in the United States, audited financial statements (audited United States GAAP basis if available, audited IFRS basis statements are allowed but shall include an audited footnote reconciling equity and net income to a United States GAAP basis), regulatory filings, and actuarial opinion (as filed with the non-United States jurisdiction supervisor). Upon the initial application for certification, the commission will consider audited financial statements for the last three years filed with its non-United States jurisdiction supervisor;

i. The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding;

j. A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves United States ceding insurers. The commission shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and

k. Any other information deemed relevant by the commission.

5. Based on the analysis conducted under subdivision 4 e of this subsection of a certified reinsurer's reputation for prompt payment of claims, the commission may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to United States ceding insurers, provided that the commission shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under subdivision 4 a of this subsection if the commission finds that:

a. More than 15% of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of 90 days or more that are not in dispute and that exceed \$100,000 for each cedent; or

b. The aggregate amount of reinsurance recoverables on paid losses that are not in dispute that are overdue by 90 days or more exceeds \$50 million.

6. The assuming insurer shall submit a properly executed Certificate of Certified Reinsurer as evidence of its submission to the jurisdiction of this Commonwealth, appointment of the commission as an agent for service of process in this Commonwealth, and agreement to provide security for 100% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment. The commission shall not certify any assuming insurer that is domiciled in a jurisdiction that the commission has determined does not adequately and promptly enforce final United States judgments or arbitration awards.

7. The certified reinsurer shall agree to meet applicable information filing requirements as determined by the commission, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers that are not otherwise public information subject to disclosure shall be exempted from disclosure under §§ 38.2-221.3 and 38.2-1306.1 of the Act and shall be withheld from public disclosure. The applicable information filing requirements are, as follows:

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a. Notification within 10 days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license, or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefore;

b. Annually, Form CR-F or CR-S, as applicable;

c. Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subdivision 7 d of this subsection;

d. Annually, audited financial statements (audited United States GAAP basis if available, audited IFRS basis statements are allowed but shall include an audited footnote reconciling equity and net income to a United States GAAP basis), regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor). Upon the initial certification, audited financial statements for the last three years filed with the certified reinsurer's supervisor;

e. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers;

f. A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and

g. Any other information that the commission may reasonably require.

8. Change in rating or revocation of certification.

a. In the case of a downgrade by a rating agency or other disqualifying circumstance, the commission shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of subdivision 4 a of this subsection.

b. The commission shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the commission to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.

c. If the rating of a certified reinsurer is upgraded by the commission, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the commission shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the

rating of a certified reinsurer is downgraded by the commission, the commission shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

d. Upon revocation of the certification of a certified reinsurer by the commission, the assuming insurer shall be required to post security in accordance with 14VAC5-300-110 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with 14VAC5-300-90, the commission may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the commission to be at high risk of uncollectibility.

C. Qualified jurisdictions.

1. If, upon conducting an evaluation under this section with respect to the reinsurance supervisory system of any non-United States assuming insurer, the commission determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the commission shall publish notice and evidence of such recognition in an appropriate manner. The commission may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

2. In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commission shall evaluate the reinsurance supervisory system of the non-United States jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. The commission shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the commission as eligible for certification. A qualified jurisdiction shall agree to share information and cooperate with the commission with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the commission, include but are not limited to the following:

a. The framework under which the assuming insurer is regulated.

- b. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.
- c. The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.
- d. The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.
- e. The domiciliary regulator's willingness to cooperate with United States regulators in general and the commission in particular.
- f. The history of performance by assuming insurers in the domiciliary jurisdiction.
- g. Any documented evidence of substantial problems with the enforcement of final United States judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the commission has determined that it does not adequately and promptly enforce final United States judgments or arbitration awards.
- h. Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization.
- i. Any other matters deemed relevant by the commission.

3. A list of qualified jurisdictions shall be published through the NAIC committee process. The commission shall consider this list in determining qualified jurisdictions. If the commission approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commission shall provide thoroughly documented justification with respect to the criteria provided under subdivisions 2 a through i of this subsection.

4. United States jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

D. Recognition of certification issued by an NAIC accredited jurisdiction.

1. If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the commission has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Certificate of Certified Reinsurer and such additional information as the commission requires. The assuming insurer shall be considered to be a certified reinsurer in this Commonwealth.

2. Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this Commonwealth as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the commission of any change in its status or rating within 10 days after receiving notice of the change.

3. The commission may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with subdivision B 8 a of this section.

4. The commission may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the commission suspends or revokes the certified reinsurer's certification in accordance with subdivision B 8 b of this section, the certified reinsurer's certification shall remain in good standing in this Commonwealth for a period of three months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in this Commonwealth.

E. Mandatory funding clause. In addition to the clauses required under 14VAC5-300-150, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

F. The commission shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

14VAC5-300-110. Asset or reduction from liability for reinsurance ceded to an assuming insurer not meeting the requirements of 14VAC5-300-60 through 14VAC5-300-100.

A. Pursuant to § 38.2-1316.4 of the Act, the commission shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of § 38.2-1316.2 of the Act in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations under the reinsurance contract. The security shall be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in § 38.2-1316.1 of the Act. This security may be in the form of any of the following:

- (1) Cash;

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(2) Securities listed by the Securities Valuation Office of the NAIC, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the NAIC ~~Securities Valuation~~ Investment Analysis Office, and qualifying as admitted assets;

(3) Clean, irrevocable, unconditional, and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as defined in § 38.2-1316.1 of the Act, effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or

(4) Any other form of security acceptable to the commission.

B. An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to this section shall be allowed only when the requirements of 14VAC5-300-150 and the applicable portions of 14VAC5-300-120, 14VAC5-300-130, or 14VAC5-300-140 of this chapter have been satisfied.

14VAC5-300-150. Reinsurance contract.

A. Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of 14VAC5-300-60, 14VAC5-300-70, 14VAC5-300-80, 14VAC5-300-90, 14VAC5-300-95, or 14VAC5-300-100 or otherwise in compliance with § 38.2-1316.2 of the Act unless the reinsurance agreement:

1. Includes a proper insolvency clause that stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company;
2. Includes a provision whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decisions of such court or panel; and
3. Includes a proper reinsurance intermediary clause, if applicable, that stipulates that the credit risk for the intermediary is carried by the assuming insurer.

B. If the assuming insurer is not licensed, accredited, or certified to transact insurance or reinsurance in this Commonwealth, the credit permitted pursuant to § 38.2-1316.2 ~~A C~~ 3, ~~A C~~ 4, and ~~E G~~ shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

1. a. That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

- b. To designate the commission or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer.

2. This subsection is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

C. If the assuming insurer does not meet the requirements of § 38.2-1316.2 ~~A C~~ 1, 2, or 3, the credit permitted by § 38.2-1316.2 ~~A C~~ 4 or ~~B D~~ shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

1. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by § 38.2-1316.2 ~~A C~~ 4, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.

2. The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

3. If the commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

4. The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this provision.

DOCUMENTS INCORPORATED BY REFERENCE
(14VAC5-300-9999)

~~NAIC Policy Statement on Financial Regulation Standards, 2012, National Association of Insurance Commissioners.~~

[NAIC Policy Statement on Financial Regulation Standards, 2018, National Association of Insurance Commissioners](#)

NAIC Annual Statement Instructions, ~~2011~~ 2017 Life Annual Statement Instructions, September ~~15, 2011~~ 1, 2017, National Association of Insurance Commissioners and the Center for Insurance Policy and Research.

NAIC Annual Statement Instructions, ~~2011~~ 2017 Property/Casualty Annual Statement Instructions, September ~~15, 2011~~ 1, 2017, National Association of Insurance Commissioners and the Center for Insurance Policy and Research.

NAIC Accounting Practices & Procedures Manual, Volumes I, II, ~~III~~, March ~~2011~~ 2018, National Association of Insurance Commissioners.

ICC Uniform Customs and Practice for Documentary Credits (UCP 500), 1993, International Chamber of Commerce.

ICC Uniform Customs and Practice for Documentary Credits (UCP 600), 2007, International Chamber of Commerce.

International Standby Practices ISP98, 1999, The Institute of International Banking Law and Practice, Inc.

Purposes and Procedures Manual of the NAIC ~~Securities Valuation~~ Investment Analysis Office - Effective for Statements Ending December 31, ~~2011~~ 2017, Volume/Issue ~~11/01, 2011~~ 17/01, 2017, National Association of Insurance Commissioners.

VA.R. Doc. No. R18-5488; Filed July 2, 2018, 2:46 p.m.

TITLE 16. LABOR AND EMPLOYMENT

SAFETY AND HEALTH CODES BOARD

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations provided such regulations do not differ materially from those required by

federal law or regulation. The Safety and Health Codes Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **16VAC25-85. Recording and Reporting Occupational Injuries and Illnesses (amending 16VAC25-85-1904.0, 16VAC25-85-1904.4, 16VAC25-85-1904.29, 16VAC25-85-1904.32, 16VAC25-85-1904.33, 16VAC25-85-1904.34, 16VAC25-85-1904.35, 16VAC25-85-1904.40).**

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

Effective Date: September 15, 2018.

Agency Contact: Regina P. Cobb, Senior Agency Management Analyst, Department of Labor and Industry, Main Street Centre, 600 East Main Street, Richmond, VA 23219, telephone (804) 786-0610, FAX (804) 786-8418, or email regina.cobb@doli.virginia.gov.

Summary:

In a final rule, federal Occupational Safety and Health Administration (OSHA) removed clarifying amendments to OSHA's recordkeeping regulations that (i) referenced an employer's continuing obligation to make and maintain an accurate record of each recordable injury and illness and (ii) gave OSHA the ability to issue citations to employers for failing to record work-related injuries and illnesses during the five-year retention period. These amendments became effective nationally on January 18, 2017, and in Virginia on May 15, 2017. Public Law 115-21 invalidated the amendments through a resolution of disapproval of OSHA's final rule entitled, "Clarification of Employer's Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness," informally referred to as the "Volks" rule. Removing the amendments restores the regulations to the preclarification rule, that is prior to the December 19, 2016, final rule.

The amendments in this regulatory action restore regulations of the Safety and Health Codes Board regarding Employers' Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness to the form in effect prior to the OSHA adoption of the "Volks" rule.

Note on Incorporation by Reference: Pursuant to § 2.2-4103 of the Code of Virginia, 29 CFR 1904 (Recording and Reporting Occupational Injuries and Illnesses) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, this document will not be printed in the Virginia Register of Regulations. A copy of this document is available for inspection at the Department of Labor and Industry, Main Street Centre, 600 East Main Street, Richmond, Virginia 23219, and in the

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office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

Statement of Final Agency Action: On June 14, 2018, the Safety and Health Codes Board adopted federal OSHA's Final Rule on the Clarification of Employers' Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness, as published in 82 FR 20548 on May 3, 2017, with an effective date of September 15, 2018.

Federal Terms and State Equivalents: When the regulations as set forth in the revised final rule for Recording and Reporting Occupational Injuries and Illnesses are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
May 3, 2017	September 15, 2018

VA.R. Doc. No. R18-5551; Filed June 27, 2018, 10:35 a.m.

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations provided such regulations do not differ materially from those required by federal law or regulation. The Safety and Health Codes Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 16VAC25-90. Federal Identical General Industry Standards (amending 16VAC25-90-1910.1017).

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

Effective Date: September 15, 2018.

Agency Contact: John J. Crisanti, Policy and Planning Manager, Department of Labor and Industry, Department of Labor and Industry, Main Street Centre, 600 East Main Street, Richmond, VA 23219, telephone (804) 786-4300, FAX (804) 786-8418, or email john.crisanti@doli.virginia.gov.

Summary:

The federal Occupational Safety and Health Administration (OSHA) corrected its general industry

standards by reinstating paragraph (n) of the Vinyl Chloride standard, § 1910.1017, which had been inadvertently deleted in the July 1, 2017, revision covering OSHA standards, 29 CFR 1910.1000 to end. The reinstated paragraph (n) requires employers to notify affected employees within 15 days of their receipt of vinyl chloride monitoring results and the associated steps to be taken to reduce exposures within the permissible exposure limit. In this regulatory action, the board is adopting this correction.

Note on Incorporation by Reference: Pursuant to § 2.2-4103 of the Code of Virginia, 29 CFR Part 1910 (Occupational Safety and Health Standards) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, these documents will not be printed in the Virginia Register of Regulations. A copy of each document is available for inspection at the Department of Labor and Industry, Main Street Centre, 600 East Main Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

Statement of Final Agency Action: On June 14, 2018, the Safety and Health Codes Board adopted federal OSHA's Code of Federal Regulations correction, reinstating paragraph (n) of the Vinyl Chloride Standard for General Industry, as published in 83 FR 11413 on March 15, 2018, with an effective date of September 15, 2018.

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
March 15, 2018	September 15, 2018

VA.R. Doc. No. R18-5549; Filed June 27, 2018, 10:35 a.m.

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations provided such regulations do not differ materially from those required by federal law or regulation. The Safety and Health Codes Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 16VAC25-175. Federal Identical Construction Industry Standards (amending 16VAC25-175-1926.60).

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

Effective Date: September 15, 2018.

Agency Contact: John J. Crisanti, Policy and Planning Manager, Department of Labor and Industry, Main Street Centre, 600 East Main Street, Richmond, VA 23219, telephone (804) 786-4300, FAX (804) 786-8418, or email john.crisanti@doli.virginia.gov.

Summary:

The federal Occupational Safety and Health Administration (OSHA) corrected its standard for the construction industry by removing subparagraph (o)(8)(ii) of the Methylenedianiline standard, § 1926.60, which specifies procedures for employee record retention in the event an employer ceases to do business and there is no successor. The removal discontinues the requirement to notify the Director of the National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services, or his designee, at least 90 days prior to disposal of employee records, where an employer ceases to do business and there is no successor to receive and retain the employee records. In this regulatory action, the board is adopting this correction.

Note on Incorporation by Reference: Pursuant to § 2.2-4103 of the Code of Virginia, 29 CFR Part 1926 (Occupational Safety and Health Standards) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, these documents will not be printed in the Virginia Register of Regulations. A copy of each document is available for inspection at the Department of Labor and Industry, Main Street Centre, 600 East Main Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

Statement of Final Agency Action: On June 14, 2018, the Safety and Health Codes Board adopted federal OSHA's Code of Federal Regulations correction, removing subparagraph (o)(8)(ii) of the Methylenedianiline Standard for the Construction Industry, as published in 83 FR 15499 on April 11, 2018, with an effective date of September 15, 2018.

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
April 11, 2018	September 15, 2018

VA.R. Doc. No. R18-5550; Filed June 27, 2018, 10:35 a.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF ACCOUNTANCY

Fast-Track Regulation

Title of Regulation: **18VAC5-22. Board of Accountancy Regulations (amending 18VAC5-22-20).**

Statutory Authority: § 54.1-4402 and 54.1-4403 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: August 22, 2018.

Effective Date: September 6, 2018.

Agency Contact: Rebekah E. Allen, Enforcement Director, Board of Accountancy, 9960 Mayland Drive, Suite 402, Richmond, VA 23223, telephone (804) 367-2006, FAX (804) 527-4207, or email rebekah.allen@boa.virginia.gov.

Basis: Section 54.1-4403 of the Code of Virginia grants authority to the Board of Accountancy to promulgate regulations, "in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) necessary to assure continued competency, to prevent deceptive or misleading practices by licensees, and to effectively administer the regulatory system." The Board is the promulgating entity for regulations governing public accountancy. Subdivision 4 of § 54.1-4403 references the board's power to levy and collect fees.

Purpose: This amendment is intended to reflect current services offered by the board and to update the definitions of services to match the board's statutes. The board's rationale is to repeal regulations, or portions of regulations, that are unnecessary or no longer in use, and to make sure that the language of its regulations matches the language of its governing statutes. As the board is funded by the fees it collects, having an accurate and up-to-date fee schedule ensures that it can carry out its mission of protecting the welfare of citizens through a program of examination, licensure of individuals and CPA firms, consumer protection through enforcement action, continuing professional education, and peer review oversight.

Rationale for Using Fast-Track Rulemaking Process: This rulemaking is expected to be noncontroversial because the Board is eliminating obsolete fees and updating fee descriptions to match statutory provisions. This change is also supported by the Virginia Society of Certified Public Accountants.

Substance: The proposed amendment eliminates fees for services the board no longer performs and updates fee descriptions to match statutory provisions.

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Issues: The primary advantages to the public are reduced confusion by updating fee descriptions to match the board's statutory provisions. It also reduces confusion by repealing obsolete fees that are not collected since the service tied to the fee is no longer performed. The primary advantage to the board and Commonwealth is consistency across statutes and regulations and ensuring the list of fees is up to date. There are no primary disadvantages to the public. There are no primary disadvantages to the board or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Board of Accountancy (Board) proposes to eliminate an obsolete fee and amend language for consistency with the Code of Virginia.

Result of Analysis. The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact. The current regulation includes a \$25 fee for "Preliminary evaluation of whether a person has met the requirements to take the CPA examination." According to the Board, preliminary evaluations are no longer performed. Consequently, the Board proposes to repeal the inclusion of this fee in the regulation.

The Board also proposes two amendments to conform regulatory language with the Code of Virginia. The first would add "financial statement preparation services" to the list of services provided when the board lifts a suspension. Because the change is consistent with statutory language throughout Chapter 44 (§ 54.1-4400 et seq.) of Title 54 of the Code of Virginia regarding penalties that can be imposed on public accountants by the board in § 54.1-4413.4, this change will provide clarification to services provided by the board but will not change practice. The conforming amendment would change the text of the term, "wall certificate" to "CPA wall certificate". This term has been used in legislation since 2007 with the enactment of Chapter 804 of the 2007 Acts of Assembly.¹

None of the proposed amendments change requirements in practice, but nonetheless would be beneficial in that they improve clarity for readers of the regulation.

Businesses and Entities Affected. The proposed regulation affects CPA firms and CPAs, and CPA licensure applicants. As of September 30, 2017, there were 27,842 persons who held Virginia CPA licenses, and 1,179 entities or sole proprietors who held Virginia CPA firm licenses. Annually, there are on average 1,360 total applicants for licensure.² All or most CPA firms would qualify as small businesses.

Localities Particularly Affected. The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment. The proposed amendments do not significantly affect employment.

Effects on the Use and Value of Private Property. The proposed amendments do not affect the use and value of private property.

Real Estate Development Costs. The proposed amendments do not affect real estate development costs.

Small Businesses:

Definition. Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

Costs and Other Effects. The proposed amendments do not significantly affect costs for small businesses.

Alternative Method that Minimizes Adverse Impact. The proposed amendments do not adversely affect small businesses.

Adverse Impacts:

Businesses. The proposed amendments do not adversely affect businesses.

Localities. The proposed amendments do not adversely affect localities.

Other Entities. The proposed amendments do not adversely affect other entities.

¹ See <http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0804>.

² Data source: Board of Accountancy.

Agency's Response to Economic Impact Analysis: The Virginia Board of Accountancy concurs with the economic impact analysis of the Department of Planning and Budget.

Summary:

The amendments update the Virginia Board of Accountancy's fee schedule to reflect current services and match statutory definitions.

18VAC5-22-20. Fees.

A. The board shall charge the following fees for services it provides:

Processing an initial application to take one or more sections of the CPA examination	\$120
Processing additional applications to take one or more sections of the CPA examination	\$20
Preliminary evaluation of whether a person has met the requirements to take the CPA examination	\$25
Processing an application for issuance of a Virginia license to a person	\$75

Processing an application for issuance of a Virginia license to a firm	\$100
Processing an application for the timely renewal of a person's Virginia license except as provided in subsection B of 18VAC5-22-180	\$60
Processing an application for the timely renewal of a firm's Virginia license except as provided in subsection B of 18VAC5-22-180	\$75
Additional fee for processing an application for the renewal of a person's Virginia license that is not timely	\$100
Additional fee for processing an application for the renewal of a firm's Virginia license that is not timely	\$100
Processing an application for reinstatement of a person's Virginia license	\$350
Processing an application for reinstatement of a firm's Virginia license	\$500
Processing an application for lifting the suspension of the privilege of using the CPA title in Virginia	\$350
Processing an application for lifting the suspension of the privilege of providing attest services or compilation services, <u>or financial statement preparation services</u> for persons or entities located in Virginia	\$500
Providing or obtaining information about a person's grades on sections of the CPA examination	\$25
Processing requests for verification that a person or firm holds a Virginia license:	
1. Online request	\$25
2. Manual request	\$50
Providing an additional <u>CPA</u> wall certificate	\$25
Additional fee for not responding within 30 calendar days to any request for information by the board under subsection A of 18VAC5-22-170	\$100
Additional fee for not using the online payment option for any service provided by the board	\$25

B. All fees for services the board provides are due when the service is requested and are nonrefundable.

VA.R. Doc. No. R18-5258; Filed June 27, 2018, 5:06 p.m.

Fast-Track Regulation

Title of Regulation: 18VAC5-22. Board of Accountancy Regulations (amending 18VAC5-22-140).

Statutory Authority: §§ 54.1-4402 and 54.1-4403 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: August 22, 2018.

Effective Date: September 6, 2018.

Agency Contact: Rebekah E. Allen, Enforcement Director, Board of Accountancy, 9960 Mayland Drive, Suite 402, Richmond, VA 23223, telephone (804) 367-2006, FAX (804) 527-4207, or email rebekah.allen@boa.virginia.gov.

Basis: Section 54.1-4403 of the Code of Virginia grants authority to the Board of Accountancy to promulgate regulations "in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) necessary to assure continued competency, to prevent deceptive or misleading practices by licensees, and to effectively administer the regulatory system." The board is the promulgating entity for regulations governing public accountancy.

Purpose: The amendments are intended to make the level of services that triggers the requirement for specific continuing professional education (CPE) topics match the level of service that triggers the requirement for a firm certified public account (CPA) license. The board believes it is necessary for the safety and welfare of the public that CPAs are competent to provide the services that they offer, which is best realized by ensuring that CPAs who release or authorize the release of reports for any level of firm-only services take a minimum number of CPE hours annually on the topic of those services.

Rationale for Using Fast-Track Rulemaking Process: This regulatory action is expected to be noncontroversial because the proposed amendment does not increase the CPE requirements for affected CPAs, and it is anticipated that the majority of those affected CPAs are already completing CPE hours that are related to the services they provide. This regulation inadvertently was not amended following the passage of Chapter 287 of the 2015 Acts of Assembly, and due to the time elapsed since that passage, this amendment is no longer eligible for the exempt rulemaking process. This change is also supported by the Virginia Society of Certified Public Accountants.

Substance: The amendment includes financial statement preparation services as a service that triggers the requirement for specific CPE topics. The amendment does not increase a CPA's regulatory burden or obligation as the overall required total number of CPE hours earned in either a calendar year or during a reporting period remains the same; the amendment

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merely states that, of the minimum hours taken, at least eight have to be on the topic of these types of services.

Issues: The primary advantages to the public are greater likelihood that CPAs are taking CPE courses that directly relate to the services they are providing, which allows them to stay up to date with current technical standards and improves work product produced. There are no primary disadvantages to the public. There are no primary disadvantages or advantages to the board or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. Chapter 287 of the 2015 Acts of Assembly amended § 54.1-4400 et seq. of the Code of Virginia to include "financial statement preparation services" as a level of service requiring a firm Certified Public Accountant (CPA) license. Consequently, the Board of Accountancy (Board) proposes to update continuing professional education (CPE) requirements so that CPAs who are releasing or authorizing the release of reports on all firm-level services annually complete 8 hours of CPE related to those services.

Result of Analysis. The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact. Prior to the enactment of Chapter 287 of the 2015 Acts of Assembly, § 54.1-4400 defined "Virginia license" as "a license that is issued by the Board giving a person the privilege of using the CPA title in Virginia or a firm the privilege of providing attest services and compilation services to persons and entities located in Virginia." The legislation amended the definition to add "financial statement preparation services" so that it now reads "a license that is issued by the Board giving a person the privilege of using the CPA title in Virginia or a firm the privilege of providing attest services, compilation services, and financial statement preparation services¹ to persons and entities located in Virginia."

The Board of Accountancy Regulations require licensees to obtain at least 120 hours of CPE during the three-calendar-year period ending with the current calendar year. For each of the calendar years in that period, the licensee must obtain at least 20 hours of CPE, including an ethics course of at least two hours.

Under the current regulation, "... a person who releases or authorizes the release of reports on attest services or compilation services provided for persons or entities located in Virginia must annually obtain a minimum of eight hours of CPE related to attest services or compilation services." Those hours do apply to the 20 annual and 120 over the three-calendar year period CPE requirements.

Given that the Code of Virginia's definition of the license that gives a person the privilege of using the CPA title now

includes financial statement preparation services along with attest services and compilation services, the Board proposes to add financial statement preparation services to the eight-hour CPE requirement for CPAs who are releasing or authorizing the release of reports. The statement in the proposed regulation would read "... a person who releases or authorizes the release of reports on attest services, or compilation services, or financial statement preparation services provided for persons or entities located in Virginia shall annually obtain a minimum of eight hours of continuing professional education related to attest services, or compilation services, or financial statement preparation services."²

The proposed amendment would be beneficial in that it helps provide assurance that CPAs who are performing firm-level services are taking CPE courses that will enable them to stay current on professional technical standards. The proposed amendment does not increase the total number of required CPE hours for licensees. Thus the benefits of the proposal likely exceed the costs.

Businesses and Entities Affected. The proposed regulation affects CPA firms and CPAs. As of September 30, 2017, there were 27,842 persons who held Virginia CPA licenses, and 1,179 entities or sole proprietors that held Virginia CPA firm licenses.³ All or most CPA firms would qualify as small businesses.

Localities Particularly Affected. The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment. The proposed amendments do not significantly affect employment.

Effects on the Use and Value of Private Property. The proposed amendments do not significantly affect the use and value of private property.

Real Estate Development Costs. The proposed amendments do not affect real estate development costs.

Small Businesses:

Definition. Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

Costs and Other Effects. The proposed amendments do not significantly affect costs for small businesses.

Alternative Method that Minimizes Adverse Impact. The proposed amendments do not adversely affect small businesses.

Adverse Impacts:

Businesses. The proposed amendments do not adversely affect businesses.

Localities. The proposed amendments do not adversely affect localities.

Other Entities. The proposed amendments do not adversely affect other entities.

TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

STATE CORPORATION COMMISSION

Final Regulation

¹Bold added.

²Ibid.

³Data source: Board of Accountancy.

Agency's Response to Economic Impact Analysis: The Virginia Board of Accountancy concurs with the economic impact analysis of the Department of Planning and Budget.

Summary:

Pursuant to Chapter 287 of the 2015 Acts of Assembly, the amendments update the continuing professional education (CPE) requirements so that certified public accountants who are releasing or authorizing the release of reports on all firm-level services annually complete eight hours of CPE related to financial statement preparation services.

18VAC5-22-140. Persons who release or authorize the release of reports.

A. To comply with subdivision D 4 of § 54.1-4412.1 of the Code of Virginia, a person who releases or authorizes the release of reports on attest services ~~or~~ or financial statement preparation services provided for persons or entities located in Virginia shall annually obtain a minimum of eight hours of continuing professional education related to attest services ~~or~~ or financial statement preparation services. The hours obtained to meet this requirement shall be considered in determining whether the person has complied with the requirements of 18VAC5-22-90.

B. Firms providing attest services ~~or~~ or financial statement preparation services shall establish policies and procedures to provide the firm with reasonable assurance that persons who release or authorize the release of reports on attest services ~~or~~ or financial statement preparation services possess the kinds of competencies that are appropriate given the facts and circumstances. These policies and procedures shall address the required technical proficiency, familiarity with the industry and the person or entity, skills that indicate sound professional judgment, and other competencies necessary under the circumstances.

VA.R. Doc. No. R18-5262; Filed June 27, 2018, 5:00 p.m.

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

Title of Regulation: **20VAC5-425. Rules Governing Enhanced 911 (E-911) Service (amending 20VAC5-425-10 through 20VAC5-425-50; adding 20VAC5-425-45).**

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

Effective Date: August 1, 2018.

Agency Contact: Sheree King, Manager, Public Utility Regulation, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9707, FAX (804) 225-1060, or email sheree.king@scc.virginia.gov.

Summary:

The amendments include (i) adding and updating definitions; (ii) providing that written communications include emails, texts, and facsimiles; (iii) reducing the time for updating contact information from five business days to 24 hours; (iv) adding details regarding the information to be included in any semiannual verification of 911 billing information provided to a public safety answer point (PSAP); (v) expanding the duties of a local exchange carrier (LEC) to include priority restoration to a PSAP by the LEC; (vi) requiring local LECs to provide the Division of Public Utility Regulation with a copy of the annual reliability certification required by the Federal Communications Commission, 911 outage information during a recognized disaster in Virginia, and related service outage information, which information shall be afforded confidential treatment; and (vii) making minor updates and revisions.

AT RICHMOND, JUNE 29, 2018

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUR-2017-00076

Ex Parte: In the matter of revising the Commission's Rules Governing Enhanced 911 (E-911) Service

Regulations

ORDER ADOPTING RULES

On June 23, 2004, the State Corporation Commission ("Commission") adopted Rules Governing Enhanced 911 (E-911) Service, 20 VAC 5-425-10 et seq. ("E-911 Rules") in Case No. PUC-2003-00103.¹ The Commission initiated the E-911 rulemaking in response to complaints received from Public Safety Answering Point ("PSAP")² administrators and local governments regarding the quality of E-911 service and billing issues associated therewith.³ At that time, the Commission noted that the reliability and accuracy of the E-911 service was essential to protecting the public safety and health of many Virginia citizens.⁴ Given the passage of time since the Commission established the E-911 Rules in 2004, the Commission concluded that it was appropriate to revisit the E-911 Rules and to make modifications, if necessary, due to changes in applicable laws and technological changes in the telecommunications industry.

On June 8, 2017, the Commission entered an Order Initiating Rulemaking Proceeding to determine whether, and the extent to which, any of the Commission's E-911 Rules should be revised. In this regard, the Commission directed the Commission's Staff ("Staff") to solicit comments from, and schedule a meeting or meetings (as necessary) with, stakeholders and persons having an interest in the Commission's E-911 Rules and the provision of E-911 service in the Commonwealth of Virginia, and to develop, with appropriate input from stakeholders and interested persons, a proposal for any revisions, if necessary, to the current E-911 Rules.

On March 30, 2018, the Staff filed a report ("Staff Report") detailing the Staff's efforts in this undertaking. This included sending a letter to local government officials and certificated telephone companies seeking input on potential revisions to the E-911 Rules, and conducting a working group meeting of all interested stakeholders. The Staff Report also included proposed revisions to the current E-911 Rules recommended by the Staff as a result of this process.

On April 17, 2018, the Commission entered an Order for Notice and Comment ("Order") that found that proposed revisions ("Proposed Rules"), should be considered for adoption, and that interested persons should have an opportunity to comment on the Proposed Rules, to request a hearing thereon, or to suggest modifications or supplements to the Proposed Rules. The Commission also directed that a copy of the Proposed Rules be sent to all certificated local exchange carriers and the Registrar of Regulations for publication in the Virginia Register of Regulations.

The Proposed Rules were published in the Virginia Register of Regulations on May 14, 2018.⁵ No one filed a request for a hearing on the Proposed Rules. Comments on the Proposed Rules were filed by Verizon Virginia, LLC, and Verizon South Inc. (collectively, "Verizon"), and the Virginia Cable Telecommunications Association ("VCTA") on May 30, 2018.

Verizon commented on language in the Proposed Rules that would i) require priority restoration of service to a PSAP's emergency lines; and ii) govern outage reporting in conjunction with the Federal Communication Commission's voluntary Disaster Information Reporting System ("DIRS"). Verizon requested that the rule regarding priority restoration be clarified, and offered alternative language that focused on the timing of when a company would submit an outage report to the Commission if the company elects to submit its outage reports via the DIRS. The VCTA commented on language governing the new outage reporting requirement generally, and proposed alternative language it believed would clarify when a company must submit an outage report under the E-911 Rules.

On June 20, 2018, the Staff filed its response to the filed comments ("Response") in accordance with the Commission's Order. Staff discussed, but did not propose adoption of, the specific proposals made by VCTA and Verizon. Instead, Staff recommended modified language that it believes addresses the concerns of both VCTA and Verizon. Staff attached its proposed final revisions to the E-911 Rules to its Response.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that the revisions to the E-911 Rules, as set forth and attached to this Order, should be adopted.

Accordingly, IT IS ORDERED THAT:

(1) The Commission's Rules Governing Enhanced 911 (E-911) Service, 20 VAC 5-425-10 et seq., hereby are revised and adopted as attached to this Order, and shall become effective August 1, 2018.

(2) A copy of this Order, including the revisions to 20 VAC 5-425-10 et seq., shall be forwarded for publication in the Virginia Register of Regulations.

(3) This case is closed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to all local exchange carriers certificated in Virginia as set out in Appendix A; Cliona Mary Robb, Esquire, Christian & Barton, L.L.P., 909 East Main Street, Suite 1200, Richmond, Virginia 23219-3095; Jennifer L. McClellan, Assistant General Counsel, Verizon, 703-713 E. Grace Street, 7th Floor, Richmond, VA 23219; and C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424. A copy also shall be provided to the Commission's Office of General Counsel and Division of Public Utility Regulation.

¹Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of establishing rules governing the provision of enhanced 911 service by local exchange carriers, Case No. PUC-2003-00103, 2004 S.C.C. Ann. Rept. 201, Order Adopting Rules (June 23, 2004).

²A PSAP is a communications operation or facility operated by or on behalf of a governmental entity that is equipped and staffed on a 24-hour basis to receive and process telephone calls for emergency assistance from an individual who dials the digits 9-1-1. See, e.g., §§ 56-484.12 and 56-484.19 of the Code of Virginia.

³See Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of establishing rules governing the provision of enhanced 911 service by local exchange carriers, Case No. PUC-2003-00103, Order for Notice and Comment or Requests for Hearing (Aug. 1, 2003).

⁴See id.

⁵On May 28, 2018, the Virginia Register of Regulations published an Errata containing certain corrections to its May 14th publication of the Proposed Rules.

20VAC5-425-10. Definitions.

The words and terms in § 56-484.12 of the Code of Virginia shall have application to this chapter. In addition, the following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Automatic location identification-~~(ALI)~~" or "ALI" means the feature by which the name, service address, and supplemental emergency service information associated with the calling party's telephone number are forwarded to the Public Safety Answering Point public safety answering point (PSAP) for automatic display on the PSAP terminal equipment.

"Automatic number identification-~~(ANI)~~" or "ANI" means a feature by which the telephone number associated with a network access line is initially generated and forwarded to a PSAP for display on a 911 terminal.

"Average busy hour" means the one-hour period during the week statistically shown over time to be the hour in which the most telephone calls are received.

"Commission" means the Virginia State Corporation Commission.

"Competitive local exchange carrier-~~(CLEC)~~" or "CLEC" means an entity, other than a locality, authorized to provide local exchange telecommunications services in Virginia pursuant to § 56-265.4:4 of the Code of Virginia and 20VAC5-417.

"Competitive telephone company" or "CTC" means any ILEC or CLEC that has elected to be regulated as a competitive telephone company in accordance with Chapter 2.1 (§ 56-54.2 et seq.) of Title 56 of the Code of Virginia.

"Database error" means an error in ALI address information caused by a ~~Local Exchange Carrier (LEC)~~ LEC that affects the ability of a PSAP to route emergency services correctly.

"E-911 ALI database" means the set of ALI records residing on a computer system that is used with ANI to associate a physical location with a telephone number, including

information such as name, telephone number, address, nearest cross street, and special preexisting conditions.

"E-911 services" means the ~~tariffed~~ services purchased by a jurisdiction for the purpose of processing ~~wireline~~ E-911 calls.

"Foreign central office service" means local exchange telecommunications service that is furnished from one central office to a location typically served by another central office.

"Foreign exchange service" means local exchange telecommunications service that is furnished from one exchange to a location typically served by another exchange.

"Incumbent local exchange carrier-~~(ILEC)~~," "ILEC," or "incumbent" 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.

"Local exchange carrier-~~(LEC)~~" or "LEC" means a certificated provider of local exchange telecommunications services, ~~whether an incumbent or a new entrant encompassing ILECs, CLECs, and MLECs, including ILECs and CLECs regulated as CTCs.~~

"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)~~" or "MLEC" means a locality certificated to provide local exchange telecommunications services pursuant to § 56-265.4:4 of the Code of Virginia and 20VAC5-417.

"Network access line-~~(NAL)~~" or "NAL" means a wireline line, trunk, or equivalent.

"New entrant" means a CLEC or an MLEC.

"P.01 grade of service" means a standard of service quality reflecting the probability that no more than one call out of 100 during the average busy hour will be blocked.

"Public safety answering point-~~(PSAP)~~" or "PSAP" means a facility equipped and staffed to receive and process 911 calls and route them to emergency services personnel.

"Staff" means the commission's Division of ~~Communications~~ Public Utility Regulation and associated personnel.

20VAC5-425-20. General provisions.

A LEC shall:

1. Provide to its end-user customers access to E-911 service on all NALs ~~where applicable~~;

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2. Provide each relevant PSAP with a means for immediate access to LEC personnel ~~to assist in PSAPs, while processing an emergency related 911 call, obtaining E-911 record related information~~ that are capable of providing information related to the PSAP's E-911 services. Such LEC contact shall be available on a 24-hour basis, 365 days a year. Any changes to this contact information shall be communicated in writing, including email, text, or facsimile, to affected PSAPs within ~~five business days~~ 24 hours;

3. Provide LEC company identification codes on each ALI record submitted to the E-911 ALI database provider;

4. Provide ALI record information such that its E-911 database error rate, for a given PSAP, is no greater than 1.0%. The ALI database error rate shall be the number of a LEC's incorrect ALI address records divided by the total number of a LEC's ALI records queried during a calendar quarter;

5. Submit, or cause to be submitted, no less than 95% of all E-911 ALI database affecting changes (including nonpublished and nonlisted telephone numbers) to the E-911 ALI database provider within 48 hours of the LEC's receipt of notice of the change and 100% within 72 hours, excluding holidays and weekends;

6. Correct, or cause to be corrected, any ALI record within 48 hours of receiving written notification, including ~~but not limited to electronic mail ("e-mail")~~ email, text, and facsimile, excluding holidays and weekends;

7. Exclude, or cause to be excluded, from the ALI database, ALI records that contain telephone numbers that cannot convey ANI;

8. Provide ALI record information relating to an E-911 emergency immediately upon the ~~verbal~~ request of a verified authorized agent of the PSAP;

9. Advise customers applying for foreign exchange, foreign central office service, or any other wireline service, when there is the potential for problems in reaching the appropriate PSAP;

10. Render to a requesting PSAP, where the LEC provides ALI database services, detail sufficient to verify the accuracy of ALI database telephone number, name, and address information and company identification codes for each ANI. Such information shall be provided to the PSAP by the LEC on no more than a semi-annual basis and at a reasonable cost;

11. Render to a PSAP, upon request, on no more than a semi-annual basis, at no charge, detail sufficient to verify the accuracy of its E-911 services billing. This shall include (i) the total number of LEC ANI records of customers within the PSAP's jurisdiction served at each LEC end office, and (ii) the names of the other PSAPs

served by each LEC end office where it serves more than one jurisdiction; and

12. Notify each relevant PSAP at least 30 days prior to the commencement or discontinuance of local exchange telecommunications services.

20VAC5-425-30. Rates, ~~and tariffs,~~ and product guides.

A. A new entrant's rates for any E-911 services shall be no higher than the lowest applicable rates established by the largest ILEC, as measured by the number of its NALs, serving the geographic area of the relevant PSAP.

B. A LEC, if it provides and charges for E-911 services, shall structure its E-911 services so that it charges PSAPs only for those services that it renders.

20VAC5-425-40. Provisioning.

A LEC providing E-911 services shall:

1. Design, construct, maintain, and operate its facilities to minimize interruptions to E-911 services;

2. Determine E-911 service requirements in consultation with the relevant PSAP. These requirements shall be communicated to the PSAP prior to implementation and shall include detail sufficient to allow the PSAP to order E-911 service consistent with a minimum of a P.01 grade of service; ~~and~~

3. Provide priority restoration to the PSAP in the event of an outage of the LEC provided [E-911] services or facilities; and

4. Provide E-911 service consistent with the level of service ordered by a PSAP.

20VAC5-425-45. Reporting.

A. A LEC [providing E-911 services] shall [~~inform:~~

1. Inform] the staff of an E-911 service outage in Virginia by providing all reports required by the Federal Communications Commission (FCC) under 47 CFR Part 4 as such FCC reports relate to 911 service. A LEC shall comply with all provisions of 47 CFR Part 4 related to report content, processing and delivery [;]

[~~B- 2.~~] Upon request, [a LEC shall] provide to the commission or staff additional information related to 911 service outages not included in FCC reports as necessary to perform their oversight responsibility [;]

[~~C. A LEC shall provide~~ 3. Provide] the staff a copy of the annual reliability certification and any information submitted with or in addition to such certification required by the FCC under 47 CFR 12.4 that impact the reliability of 911 service in Virginia. Upon request, a LEC shall provide to the commission or staff additional information as deemed necessary to perform their oversight responsibility [; and]

~~[D. An 4. If the] LEC [that] participates in the FCC's voluntary Disaster Information Reporting System (DIRS) [shall, contemporaneously, with providing to, provide all DIRS comparable information filed with] the FCC [; provide the staff with all comparable information] related to 911 service outages to PSAPs located in Virginia as provided to the DIRS [as soon as practicable, but in no case later than two hours, after reporting to the FCC]. This requirement shall remain in place until DIRS is deactivated.~~

[E. B.] Any information provided to the staff in accordance with this section which the LEC designates as confidential shall be afforded confidential treatment in accordance with 5VAC5-20-170 of the Commission's Rules of Practice and Procedure. Staff, until otherwise ordered by the commission, shall maintain such confidential information in strict confidence and shall not disclose its contents to members of the public.

20VAC5-425-50. Waiver Commission authority.

The commission may, at its discretion, waive or grant exceptions to any provision of this chapter.

VA.R. Doc. No. R18-5466; Filed July 2, 2018, 1:44 p.m.



TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Final Regulation

REGISTRAR'S NOTICE: The State Board of Social Services is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The State Board of Social Services will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **22VAC40-73. Standards for Licensed Assisted Living Facilities (amending 22VAC40-73-1020, 22VAC40-73-1130).**

Statutory Authority: §§ 63.2-217, 63.2-1732, 63.2-1802, 63.2-1805, and 63.2-1808 of the Code of Virginia.

Effective Date: August 23, 2018.

Agency Contact: Judith McGreal, Program Consultant, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 663-5535, FAX (804) 819-7093, or email judith.mcgreall@dss.virginia.gov.

Summary:

Pursuant to Chapters 248 and 686 of the 2018 Acts of Assembly, the amendment adds an exception to a staffing requirement for assisted living facilities that are licensed for 10 or fewer residents if no more than three of the residents have serious cognitive impairments.

22VAC40-73-1020. Staffing.

A. When residents are present, there shall be at least two direct care staff members awake and on duty at all times in each building who shall be responsible for the care and supervision of the residents.

B. The requirements of subsection A of this section do not apply to assisted living facilities that are licensed for 10 or fewer residents if not more than three of the residents have serious cognitive impairments. The staffing provisions of 22VAC40-73-280 D apply.

C. During trips away from the facility, there shall be sufficient direct care staff to provide sight and sound supervision to all residents who cannot recognize danger or protect their own safety and welfare.

22VAC40-73-1130. Staffing.

A. When 20 or fewer residents are present, at least two direct care staff members shall be awake and on duty at all times in each special care unit who shall be responsible for the care and supervision of the residents, except as noted in subsection B of this section. For every additional 10 residents, or portion thereof, at least one more direct care staff member shall be awake and on duty in the unit.

B. Only one direct care staff member has to be awake and on duty in the unit if sufficient to meet the needs of the residents, if (i) there are no more than five residents present in the unit and (ii) there are at least two other direct care staff members in the building, one of whom is readily available to assist with emergencies in the special care unit, provided that supervision necessary to ensure the health, safety, and welfare of residents throughout the building is not compromised.

The requirements in subsections A and B of this section are independent of 22VAC40-73-280 D and 22VAC40-73-1020 A and B.

C. During trips away from the facility, there shall be sufficient direct care staff to provide sight and sound supervision to residents.

VA.R. Doc. No. R18-5536; Filed June 21, 2018, 9:32 a.m.

GOVERNOR

EXECUTIVE ORDER NUMBER ELEVEN (2018)

The Way Ahead for Virginia's Children: Establishing the Children's Cabinet

Importance of the Initiative

Virginia has a distinguished record as one of the best states for children and families. This national recognition is the result of substantial investments in education, health care, public safety, and a vibrant business environment that promotes job growth, employment opportunities, and career advancement.

However, complex challenges still exist for children in Virginia. Current research shows a child's environment and experiences from 0-5 years old have a dramatic influence on brain development and, ultimately, school readiness. One-third of Virginia kindergartners may not be fully ready for school and lack the appropriate social, self-regulation, literacy, or math skills based on a recent Joint Legislative Audit Review study. Nearly 500,000 children in Virginia do not have access to fresh or healthy food. Children who are food-insecure are in poorer health and are more likely to be developmentally at-risk than their peers. Finally, at least 19% of children in Virginia have endured two or more adverse childhood experiences: traumatic events linked to risky health behaviors, chronic health conditions, low life potential, and early death.

These particular challenges require collaboration from a wide range of state and local agencies, like education, health, human services, public safety, and the courts. In order to improve children's services in these areas, we need leaders at the highest levels of state government to direct and prioritize the resources and activities that will have the greatest impact on improving the lives of our children.

Establishment of the Cabinet

Accordingly, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish Virginia's Children's Cabinet ('Children's Cabinet').

Children's Cabinet

The Children's Cabinet shall work to develop a set of goals, identify strategies, and measure impact and outcomes related to the priorities described below. It shall encourage state agencies to collaborate across government and non-governmental entities on collective goals and support efforts to collect and share data to track outcome metrics and inform future policy. In addition, it shall evaluate and recommend ways to optimize and align local, state, and federal resources, and public-private partnerships to enhance current and prospective programs and services for Virginia's children and

their families, particularly those at higher risk. It shall also identify best practices and areas for improvement.

Children's Cabinet Priorities

A. Early Childhood Development and School Readiness

A child's early experiences are lifelong determinants of health and well-being. Current research shows that the years from birth to school age are critically important for brain development. Many of the risks for the diseases of adult life are, in part shaped by learning, coping, and decision-making skills that are set in the earliest years. These skills determine whether children will be successful in school and, ultimately, in life.

In recognition of the scientific importance of these early years, the Children's Cabinet will encourage state agencies involved in providing health and education services to children and families to leverage new and current strategies to achieve the following goals:

1. Promote healthy pregnancies and social supports to new mothers and families for the first few years of a child's life

Healthy pregnancies are the foundation of a strong start for children. In 2014, one out of eleven babies was born pre-term in Virginia. The Commonwealth ranks 14th in the nation in terms of premature births. In order to provide a strong start for all children, we must ensure access to quality and affordable prenatal care, and education about maternal health and nutrition. The need for health care, education, and social supports does not end at birth. We must expand family support programs that teach safe sleep practices and parenting skills to promote healthy child development, implement policies that support women in breastfeeding, and strengthen economic supports to families.

2. Ensure that early childhood education is affordable, accessible, and of high quality everywhere in the Commonwealth

The path to success in school begins before a child enters the classroom. Families, communities, and schools play critical roles in helping children prepare for school. Because two out of three Virginia children live in families in which all parents work, we must work to build a durable, innovative, and effective early childhood system in Virginia. The Children's Cabinet will evaluate whether our current structure governing early childhood education and services promotes collaboration and efficiency, explore ways to make high quality early childhood education more accessible and affordable, and make recommendations for building a strong early childhood educator workforce.

B. Nutrition and Food Security

Children who do not have sufficient food do not perform well in school and are more likely to suffer from physical and

mental health issues. Food insecurity among children is associated with lower math and reading scores in kindergarten through third grade, a higher likelihood of repeating a grade, behavioral problems, higher hospitalization rates, and higher rates of chronic health conditions. Similarly, pregnant women who are food insecure are at higher risk of miscarriages, birth defects, and premature birth. The Children's Cabinet will explore whether state agencies governing agriculture and food nutrition programs can leverage new and current strategies to achieve the following goals:

1. Expand access to nutritious food and decrease food insecurity for pregnant women

It is essential that women have access to nutritious food before, during, and after pregnancy. The Children's Cabinet shall strategize ways to increase nutrition and food security for pregnant and post-partum women, especially low-income women. This includes, but is not limited to, increasing utilization of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) among eligible families.

2. Expand access to nutritious food and decrease food insecurity for children

Childhood nutrition and food security is key to healthy childhood development. The Children's Cabinet will support the work of state agencies to, among other strategies, expand access to school breakfast and meals after school, support innovation in summer meal programs, and streamline eligibility for free meals.

3. Promote community-based food systems to increase access to healthy, local foods

It is critical for Virginians, especially children, to have access to nutritious, affordable, and locally-sourced foods to enable them to thrive, learn, and succeed. The Children's Cabinet will encourage the development of innovative models to provide increased access to healthy foods focusing on areas classified as food deserts. These strategies include, but are not limited to, promoting urban agriculture initiatives, farmer's markets, farm to school, and local food systems to encourage a diversifying Virginia agricultural economy.

C. Systems of Care and Safety for School-Aged Youth

Virginia's children are increasingly experiencing a complex set of environmental, health, and public safety related challenges that affect their ability to develop into thriving young adults. It is estimated that at least one in five of Virginia's children exhibit symptoms of mental health disorders and 19% of children in Virginia have experienced two or more adverse childhood experiences. Additionally, Virginia's annual school safety audit indicates that half of all threats reported to K-12 threat assessment teams involve

threats of harm to self. Unfortunately, fewer than half of our youth receive the care they need. Because our youth spend a substantial amount of time in schools, we must equip the professionals who regularly interface with them to recognize and intervene as soon as concerning behaviors appear. Recognizing the need to support the health and safety of children, the Children's Cabinet will leverage strategies to achieve the following goals:

1. Develop recommendations to enhance student safety

Virginia is a national leader in school safety and has a consistent record of adopting innovative legislation, such as mandated threat assessments in K-12 schools and annual school safety audits, and implementing robust training programs for school personnel and school resource officers. We must continue to adapt and respond to new and emerging challenges affecting the safety of our communities, schools, and children. Our work must be grounded in the concept that trusting relationships between adults and youth are the foundation to ensuring the safety of our students. The Children's Cabinet will assemble school personnel, public safety officials, mental health professionals, and other community partners to make recommendations to the Governor by October 1, 2018. These recommendations will include enhancing information sharing and effectiveness of threat assessments teams; assessing the role, prevalence, and training of school resource and school security officers; evaluating existing ratios and staffing levels for school support staff; and identifying opportunities to expand training to a variety of personnel.

2. Support a consistent, evidence-based, and culturally-competent statewide response to childhood trauma

Adverse childhood experiences are serious childhood traumas that result in toxic stress and harm a child's brain and development. These traumas have a tremendous impact on future victimization, and lifelong health and opportunity. The Children's Cabinet will seek to coordinate efforts across state agencies, with external stakeholders and local communities to foster systems that provide a consistent trauma-informed response to children with adverse childhood experiences and build resiliency of individuals and communities.

Composition of the Children's Cabinet

The First Lady of the Commonwealth of Virginia will chair the Children's Cabinet. The remaining members of the Children's Cabinet will be appointed by the Governor, including the Lieutenant Governor and the Secretaries of Agriculture and Forestry, Education, Health and Human Resources, and Public Safety and Homeland Security. The Chair may invite other secretaries to participate as needed and appropriate.

Staffing

Staff support for the Children's Cabinet will be provided by the secretariats and offices represented in the cabinet. The Children's Cabinet will serve in an advisory role, in accordance with § 2.2-2100 of the Code of Virginia, and will meet upon the call of the Chair at least four times per year. The Children's Cabinet will issue an annual report by no later than May 1, 2019, and any additional reports and recommendations as necessary or requested by the Governor.

Effective Date of the Executive Order

This Executive Order shall be effective for one year after its signing.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 21st day of June, 2018.

/s/ Ralph S. Northam
Governor

EXECUTIVE ORDER NUMBER TWELVE (2018)

Parental Leave for Commonwealth Employees

Importance of the Initiative

The Commonwealth of Virginia is the best place to work, live, and raise a family because of its commitment to providing opportunities for success in both the workplace and at home. The creation of this leave policy will not only provide benefits for children and parents, but also strengthen the Commonwealth's ability to recruit and retain a talented workforce.

Research shows paid time-off provides benefits for both children and parents. Access to parental leave has a positive impact on children's health and development and decreases infant mortality rates. For parents, paid time-off increases the likelihood they will return to the labor force and benefits health and well-being.

The Commonwealth's employees are dedicated public servants. They work hard to keep Virginia strong. The creation of this leave policy will provide them with the support they need in the workplace and at home. The paid parental leave policy is in addition to other leave benefits available to Commonwealth employees, such as Virginia Sickness and Disability Program leave (VSDP), sick leave, annual leave, and leave under the federal Family Medical Leave Act (29 USC §§ 2601-2654).

Parental Leave for Employees of the Commonwealth

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, I hereby authorize the creation of Paid Parental Leave for employees of executive branch agencies (Agencies) in the Commonwealth under the following parameters:

1. A classified or at-will employee who has been employed by the Commonwealth for a minimum of twelve (12) consecutive months is eligible for parental leave (Eligible Employee).

2. Following the birth, adoption, or foster placement of a child younger than 18 years of age:

- An Eligible Employee will receive eight (8) weeks (320 hours) of parental leave; and

- If both parents are Eligible Employees, each shall receive parental leave, which may be taken concurrently, consecutively, or at different times.

3. Parental leave shall be taken within six (6) months following the birth, adoption, or foster placement of the child.

4. Parental leave shall only be taken once in a 12-month period and only once per child.

5. Parental leave shall be provided at 100% of the Eligible Employee's regular salary.

6. Parental leave shall not be counted against an Eligible Employee's annual or sick leave.

7. Legal holidays listed in § 2.2-3300 of the Code of Virginia shall not be counted against parental leave.

8. Parental leave shall run concurrently with leave provided under the Family and Medical Leave Act, if the employee is eligible.

9. Parental leave may run concurrently or sequentially with VSDP, if the employee is eligible for VSDP.

The Department of Human Resource Management (DHRM or Department) shall establish policy and guidance documents to support implementation of this Executive Order.

Exceptions for Classified and At-Will Employees

Requests for exceptions to this policy must be directed to the Eligible Employee's Human Resource Manager. If the Human Resource Manager at the Agency level approves the exception, then a request must be made to DHRM for final approval. DHRM will then notify the Human Resource Manager of its decision. The Human Resource Manager will subsequently inform the Eligible Employee of the final decision reached by DHRM and will process the leave request accordingly.

Agency Reporting

On July 1, 2019, and every July 1 thereafter, the Human Resource Manager for each Agency shall submit to DHRM a report regarding the usage of parental leave by Agency employees for the preceding fiscal year. The report shall be in a form and contain such data as prescribed by the Department.

Effective Date of the Executive Order

This Executive Order shall be effective upon signing and shall remain in full force and effect unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 25th Day of June, 2018.

/s/ Ralph S. Northam
Governor

EXECUTIVE ORDER NUMBER THIRTEEN (2018)

Establishing the Governor's Advisory Commission on Quality Child Care and Education

Importance of the Issue

As Governor of the Commonwealth of Virginia, I am committed to ensuring the prosperity of Virginia. The Commonwealth employs approximately 100,000 employees. Many of these employees play a critically-important role outside of their working hours – that of a parent. These employees work hard to secure a future that is bright and full of opportunity for their children. The Commonwealth should ensure a supportive work environment where employees can work toward the success of their families and the Commonwealth.

Currently, state employees across the Commonwealth struggle with the access to and affordability of quality early care and learning environments for their children. Childhood is a time of development and discovery for parent and child alike. Having a reliable, safe, and nurturing environment where young children can grow and explore individual potential is key to a parent's ability to be a productive member of the workforce. In order to compete to recruit and retain talented young employees, the Commonwealth must support state employees' ability to access and afford early care and learning for their children.

Establishment and Composition of the Commission

Thus, by virtue of the authority vested in me as Governor, under Article V of the Constitution of Virginia and §§ 2.2-134, 2.2-135 and 2.2-2100 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish the Virginia Advisory Commission on Quality Child Care and Education (Commission). Focusing on an area that reflects the highest concentration of the state government's labor force, the Commission will explore the feasibility of providing an evidence-based early care and learning program for young children of state employees working on and around Capitol Square in Richmond.

The Commission's membership shall be appointed by the Governor and co-chaired by the Secretaries of Education and

Health and Human Resources or their designees (Co-Chairs). Membership shall also consist of the following:

- A representative from the Office of the First Lady;
- The Secretary of Administration or her designee;
- Two members from the House of Delegates, as recommended by the Speaker of the House;
- One member from the Senate, as recommended by the President pro tempore of the Senate; and
- Experts in early childhood education and development, as appointed by the Governor.

The Governor may appoint other members deemed necessary to carry out the assigned functions of the Commission. The Commission will meet upon the call of the Co-Chairs and will issue a report regarding their findings and recommendations no later than November 1, 2019, and any additional reports and recommendations as necessary or as requested by the Governor.

Staff support for the Commission will be provided by the Secretary of Education, the Secretary of Health and Human Resources, the Office of the Governor, and any other agencies or offices as may be designated by the Governor. An estimated 100 hours of staff time will be required to support the work of the Commission.

Our workforce is only as strong, resilient, and adaptive as we enable it to be. It is my hope that the Commission's findings and recommendations will be shared to promote best practices across the Commonwealth. More particularly, by seeking to nurture the growth of our children, while assisting their parents in managing a work-life balance, I hope the Commonwealth sets an example – an example other government and private sector employers will follow by exploring such opportunities for their employees.

Effective Date

This Executive Order shall be effective upon signing and shall remain in full force and effect for a year from its signing, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 26th day of June, 2018.

/s/ Ralph S. Northam
Governor

EXECUTIVE ORDER NUMBER FOURTEEN (2018)

Development and Review of State Agency Regulations

Importance of the Initiative

By virtue of the authority vested in me as Governor under Article V of the Constitution of the Commonwealth of

Virginia and under the laws of the Commonwealth, including, but not limited to, § 2.2-4013 and § 2.2-4017 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish policies and procedures for the review of all new regulations and changes to existing regulations proposed by state agencies, which shall include for purposes of this Executive Order all agencies, boards, commissions, and other entities of the Commonwealth within the executive branch that are authorized to promulgate regulations. Nothing in this Executive Order shall be construed to limit my authority under the Code of Virginia, including to require an additional 30-day public comment period, file a formal objection to a regulation, suspend the effective date of a regulation with the concurrence of the applicable body of the General Assembly, or to exercise any other rights and prerogatives existing under Virginia law.

Acronyms and Definitions

The following acronyms and definitions are set out here for ease of use and represent only a summary of terms and acronyms related to the regulatory review process. More detailed descriptions and definitions can be found throughout the Administrative Process Act (APA), § 2.2-4000, et seq. of the Code of Virginia.

ABD – Agency Background Document. An ABD is a form completed by agencies and uploaded on the Virginia Regulatory Town Hall (Town Hall) for each regulatory stage in order to describe and explain the regulatory action. The form for each stage is available on the Town Hall.

APA – Administrative Process Act, § 2.2-4000, et seq. of the Code of Virginia. Article 2 of the APA contains provisions on how regulations are to be promulgated in Virginia.

Day – All references to a day mean a calendar day.

DPB – Virginia Department of Planning and Budget. DPB houses the Economic and Regulatory Analysis Division (ERAD), which reviews regulatory proposals for economic and policy impact and manages the Town Hall website.

EIA – Economic Impact Analysis. An EIA is prepared by DPB and evaluates the estimated costs and benefits of a regulatory proposal.

Emergency rulemaking process – This process is invoked (1) when there is an emergency situation as determined by the agency and the Governor agrees that an emergency regulation is necessary, or (2) when a Virginia statutory law or the appropriation act or federal law or federal regulation requires that a state regulation be effective in 280 days or less from its enactment.

Executive branch review – The review of a regulatory proposal at various stages by the executive branch before it is published in the Virginia Register of Regulations and available for public comment. The scope of review depends

on the stage type, e.g., a proposed stage is reviewed by: the Office of the Attorney General (OAG), DPB, the appropriate Cabinet Secretary, and the Governor.

Exempt rulemaking process – Agency actions that are exempt from the promulgation requirements of Article 2 of the APA can generally be adopted and filed directly with the Office of the Registrar of Regulations (Registrar) and are not subject to executive branch review.

Fast-track rulemaking process – This process may be utilized for rules that are expected to be noncontroversial.

Legislative mandate – When a law is passed by the General Assembly that requires a regulation to be promulgated, amended, or repealed in whole or part.

NOIRA – Notice of Intended Regulatory Action. A NOIRA is the first stage in the standard rulemaking process in Virginia.

OAG – Office of the Attorney General. The OAG must review regulatory proposals at the emergency stage, the fast-track stage, and the proposed stage. In addition, the OAG must review a proposal at the final stage if there have been changes with substantial impact made since the proposed stage.

Register – The Virginia Register of Regulations is an official legal publication that provides information about proposed and final changes to Virginia's regulations. The Registrar is responsible for publication of the Register.

RIS – Regulation Information System. The RIS is a web-enabled application operated by the Registrar and is used by agencies to create text for regulatory proposals. This text is then synchronized on the Town Hall website for display to all Town Hall users.

Rulemaking or regulatory process – There are four types of rulemaking processes in Virginia: (1) emergency, (2) fast-track, (3) standard, and (4) exempt.

Standard rulemaking process – This is the default rulemaking process in Virginia. If a regulatory proposal does not meet the criteria for exempt, fast-track, or emergency rulemaking, it goes through the standard rulemaking process, generally consisting of three stages: NOIRA, proposed, and final.

Town Hall – The Virginia Regulatory Town Hall website. The Town Hall is managed by DPB and used by agencies to post regulatory proposals and to facilitate the regulatory review process. The site features public comment forums, meeting information, and an email notification service.

VAC – Virginia Administrative Code. The VAC is the official legal publication for regulations in Virginia.

General Policy

The executive branch agencies of the Commonwealth must consider, review, and promulgate numerous regulations each year. This Executive Order sets out procedures and

requirements to ensure the efficiency and quality of Virginia's regulatory process. All state employees who draft, provide policy analysis for, or review regulations shall carefully consider and apply the principles outlined below during the regulatory development and review process.

General Principles

A. All regulatory activity should be undertaken with the least possible intrusion into the lives of the citizens of the Commonwealth and be necessary to protect the public health, safety, and welfare. Accordingly, agencies shall consider:

1. The use of economic incentives to encourage the desired outcomes (such as user fees or marketable permits);
2. The use of information disclosure requirements, rather than regulatory mandates, so that the public can make more informed choices;
3. The use of performance standards in place of mandating specific techniques or behavior; and
4. The consideration of reasonably available alternatives in lieu of regulation.

B. Where applicable, and to the extent permitted by law, it shall be the policy of the Commonwealth that only regulations necessary to interpret the law or to protect the public health, safety, or welfare shall be promulgated.

C. Regulations shall be clearly written and easily understandable.

D. Regulations shall be designed to achieve their intended objective in the most efficient, cost effective manner.

Regulatory Development

A. Regulatory development shall be based on the best reasonably available and reliable scientific, economic, and other information concerning the need for, and consequences of, the intended regulation. Agencies shall specifically cite the best reasonably available and reliable scientific, economic, and other information in support of regulatory proposals.

B. Regulatory development shall be conducted in accordance with the statutory provisions related to impact on small businesses. D PB shall work with state agencies to address these requirements during the regulatory review process, including notifications as appropriate to the Joint Commission on Administrative Rules.

C. During regulatory development, agencies shall consider the impact on existing and potential Virginia employers and their ability to maintain and increase the number of jobs in the Commonwealth, as well as the cost of compliance to the general public.

Public Participation

A. Agencies shall actively seek input for proposed regulations from interested parties, stakeholders, citizens, and members of the General Assembly.

B. In addition to requirements established in Article 2 of the APA, agencies shall post all rulemaking actions on the Town Hall to ensure that the public is adequately informed of rulemaking activities.

C. All legal requirements related to public participation and all public participation guidelines shall be strictly followed to ensure that citizens have reasonable access and opportunity to present their comments and concerns. Agencies shall inform interested persons of (1) the Town Hall's email notification service that can send information regarding the specific regulations, regulatory actions, and meetings about which they are interested, and (2) the process to submit comments in the Town Hall public comment forums. Agencies shall establish procedures that provide for a timely written response to all comments and the inclusion of suggested changes that would improve the quality of the regulation.

Other

A. Agencies, as well as reviewing entities, shall endeavor to perform their tasks in the regulatory process as expeditiously as the regulatory subject matter will allow and shall adhere to the timeframes set out in this Executive Order.

B. Regulations will be subject to periodic evaluation, review, and modification, as appropriate, in accordance with the APA, policy initiatives of the Governor, and legislation.

C. Each agency head will be held accountable for ensuring that the policies and objectives specified in this Executive Order are put into effect. Agency heads shall ensure that information requested by DPB, the appropriate Cabinet Secretary, or the Office of the Governor, in connection with this Executive Order, is provided on a timely basis. Incomplete regulatory packages may be returned to the appropriate agency by DPB.

Applicability

The review process in this Executive Order applies to rulemakings initiated by agencies of the Commonwealth of Virginia in accordance with Article 2 of the APA.

With the exception of the requirements governing the periodic review of existing regulations, the posting of meeting agenda and minutes, and the posting of guidance documents, agencies and agency regulatory action exempt from Article 2 of the APA are not subject to the requirements of this Executive Order. Nonetheless, the Governor, a Cabinet Secretary, or the Chief of Staff may request in writing that an agency comply with all or part of the requirements of this Executive Order for regulations exempt from Article 2 of the APA. Copies of such requests shall be forwarded to the

Governor's Policy Office and DPB. In addition, a Cabinet Secretary may request in writing that certain Article 2 exempt regulations be further exempted from all or part of the requirements of this Executive Order.

These procedures shall apply in addition to those already specified in the APA, the agencies' public participation guidelines, and the agencies' basic authorizing statutes. As of June 30, 2018, these procedures shall apply to all regulatory actions and stages that have been submitted to DPB for any stage of executive branch review.

Any failure to comply with the requirements set forth herein shall in no way affect the validity of a regulation, create any cause of action or provide standing for any person under Article 5 of the APA (§ 2.2-4025 et seq. of the Code of Virginia), or otherwise challenge the actions of a government entity responsible for adopting or reviewing regulations.

Regulatory Review Process

Regulations shall be subject to executive branch review as specified herein. All agency regulatory packages shall be submitted via the Town Hall. For each stage of the regulatory development process, agencies shall complete and post the applicable ABD on the Town Hall to describe the regulatory action and inform the public about the substance and reasons for the rulemaking. Agencies shall ensure that the correct regulatory text is synchronized with the appropriate stage information page on the Town Hall.

If a regulatory package is submitted to DPB, and DPB determines that the package is not substantially complete, then DPB shall notify the agency within 10 days. At that time, the agency must withdraw the package from the Town Hall and resubmit the package only after all missing elements identified by DPB have been added. Agencies shall submit regulatory packages to the Registrar for publication on the Town Hall within 14 days of being authorized to do so.

In rulemakings where there are two or more stages, the filing of each subsequent stage shall be submitted on the Town Hall as expeditiously as the subject matter allows and no later than 180 days after the conclusion of the public comment period for the prior stage. If this deadline is not met, it shall be reported to the appropriate Cabinet Secretary in an end of year report further described below.

A. Standard Rulemaking Process

1. Notice of Intended Regulatory Action (NOIRA) Stage

The NOIRA shall include the nature and scope of the regulatory changes being considered and the relevant sections of the Virginia Administrative Code. This package shall include draft regulatory text if it is available.

DPB shall review the NOIRA to determine whether it complies with all requirements of this Executive Order and applicable statutes and whether the contemplated

regulatory action comports with the policy of the Commonwealth as set forth herein. Within 14 days of receiving a complete NOIRA review package from the agency, the Director of DPB shall advise the appropriate Secretary and the Governor of DPB's determination. If the Director of DPB advises the appropriate Secretary and the Governor that the NOIRA presents issues requiring further review, the NOIRA shall be forwarded to the Secretary. The Secretary shall review the NOIRA within 14 days and forward a recommendation to the Governor. If DPB does not find issues requiring further review, the agency shall be authorized to submit the NOIRA to the Registrar for publication when the Governor approves the NOIRA for publication.

The Chief of Staff to the Governor is hereby authorized to approve or disapprove NOIRAs on behalf of the Governor. Public comments received following publication of the NOIRA should be encouraged and carefully considered in developing the proposed stage of a regulatory proposal.

2. Proposed Stage

Following the initial public comment period required by § 2.2-4007.01 of the Code of Virginia, and taking into account the comments received, the agency shall prepare a regulatory review package.

At this stage, the proposed regulation and regulatory review package shall be in as close to final form as possible, including completed review by all appropriate regulatory advisory panels or negotiated rulemaking panels. New issues that were not disclosed to the public when the NOIRA was published shall not be addressed at the proposed stage.

The order of executive branch review shall be as follows:

a. OAG. The OAG will conduct a review of the proposed regulation and produce a memorandum assessing the agency's legal authority to promulgate the regulation. The OAG may also provide any advice, recommendations, or other comments for consideration by the Governor with respect to the proposed regulation. After the OAG has completed its review, the package will be submitted to DPB.

b. DPB. DPB shall review the proposed regulatory package to determine whether it complies with all requirements of this Executive Order, applicable statutes, and other policies of the Commonwealth. Per § 2.2-4007.04 of the Code of Virginia, within 45 days of receiving a complete regulatory review package, the Director of DPB shall prepare a policy analysis and EIA before advising the appropriate Secretary and the Governor of the results of the review.

c. Cabinet Secretary. The Secretary shall review the proposed regulation package within 14 days and forward a recommendation to the Governor.

d. Governor. The Chief of Staff to the Governor is hereby authorized to approve or disapprove proposed regulations on behalf of the Governor.

Revised Proposed Stage (Optional)

Following the proposed stage public comment period, required by § 2.2-4007.03 of the Code of Virginia, the agency may wish to make additional changes and/or receive additional public comment by publishing a revised proposed regulation. The order of executive branch review for the revised proposed stage shall be as follows:

A. OAG. The OAG will conduct a review of the revised proposed regulation and produce a memorandum assessing the agency's legal authority to promulgate the regulation. The OAG may also provide any advice, recommendations, or other comments for consideration by the Governor with respect to the revised proposed regulation. After the OAG has completed its review, the package will be submitted to DPB.

B. DPB. DPB shall review the revised proposed regulatory package to determine whether it complies with all requirements of this Executive Order, applicable statutes, and other policies of the Commonwealth. Within 21 days of receiving a complete regulatory package, the Director of DPB shall prepare a policy analysis and EIA before advising the appropriate Secretary and the Governor of the results of the review.

C. Cabinet Secretary. The Secretary shall review the revised proposed regulation package within 14 days and forward a recommendation to the Governor.

D. Governor. The Chief of Staff to the Governor is hereby authorized to approve or disapprove revised proposed regulations on behalf of the Governor.

3. Final Stage

Following the public comment period required by § 2.2-4007.03 of the Code of Virginia and taking into account all comments received since the last stage was published, the rulemaking entity shall revise the proposed regulation.

If any change with substantial impact - as determined by DPB - has been made to the regulatory text between the proposed and final stages, the agency shall obtain a letter from the OAG certifying that the agency has authority to make the additional changes.

The order of executive branch review shall be as follows:

a. DPB. DPB shall review the final stage package to determine whether it complies with all requirements of this Executive Order, applicable statutes, and other policies of the Commonwealth. In particular, DPB shall assess the effect of any substantive changes made since the publication of the proposed regulation and the responsiveness of the agency to public comment. Within 14 days of receiving a complete final regulation package from

the agency, the Director of DPB shall prepare a policy analysis before advising the appropriate Secretary and the Governor of the results of the review.

b. Cabinet Secretary. The Secretary shall review the final stage regulation package within 14 days and forward a recommendation to the Governor.

c. Governor. The Chief of Staff to the Governor is hereby authorized to approve or disapprove proposed final regulations on behalf of the Governor.

B. Fast-Track Rulemaking Process

The fast-track rulemaking process is for rules that are expected to be noncontroversial.

DPB shall review the fast-track regulation to determine whether the regulatory change is appropriately within the intended scope of fast-track regulatory authority, whether it complies with all other requirements of this Executive Order and applicable statutes, and whether the contemplated regulatory action comports with the policy of the Commonwealth. DPB shall request the Governor's office to determine if the fast-track process is appropriate when there is any question as to whether a package should be allowed to proceed in this manner. The Governor shall retain discretion to disapprove use of the fast-track rulemaking process when the Governor determines use of this process is not in the public interest, the determination of which shall be at the sole discretion of the Governor.

After a fast-track regulation has been submitted on the Town Hall, executive branch review will proceed as follows:

1. OAG. The OAG will conduct a review of the proposed fast-track regulation and produce a memorandum assessing the agency's legal authority to promulgate the regulation. The OAG may also provide any advice, recommendations, or other comments for consideration by the Governor with respect to the fast-track regulation. After the OAG has completed its review, the package will be submitted to DPB.

2. DPB. DPB shall determine within 10 days or less whether the regulatory package is appropriate for the fast-track rulemaking process and communicate this decision to the agency. After a package has been determined to be appropriate for the fast-track process, the Director of DPB shall have 30 days to prepare a policy analysis and EIA before advising the appropriate Secretary and the Governor of the results of the review.

3. Cabinet Secretary. The Secretary shall review the fast-track regulation package within 14 days and forward a recommendation to the Governor.

4. Governor. The Chief of Staff to the Governor is hereby authorized to approve or disapprove fast-track regulations on behalf of the Governor.

C. Emergency Rulemaking Process

Emergency regulations may be promulgated by an agency if it determines there is an emergency situation, consults with the OAG, and obtains the approval of the Governor. Emergency regulations may also be promulgated in situations in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a state regulation be effective in 280 days or less from its enactment and the regulation is not exempt from the APA.

If the agency plans to replace the emergency regulation with a permanent regulation, it should file an Emergency/NOIRA stage. The order of executive branch review shall be as follows:

1. OAG. The OAG will conduct a review of the proposed emergency regulation and produce a memorandum assessing the agency's legal authority to promulgate the regulation. The OAG may also provide any advice, recommendations, or other comments for consideration by the Governor with respect to the proposed emergency regulation. After the OAG has completed its review, the package will be submitted to DPB.
2. DPB. DPB shall review the proposed emergency regulatory package to determine whether it complies with all requirements of this Executive Order, applicable statutes, and other policies of the Commonwealth. Within 10 days of receiving a complete emergency regulation package from the agency, the Director of DPB shall prepare a policy analysis before advising the appropriate Secretary and the Governor of the results of the review.
3. Cabinet Secretary. The Secretary shall review the proposed emergency regulation package within 10 days and forward a recommendation to the Governor.
4. Governor. The Chief of Staff to the Governor is hereby authorized to approve or disapprove emergency regulations on behalf of the Governor.

An emergency regulation shall be effective for up to 18 months and may be extended for up to an additional six months if, despite the rulemaking entity's best efforts, a permanent replacement regulation cannot become effective before it expires. If an agency wishes to extend an emergency regulation beyond its initial effective period, the agency shall submit an emergency extension request to the Governor's Office via the Town Hall as soon as the need for the extension is known and no later than 30 days before the emergency regulation is set to expire. The emergency extension request must be granted prior to the expiration date of the emergency regulation, pursuant to § 2.2-4011(D) of the Code of Virginia.

Periodic Review of Existing Regulations

Every existing state regulation shall be reviewed at least once every four years by the promulgating agency, unless

specifically exempted from periodic review by the Governor. A periodic review shall include notice to the public, a public comment period (minimum of 21 days), and a result to be announced no later than 60 days after the close of the public comment period.

The review shall ensure that each regulation complies with the principles set out in this Executive Order. In addition, each periodic review shall include an examination by the OAG to ensure statutory authority for the regulation and that the regulation does not exceed the agency's rulemaking authority. Agencies shall cooperate with reviews of regulations by the OAG, including, but not limited to, reasonable requests for data and other supporting information as may be necessary to conduct the review.

The periodic review must be conducted on the Town Hall and may be accomplished either during the course of a comprehensive regulatory action using the standard rulemaking process, or (2) by using the periodic review feature as follows:

A. During the course of a comprehensive rulemaking using the standard regulatory process. If the agency already plans to undertake a standard regulatory action, the agency can fulfill the periodic review requirement by including a notice of a periodic review in the NOIRA. When the proposed stage is submitted for executive branch review, the ABD shall include the result of the periodic review. When a regulation has undergone a comprehensive review as part of a regulatory action and when the agency has solicited public comment on the regulation, a periodic review shall not be required until four years after the effective date of the regulatory action.

B. Using the periodic review feature. If, at the time of the periodic review, the agency has no plans to begin a comprehensive rulemaking using the standard rulemaking process, then the agency shall use the periodic review feature to announce and report the result of a periodic review. If the result of the periodic review is to amend the regulation, the agency shall link the periodic review with the subsequent action to amend the regulation. If the result is to retain the regulation as is, the agency shall so indicate using the appropriate Town Hall form.

In addition to the procedures described above, the Governor may request a periodic review of a regulation at any time deemed appropriate. Such a request may outline specific areas to be addressed in the review. In the case of such a request, the agency shall follow the procedures for periodic review as established herein or such other procedures as may be stipulated by the Governor.

Petitions for Rulemaking

Agencies shall post petitions for rulemaking and decisions to grant or deny the petitions on the Town Hall, in accordance with the timeframes established in § 2.2-4007 of the Code of Virginia.

Regulatory Timeframe Deadlines

If an agency fails to meet any regulatory timeframe deadlines set forth below, it shall submit a report to its Cabinet Secretary and DPB no later than December 31 of the year in which the timeframe deadline is not met. This report shall include the Town Hall action and stage number, as well as an explanation of why the timeframe deadline was not met. The report must contain the following missed regulatory timeframe deadlines:

- A. For regulatory actions that have multiple stages, the period between the close of a public comment period and when the next stage is submitted on the Town Hall shall not exceed 180 days.
- B. Agencies have 14 days to submit a regulatory package to the Register once they have been authorized to do so.

Electronic Availability of Meeting Agenda and Minutes

Executive branch agencies shall post the notice of, and agenda for, a public regulatory meeting on the Town Hall at least 7 days prior to the date of the meeting, except if it is necessary to hold an emergency meeting in which case the agenda shall be posted as soon as possible.

In addition, agencies that promulgate regulations and keep minutes of regulatory meetings shall post such minutes of those meetings on the Town Hall in accordance with the timeframes established in § 2.2-3707 and § 2.2-3707.1 of the Code of Virginia.

Legislative Mandates

By July 1 of each year, agencies shall post on the Town Hall all legislative mandates for rulemaking activity required by the most recent session of the General Assembly. The agency shall then link each legislative mandate with the regulatory action that implements the mandate.

Electronic Availability of Guidance Documents

Agencies shall post all guidance documents or a link to each agency guidance document, as defined by § 2.2-4001 of the Code of Virginia, on the Town Hall. Any changes to a guidance document or a guidance document link shall be reflected on the Town Hall within 10 days of the change.

Effective Date of the Executive Order

This Executive Order rescinds and replaces Executive Order Number 17 (2014) issued by Governor Terence R. McAuliffe. This Executive Order shall become effective on June 29, 2018, and shall remain in full force and effect until July 16, 2018, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia on this 29th day of June, 2018.

/s/ Ralph S. Northam
Governor

GENERAL NOTICES/ERRATA

STATE AIR POLLUTION CONTROL BOARD

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Environmental Quality on behalf of the State Air Pollution Control Board is conducting a periodic review and small business impact review of **9VAC5-530, Electric Generator Voluntary Demand Response General Permit**. The review of this regulation will be guided by the principles in Executive Order 14 (2018).

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The regulations may be viewed on the DEQ air regulation webpage at <http://www.deq.virginia.gov/Programs/Air/Laws,Regulations,Guidance.aspx>.

The comment period begins July 23, 2018, and ends August 13, 2018.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>.

Comments may also be sent to Gary Graham, Regulatory Analyst, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4103, FAX (804) 698-4319, or email gary.graham@deq.virginia.gov.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Availability of the 2017 Fish Tissue Monitoring Data

Purpose of notice: The Virginia Department of Environmental Quality (DEQ) announces the availability of the 2017 fish tissue monitoring data on July 23, 2018.

Background: DEQ conducts routine studies of fish tissue and sediment samples in state waters to assess the human health

risks for individuals who may consume fish from state waters and to identify impaired aquatic ecosystems. Results are made available to the public each year on the agency's website.

In 2017, DEQ collected fish tissue samples from sites located in the Potomac, Shenandoah, James, York, Chowan, and Roanoke river basins. Samples were analyzed for polychlorinated biphenyls and a suite of 17 metals, including mercury.

2017 monitoring results will be available on the agency's website on July 23, 2018, at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/WaterQualityMonitoring/FishTissueMonitoring/FishTissueResults.aspx>.

Additional information: The Virginia Department of Health (VDH) uses the data generated by DEQ's fish tissue monitoring program to determine the need for fish consumption advisories. More information on VDH fish consumption advisories is available at <http://www.vdh.virginia.gov/environmental-epidemiology/public-health-toxicology/fish-consumption-advisories/>.

Contacts for more information: Questions on DEQ's fish tissue monitoring program can be directed to Rick Browder at telephone (804) 698-4134 or email richard.browder@deq.virginia.gov, or Gabriel Darkwah at telephone (804) 698-4127 or email gabriel.darkwah@deq.virginia.gov. Additional information is also available on the DEQ Water Quality Monitoring website at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/WaterQualityMonitoring.aspx>.

Contact Information: Rick Browder, Sampling Coordinator, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4134, or email richard.browder@deq.virginia.gov.

Availability of the 2019 Citizen Water Quality Monitoring Grant Program Request for Proposals

The Department of Environmental Quality (DEQ) is pleased to make available the 2019 Citizen Water Quality Monitoring Grant Program Request for Proposals (RFP). The primary purpose of these grants is to provide funding for water quality monitoring groups and individuals to monitor the quality of Virginia's waters. The grant can be used in a variety of ways, including purchasing water quality monitoring equipment, training citizen volunteers, paying lab analysis costs, and promoting stream monitoring at locations where DEQ is not currently collecting water quality samples. Applicants can choose from three grant options but may only apply for one grant. Multiple applications will be rejected.

The grant options include:

1. Mini-Grant: Maximum award up to \$1,000. Open only to applicants who have not received a DEQ citizen monitoring

grant in the previous three years. The grantee must use at least one-third of the award for equipment and begin water monitoring before the end of the grant period.

2. Regular Grant: Maximum award up to \$5,000. Open to any applicants who wish to apply but recommended for organizations already familiar with water quality monitoring. The grantee must submit a Quality Assurance Project Plan (QAPP), use at least one-third of the award for equipment, and begin water monitoring before the end of the grant period.

3. Coordination Grant: Maximum award up to \$11,000. Open only to applicants who coordinate at least three member monitoring organizations that total 35 or more volunteers. In addition, monitoring occurs at more than 50 sample sites, covering at least three Virginia localities. The grantee must submit a QAPP, use at least one-third of the award for equipment, and begin water monitoring before the end of the grant period.

The grant application can be downloaded from the DEQ Citizen Monitoring Program Grant webpage on July 2, 2018, at www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/WaterQualityMonitoring/CitizenMonitoring/GrantOpportunities.aspx.

In addition to offering the Citizen Water Quality Monitoring Grant Program, DEQ also provides technical assistance with developing a water quality monitoring program or a QAPP. Questions regarding the Citizen Water Quality Monitoring Grant or technical assistance should be directed to Stuart Torbeck, Department of Environmental Quality, P.O. Box 1105, Richmond, Virginia 23218, telephone (804) 698-4461, or email charles.torbeck@deq.virginia.gov. Information is also available on the DEQ Citizen Monitoring Website at www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/WaterQualityMonitoring/CitizenMonitoring.aspx.

Contact Information: Stuart Torbeck, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4461, or email charles.torbeck@deq.virginia.gov.

Sol Madison Solar LLC Notice of Intent for Small Renewable Energy Project (Solar) Permit by Rule - Orange County

Sol Madison Solar LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary documentation for a permit by rule for a small renewable energy project (solar) in Orange County pursuant to 9VAC15-60. The proposed Sol Madison Solar project will be a 62.5-megawatt alternating current photovoltaic solar facility on portions of three parcels, totaling approximately 647 acres, roughly positioned south of Constitution Highway and west of State Route 611, near Locust Grove in Orange County. The project will be comprised of photovoltaic collectors and associated equipment.

Contact Information: Mary E. Major, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, FAX (804) 698-4510, or email mary.major@deq.virginia.gov.

DEPARTMENT OF LABOR AND INDUSTRY

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Labor and Industry is currently reviewing each of the regulations listed below to determine whether the regulation should be repealed, amended, or retained in its current form. The review of each regulation will be guided by the principles in Executive Order 14 (2018). Public comment is sought on the review of any issue relating to each regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

16VAC15-21, Maximum Garnishment Amounts

16VAC15-30, Virginia Rules and regulations Declaring Hazardous Occupations

Contact Information: Holly Raney, Regulatory Coordinator, Department of Labor and Industry, 600 East Main Street, Richmond, VA 23219, email holly.raney@doli.virginia.gov.

The comment period begins July 23, 2018, and ends August 17, 2018.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

VIRGINIA LOTTERY

Director's Orders

The following Director's Orders of the Virginia Lottery were filed with the Virginia Registrar of Regulations on July 3, 2018. The orders may be viewed at the Virginia Lottery, 600 East Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia.

General Notices/Errata

Director's Order Number Seventy-Four (18)

Virginia Lottery's Scratch Game 1898 "\$255,555 Bonus Cash" Final Rules for Game Operation (effective June 18, 2018)

Director's Order Number Seventy-Five (18)

Virginia Lottery's Scratch Game 1897 "\$55,555 Bonus Cash" Final Rules for Game Operation (effective June 18, 2018)

Director's Order Number Seventy-Six (18)

Virginia Lottery's Scratch Game 1900 "Cash Money" Final Rules for Game Operation (effective June 18, 2018)

Director's Order Number Seventy-Seven (18)

Virginia Lottery "1st Day Double Retailer Incentive Promotion" (effective August 7, 2018)

Director's Order Number Eighty-Four (18)

Virginia Lottery's Computer-Generated Game "Print 'n Play Classic 7s Bingo" Final Rules for Game Operation (effective August 5, 2018)

Director's Order Number Eighty-Five (18)

Virginia Lottery's Computer-Generated Game "Print 'n Play Bonus 7s Bingo" Final Rules for Game Operation (effective August 5, 2018)

Director's Order Number Ninety-Two (18)

Certain Virginia Print 'n Play Games: End of Games

The following Virginia Lottery games will end on August 4, 2018:

Virginia Lottery's Print 'n Play Bonus Bingo (42 2018)

Virginia Lottery's Print 'n Play Hot 'n Spicy Bingo (38 2018)

Virginia Lottery's Print 'n Play Safari Bingo (37 2018)

Virginia Lottery's Print 'n Play High Roller Bingo (39 2018)

Virginia Lottery's Print 'n Play Smokin' Hot Crossword (36 2018)

Virginia Lottery's Print 'n Play Daily Crossword (41 2018)

Virginia Lottery's Print 'n Play Gold Rush Crossword (40 2018)

Virginia Lottery's Print 'n Play Diamond Club Crossword (45 2018)

Virginia Lottery's Print 'n Play Blackjack (43 2018)

Virginia Lottery's Print 'n Play \$50,000 Blackjack (44 2018)
(effective August 4, 2018)

Director's Order Number Ninety-Three (18)

Virginia Lottery's "Game Guy's Expedition Expeditions Facebook Promotion" Final Rules for Operation (effective July 1, 2018)

Director's Order Number Ninety-Six (18)

Certain Virginia Promotion; Prize Structure Correction.

Mega Grocery Shopping Dash Amendment Order (72 2018) (this Director's Order is effective nunc pro tunc to June 1, 2018, and shall remain in full force and effect through the end Promotion date unless amended or rescinded by further Director's Order)

Director's Order Number Ninety-Seven (18)

"Retailer Recruitment Incentive Promotion" Virginia Lottery Retailer Incentive Program Requirements (effective July 1, 2018)

Director's Order Number One Hundred-Six (18)

Virginia Lottery "Enhanced Selling Bonus Retailer Incentive Promotion" (effective July 1, 2018)

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Draft Community Mental Health Rehabilitative Services and Behavioral Therapy Supplement Provider Manuals for Stakeholder Input

Comment period: June 26, 2018, to July 29, 2018.

The draft chapters (Chapters 2, 4, 5, 6, Appendix C, and the Behavioral Therapy Supplement) of the Community Mental Health Rehabilitative Services (CMHRS) Provider Manual are posted on the Department of Medical Assistance Services for public comment through July 29, 2018.

The CMHRS Provider Manual will be finalized and officially posted by August 1, 2018, at <https://www.virginiamedicaid.dmas.virginia.gov/wps/portal/ProviderManual>.

Contact Information: Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, TDD (800) 343-0634, or email emily.mcclellan@dmas.virginia.gov.

Draft Psychiatric Services Provider Manual for Stakeholder Input

Comment period: June 27, 2018, to July 27, 2018.

The draft chapters (Chapters 2, 4, 5, 6, and Appendix C) of the Psychiatric Services Provider Manual are posted on the Department of Medical Assistance Services website at

<http://www.dmas.virginia.gov/#/manualdraft> for public comment through July 27, 2018.

The Psychiatric Services Provider Manual will be finalized and officially posted by August 1, 2018, at <https://www.virginiamedicaid.dmas.virginia.gov/wps/portal/ProviderManual>.

Contact Information: Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, TDD (800) 343-0634, or email emily.mcclellan@dmas.virginia.gov.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Mines, Minerals and Energy is currently reviewing each of the regulations listed below to determine whether the regulation should be repealed, amended, or retained in its current form. The review of each regulation will be guided by the principles in Executive Order 14 (2018). Public comment is sought on the review of any issue relating to each regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

4VAC25-125, Regulations Governing Coal Stockpiles and Bulk Storage and Handling Facilities

4VAC25-165, Regulations Governing the Use of Arbitration to Resolve Coalbed Methane Gas Ownership Disputes

Contact Information: Michael Skiffington, Regulatory Coordinator, Division of Administration, Department of Mines, Minerals and Energy, 1100 Bank Street, 8th Floor, Richmond, VA 23219, or email mike.skiffington@dmme.virginia.gov.

The comment period begins July 23, 2018, and ends August 13, 2018.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

BOARD OF PHARMACY

Emergency Regulations for Pharmaceutical Processors of CBD or THC-A Oil

Comment period: July 23, 2018, through August 22, 2018.

The Board of Pharmacy will be adopting proposed regulations to replace emergency regulations for pharmaceutical processors at its meeting on September 25, 2018. Prior to adoption, it is seeking comment on the regulations as amended by the board at its meeting in June. Public comment may be posted on the Virginia Regulatory Town Hall or sent to the executive director of the board.

The emergency regulations may be viewed at <http://leg1.state.va.us/000/lst/r/1456642.HTM>.

Contact Information: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4456, FAX (804) 527-4472, or email caroline.juran@dhp.virginia.gov.

SAFETY AND HEALTH CODES BOARD

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Virginia Department of Labor and Industry (DOLI) and the Safety and Health Codes Board are conducting a periodic review and small business impact review of **16VAC25-145, Safety Standards for Fall Protection in Steel Erection, Construction Industry**. The review of this regulation will be guided by the principles in Executive Order 14 (2018).

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins July 23, 2018, and ends August 17, 2018.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Holly Raney, Regulatory Coordinator, Virginia Department of Labor and Industry, 600 East Main Street, Richmond, VA 23219, email holly.raney@doli.virginia.gov.

Comments must include the commenter's name and address (physical or email) information in order to receive a response

General Notices/Errata

to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

Occupational Exposure to Beryllium for General Industry

On June 14, 2018, the Safety and Health Codes Board adopted a stay of compliance dates for the Occupational Exposure to Beryllium for General Industry, 16VAC25-90-1910.1024, with an effective date of September 15, 2018. The identical federal regulation, 29 CFR 1910.1024, has been subjected to an administrative stay of enforcement by the federal Occupational Safety and Health Administration (OSHA) per the memorandum from Director Thomas Galassi of the OSHA Directorate of Enforcement Programs on May 2, 2018.

Occupational Exposure to Beryllium for the Shipyard Industry and the Construction Industry

On June 14, 2018, the Safety and Health Codes Board adopted an indefinite stay of compliance dates for the "ancillary" provisions of the Occupational Exposure to Beryllium for the Shipyard Industry, Part 1915, and the Construction Industry, Part 1926, 16VAC25-100-1915.1024 and 16VAC25-175-1926.1124, with an effective date of September 15, 2018. The board also adopted a compliance date for §§ 1915.1024(c) and 1926.1124(c), permissible exposure limits, with an effective date of September 15, 2018. The identical federal regulations, 29 CFR 1915.1024 and 29 CFR 1926.1124, have been subjected to an indefinite administrative stay and Health Administration (OSHA) per the memorandum from Director Thomas Galassi of the OSHA Directorate of Enforcement Programs on March 2, 2018.

STATE WATER CONTROL BOARD

Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the State Water Control Board conducted a small business impact review of **9VAC25-280, Ground Water Standards**, and determined that this regulation should be retained in its current form. The State Water Control Board is publishing its report of findings dated July 2, 2018, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The current regulation continues to be needed. This regulation establishes groundwater standards to protect the quality of groundwater in the Commonwealth. No public comments were received during the periodic review comment period.

The regulation establishes groundwater standards that are statewide and applicable for the different physiographic

provinces in the Commonwealth. This regulation is a state-only regulation, and these standards do not overlap, duplicate, or conflict with federal or state law or regulation.

This regulation was last amended in 2004. The groundwater standards in this regulation continue to be beneficial.

The regulation establishes groundwater standards and does not directly impact small businesses.

Contact Information: Melissa Porterfield, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238, FAX (804) 698-4019, or email melissa.porterfield@deq.virginia.gov.

Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the State Water Control Board conducted a small business impact review of **9VAC25-740, Water Reclamation and Reuse Regulation**, and determined that this regulation should be retained in its current form. The State Water Control Board is publishing its report of findings dated June 27, 2018, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The regulation continues to be needed. Consistent with State Water Control Law, the regulation has established requirements for the reclamation and reuse of wastewater that are protective of state waters and public health as an alternative to directly discharging pollutants into state waters.

Public comments were received during the periodic review of this regulation and included the following:

- Changing terminology, labeling/identification, education, and reclaimed water filling station requirements included in the regulation.
- Increase funding to support reclaimed water projects.
- Include a "de minimus" provision for unplanned releases of reclaimed water.
- Include industrial humidification as a generally approved reuse of Level 1 reclaimed water.
- Develop a comprehensive direct and indirect potable reuse framework in Virginia.

None of the commenters indicated their suggested change would minimize the impact of the regulation on small business. Responses to individual comments are included in the public comment section of the notice posted on the Virginia Regulatory Town Hall.

The regulation is technical in nature and contains requirements that are complex. These include different reclaimed water standards and treatment requirements based on the type of wastewater to be reclaimed and the intended reuse of the reclaimed water.

The regulation is a state-only regulation. There are federal guidelines, but no federal regulations for the reclamation and reuse of wastewater.

Although changes in technology have occurred since the last amendment of the regulation in 2014, design and operational requirements of the regulation remain applicable and relevant.

Consistent with § 62.1-44.2 of the Code of Virginia, the regulation promotes and encourages the reclamation and reuse of wastewater in a manner protective of the environment and public health but does not require any person or party, including small businesses, to perform this activity. Consequently, the regulation does not adversely impact small businesses.

Contact Information: Melissa Porterfield, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238, FAX (804) 698-4019, or email melissa.porterfield@deq.virginia.gov.

Enforcement Action for Earl M. Thompson

An enforcement action has been proposed for Earl M. Thompson regarding certain violations of State Water Control Law that occurred at the Breeze Hill Subdivision in Goochland County. A description of the proposed action is available online at www.deq.virginia.gov. Lee Crowell will accept comments by email at lee.crowell@deq.virginia.gov or postal mail at Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23219, from July 23, 2018, through August 22, 2018.

Proposed Consent Order for Dutoy Creek Wastewater Treatment Plant

An enforcement action has been proposed for Powhatan County for the Dutoy Creek Wastewater Treatment Plant located at 2040 Anderson Highway, Powhatan County, VA. The State Water Control Board proposes to issue a consent order to address noncompliance with State Water Control Law and regulations. The order contains only a civil charge as the corrective action is complete. A description of the proposed order is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Frank Lupini will accept comments by email at frank.lupini@deq.virginia.gov, FAX at (804) 698-4277, or postal mail at Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, from July 23, 2018, to August 23, 2018.

Public Meeting for Total Maximum Daily Load Study for Barbours Creek, Craig Creek, Catawba Creek, Little Patterson Creek, Sinking Creek, Lapsley Run, and Part of the James River

Public informational meeting: A community meeting will be held on Tuesday, August 7, 2018, from 6 p.m. until 7 p.m. at the Eagle Rock Public Library, 55 Eagles Nest Drive, Eagle

Rock, VA 24085. In the case of inclement weather, the meeting will be rescheduled for August 9, 2018, from 6 p.m. until 7 p.m. at Eagle Rock Public Library. These meetings will be open to the public, and all are welcome. For more information, please contact Lucy Baker at lucy.baker@deq.virginia.gov or telephone (540) 562-6718.

Purpose of notice: The Department of Environmental Quality (DEQ) and its contractors, Virginia Tech's Biological Systems Engineering Department, will discuss the final results of a water quality study, known as a total maximum daily load (TMDL) for Barbours Creek, Craig Creek, Catawba Creek, Little Patterson Creek, Sinking Creek, Lapsley Run, and a section on the James River in Craig and Botetourt Counties. These streams are listed on the § 303(d) TMDL Priority List and Report as impaired due to violations of Virginia's water quality standards for recreational use and general standard (benthics). Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia requires DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's § 303(d) TMDL Priority List and Report. This is an opportunity for local residents to learn about the condition of these streams, share information about the area, and become involved in the process of local water quality improvement. The draft TMDL can be found on DEQ's website. A 30-day public comment period will follow the meetings (August 7, 2018, to September 6, 2018).

Description of study: In Botetourt and Craig Counties, portions of the James River, Catawba Creek, Craig Creek, Barbours Creek, Sinking Creek, Lapsley Run, and Little Patterson Creek are impaired for the "recreational use" water quality standard, meaning there is too much E. Coli bacteria present in these waterbodies. A section of Catawba Creek does not have a healthy and diverse community of aquatic organisms and subsequently does not meet the "aquatic life" water quality standard. Excessive bacteria levels may pose a threat to human health, therefore, a bacteria standard was established to preserve recreational uses in Virginia's waterbodies. This water quality study will report on the sources of bacteria and recommend reductions to meet TMDLs for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, bacteria levels need to be reduced to the TMDL amount. A component of a TMDL is the wasteload allocation (WLA); therefore, this notice is provided pursuant to § 2.2-4006 A 14 of the Administrative Process Act for any future adoption of the TMDL WLAs.

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Stream	Impairment length	Location description	County	Impairment	Little Patterson Creek	4.24 miles	Little Patterson Creek from just upstream of the Rt. 684 (Sugar Tree Hollow Rd.) crossing downstream to its confluence with Patterson Creek	Botetourt County	Bacteria
Craig Creek	7.91 miles	Mainstem from the mouth of Turnpike Creek extending downstream to the Rt. 311 crossing	Craig County	Bacteria					
Craig Creek	11.43 miles	Craig Creek from the mouth of Johns Creek downstream to the Barbours Creek confluence	Craig County	Bacteria	Lapsley Run	9.01 miles	Lapsley Run from its confluence with the James River upstream to its headwaters	Botetourt County	Bacteria
Craig Creek	27.56 miles	Craig Creek mainstem from the mouth of Wilson Branch downstream to the confluence with the James River	Botetourt County	Bacteria	James River	7.63 miles	James River from the confluence of the Jackson and Cowpasture Rivers downstream to the mouth of Stull Run	Botetourt County	Bacteria
Barbours Creek	7.15 miles	Barbours Creek from just downstream of the Rt. 617 and Rt. 611 junction at the mouth of Valley Branch downstream to its mouth on Craig Creek	Craig County	Bacteria	Sinking Creek	6.42 miles	Sinking Creek mainstem from its mouth on the James River upstream to the Rt. 697 crossing	Botetourt County	Bacteria
					Catawba Creek	13.46 miles	Catawba Creek from the confluence of Little Catawba Creek downstream to the Town of Fincastle publicly owned treatment works	Botetourt County	Bacteria

Catawba Creek	3.23 miles	Catawba Creek from Buchanan Branch downstream to the confluence with Little Catawba Creek	Botetourt County	Aquatic Life
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How to comment and participate: The meetings of the TMDL process are open to the public and all interested parties are welcome. Written comments will be accepted through September 6, 2018, and should include the name, address, and telephone number of the person submitting the comments. For more information or to submit written comments, please contact: Lucy Baker, Department of Environmental Quality, Blue Ridge Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6718, FAX (540) 562-6725, or email lucy.baker@deq.virginia.gov.

Public Meetings for the Development of a TMDL Implementation Plan for Mattaponi River Watershed: Brock Run, Chapel Creek, Doctors Creek, Gladly Run, Maracossic Creek, Mat River, Matta River, Mattaponi River, Motto River, Po River, Polecat Creek, Poni River, Reedy Creek, and Root Swamp

The Virginia Department of Environmental Quality (DEQ) will host two public meetings on a water quality study for the Mattaponi River Watershed, including portions of Brock Run, Chapel Creek, Doctors Creek, Gladly Run, Maracossic Creek, Mat River, Matta River, Mattaponi River, Motto River, Po River, Polecat Creek, Poni River, Reedy Creek, and Root Swamp in Caroline, King and Queen, King William, Orange, and Spotsylvania Counties on July 24, 2018, and July 31, 2018.

The July 24 meeting will be held at the C. Melvin Snow Memorial Library, 8740 Courthouse Road, Spotsylvania, VA 22553 from 6 p.m. until 8 p.m. The July 31 meeting will be at the Bowling Green Town Hall, 117 Butler Street, Bowling Green, VA 22427, from 4:30 p.m. until 6:30 p.m.

The waters listed for this study were identified in Virginia's Water Quality Assessment Integrated Report as impaired for not supporting the E. Coli bacteria criteria for recreational uses. The impairments are based on water quality monitoring data reports that documented exceedances of Virginia's water quality standard for bacteria.

At these meetings, DEQ will discuss the March 2016 Mattaponi River Watershed Bacteria Total Maximum Daily Load (TMDL) report findings and the development of an implementation plan. Meeting participants will learn how they can contribute to the plan development and support restoration of the impaired waters within the watershed. After

a 45-minute public meeting, stakeholders will break into working group sessions to provide their initial input for the plan. One work group will discuss agricultural bacteria source reduction needs and opportunities; the other work group will discuss residential source reductions from septic systems, pet wastes, and stormwater. An additional meeting of each working group will be scheduled for fall 2018.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop total maximum daily loads for pollutants responsible for each impaired water contained in Virginia's § 303(d) TMDL Priority List and Report and subsequent water quality assessment reports. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, pollutant levels have to be reduced to the TMDL amount. The TMDL report for Mattaponi River, which was approved by EPA on July 19, 2016, can be found at <http://www.deq.virginia.gov/Portals/0/DEQ/Water/TMDL/apptmdls/yorkrvr/MattaponiBact2016.pdf>. Additional information is also available on the DEQ website at www.deq.virginia.gov/tmdl.

The public comment period on materials presented at this meeting will extend from July 31, 2018, to August 30, 2018. For additional information or to submit comments, contact David Evans at the Virginia Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, by telephone (703) 583-3835, or email david.evans@deq.virginia.gov.

VIRGINIA WASTE MANAGEMENT BOARD

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Environmental Quality is conducting a periodic review and small business impact review of **9VAC20-170, Transportation of Solid and Medical Wastes on State Waters**. The review of this regulation will be guided by the principles in Executive Order 14 (2018).

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins July 23, 2018, and ends August 13, 2018.

General Notices/Errata

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Melissa Porterfield, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238, FAX (804) 698-4019, or email melissa.porterfield@deq.virginia.gov.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <https://commonwealthcalendar.virginia.gov>.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumultab.pdf>.

Filing Material for Publication in the *Virginia Register of Regulations*: Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

ERRATA

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: 12VAC30-70. Methods and Standards for Establishing Payment Rates – Inpatient Hospital Services.

Publication: 34:23 VA.R. 2162-2171 July 9, 2018

Correction to Final Regulation:

Page 2163, first column, above subsection A, insert "**12VAC30-70-351. Updating rates for inflation.**"

VA.R. Doc. No. R18-5387; Filed July 5, 2018