



# VIRGINIA

## REGISTER OF REGULATIONS

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Virginia Code Commission

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

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# THE VIRGINIA REGISTER INFORMATION PAGE

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

## ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

Unless exempted by law, an agency wishing to adopt, amend, or repeal regulations must follow the procedures in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Typically, this includes first publishing 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 proposed regulation 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 of Regulations 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 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 the final regulation contains changes made after publication of the proposed regulation that 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*. Pursuant to § 2.2-4007.06 of the Code of Virginia, any person may request that the agency solicit additional public comment on certain changes made after publication of the proposed regulation. The agency shall suspend the regulatory process for 30 days upon such request from 25 or more individuals, 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 alternative to the standard process set forth in the Administrative Process Act for regulations deemed by the Governor to be noncontroversial. To use this process, the Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations become effective on the date noted in the regulatory action if fewer than 10 persons object to using the process in accordance with § 2.2-4012.1.

## EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency may adopt emergency regulations if necessitated by an emergency situation or when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or fewer from its enactment. In either situation, approval of the Governor is required. The emergency regulation is effective upon its filing with the Registrar of Regulations, unless a later date is specified per § 2.2-4012 of the Code of Virginia. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under the circumstances noted in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Virginia Register* and are on the Register of Regulations website at [register.dls.virginia.gov](http://register.dls.virginia.gov).

During the time the emergency regulation is in effect, the agency may proceed with the adoption of permanent regulations in accordance with the Administrative Process Act. 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.

Members of the Virginia Code Commission: **John S. Edwards, Chair; James A. Leftwich, Jr., Vice-Chair; Ward L. Armstrong; Nicole Cheuk; Richard E. Gardiner; Ryan T. McDougle; Christopher R. Nolen; Steven Popps; Charles S. Sharp; Malfourd W. Trumbo; Amigo R. Wade; Wren M. Williams.**

Staff of the Virginia Register: **Holly Trice, Registrar of Regulations; Anne Bloomsburg, Assistant Registrar; Nikki Clemons, Senior Regulations Analyst; Rhonda Dyer, Publications Assistant.**

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# PUBLICATION SCHEDULE AND DEADLINES

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

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## November 2023 through December 2024

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
40:7	November 1, 2023	November 20, 2023
40:8	November 14, 2023	December 4, 2023
40:9	November 29, 2023	December 18, 2023
40:10	December 13, 2023	January 1, 2024
40:11	December 27, 2023	January 15, 2024
40:12	January 10, 2024	January 29, 2024
40:13	January 24, 2024	February 12, 2024
40:14	February 7, 2024	February 26, 2024
40:15	February 21, 2024	March 11, 2024
40:16	March 6, 2024	March 25, 2024
40:17	March 20, 2024	April 8, 2024
40:18	April 3, 2024	April 22, 2024
40:19	April 17, 2024	May 6, 2024
40:20	May 1, 2024	May 20, 2024
40:21	May 15, 2024	June 3, 2024
40:22	May 29, 2024	June 17, 2024
40:23	June 12, 2024	July 1, 2024
40:24	June 26, 2024	July 15, 2024
40:25	July 10, 2024	July 29, 2024
40:26	July 24, 2024	August 12, 2024
41:1	August 7, 2024	August 26, 2024
41:2	August 21, 2024	September 9, 2024
41:3	September 4, 2024	September 23, 2024
41:4	September 18, 2024	October 7, 2024
41:5	October 2, 2024	October 21, 2024
41:6	October 16, 2024	November 4, 2024
41:7	October 30, 2024	November 18, 2024
41:8	November 13, 2024	December 2, 2024

\*Filing deadlines are Wednesdays unless otherwise specified.

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# PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

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## TITLE 9. ENVIRONMENT

### DEPARTMENT OF ENVIRONMENTAL QUALITY

#### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Environmental Quality conducted a periodic review and a small business impact review of **9VAC15-40, Small Renewable Energy Projects (Wind) Permit by Rule**, and determined that this regulation should be retained as is. The department is publishing its report of findings dated September 19, 2023, to support this decision.

This regulation enhances the department's ability to ensure compliance with all specific requirements under the state code through the approval of a wind permit by rule for wind energy projects with rated capacity not exceeding 150 megawatts. The regulation is necessary for the protection of public health and welfare, as it is needed to meet the following goals: (i) to protect public health and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth; (ii) to provide a streamlined administrative mechanism for a "permit by rule," which means the permit requirements are set forth "up front" within the regulation, rather than being developed on a case-by-case basis, thus reducing burdensome and costly permit application, review, and issuance procedures; and (iii) to meet specific requirements of the Code of Virginia to develop requirements for permits by rule for wind energy projects with rated capacity not exceeding 150 megawatts

The regulation provides a permitting process for small renewable energy wind projects with a rated capacity greater than five megawatts and less than 150 megawatts that is protective of human health and the environment. Section 10.1-1197.6 B 12 of the Code of Virginia requires other necessary environmental permits to be obtained in addition to this permit by rule (PBR). The department has determined that the regulation is clearly written and easily understandable by the individuals and entities it affects. It is written so as to permit only one reasonable interpretation, is written to adequately identify the affected entity, and, insofar as possible, is written in nontechnical language.

This regulation satisfies the provisions of the law and legally binding state requirements and is effective in meeting its goals; therefore, the regulation is being retained without amendment. This regulation continues to be needed as the regulation provides applicants with the most cost-effective means of fulfilling ongoing state requirements that protect natural and historic resources. The regulation also provides a permitting process for small renewable energy wind projects. The regulation details the permitting process, and a small renewable energy wind project is deemed to operate under the PBR provision if it meets the requirements of the regulation. Other necessary environmental permits will need to be obtained in addition to the PBR.

DEQ received 11 comments from nine individuals and organizations during the public comment period. Comments from two individuals and organizations were in favor of retaining the regulation as is with no amendments. Comments from six of the remaining seven individuals and organizations were primarily focused on the Rocky Forge Wind Project in Botetourt County, Virginia, which is not the subject of this periodic review. Several commenters indicated that the small renewable energy wind permit by rule program is not "small." The definition of a small renewable energy wind permit by rule is provided in the statute, which can only be changed by the General Assembly, not by regulatory action.

The regulation's level of complexity is appropriate to ensure that the regulated entity is able to meet the entity's legal mandate as efficiently and cost-effectively as possible. This regulation does not overlap, duplicate, or conflict with any state law or other state regulation. This regulation was last reviewed in 2019. Prior to the 2009 legislation small renewable energy projects were to be permitted on a case-by-case basis by the Virginia State Corporation Commission.

For those considering small wind energy projects, there was large uncertainty concerning the requirements and potential costs of completing a project, as well as how long the permitting process would take. The permit by rule framework eliminates much of that uncertainty. Applicants need to meet the 14 criteria set forth by § 10.1-1197.6 B of the Code of Virginia to obtain a permit by rule. Further, the regulations specify that the department must render a decision concerning the permit application within 90 days. This significant reduction in uncertainty is in itself beneficial and will increase the likelihood that net beneficial projects will go forward. To date, the Rocky Forge Wind project is the only on-shore wind project permitted through the wind PBR process. The department authorized the use of the small renewable energy wind PBR for the Rocky Forge Wind project on March 2, 2017, with a modification of the project authorized on October 16, 2020.

The department, through examination of the regulation and conversations with developers and others in the renewable energy sector, has determined that the regulatory requirements currently minimize the economic impact of permitting a small wind energy project. The statutes and regulation will increase the likelihood that small wind energy projects will go forward. Consequently, the proposed regulation may have a small positive impact on employment. The statutes and proposed regulation will reduce risk, time costs, and administrative costs for small firms wishing to develop a small wind energy project.

Contact Information: Susan Tripp, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 664-3470, or email [susan.tripp@deq.virginia.gov](mailto:susan.tripp@deq.virginia.gov).

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# Periodic Reviews and Small Business Impact Reviews

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## VIRGINIA WASTE MANAGEMENT BOARD

### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Virginia Waste Management Board conducted a periodic review and a small business impact review of **9VAC20-130, Solid Waste Planning and Recycling Regulations**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated October 6, 2023, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare and is clearly written and easily understandable. This regulation continues to be needed. The regulation contains requirements for the content of solid waste management plans and details the options localities have when developing such plans. Localities may choose to develop their own plans or may join with other localities to form solid waste planning units. These plans promote source reduction, reuse, and recycling of materials, thereby reducing the amount of solid waste that needs to be disposed of in landfills. 23 comments were received during the public comment period, 19 of which would require a statutory change to address the comment. The regulation is written in nontechnical language.

This regulation is a state-only regulation; there is no equivalent federal regulation. This regulation does overlap to an extent with the Solid Waste Management Regulations (9VAC20-81). Both regulations address solid waste and the need to properly manage solid waste at permitted facilities. Some facilities that manage solid waste receive permits from the department that are issued through the Solid Waste Management Regulations.

The regulation was last amended in 2019 to update references and be consistent with changes made to the Virginia Hazardous Waste Management Regulations (9VAC20-60). The regulation is currently undergoing review to update references and be consistent with other board regulations. The final stage of that review will be published in the Virginia Register on October 23, 2023. Small businesses are not required to develop solid waste management plans. Localities may collect information from businesses and industries in their localities in developing and implementing their plans. This regulation has minimal impact on small businesses.

Contact Information: Sanjay Thirunagari, Programs Manager, Virginia Waste Management Board, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-1532, or email [sanjay.thirunagari@deq.virginia.gov](mailto:sanjay.thirunagari@deq.virginia.gov).

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## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

#### Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Health is

conducting a periodic review and a small business impact review of **12VAC5-90, Regulations for Disease Reporting and Control**, and **12VAC5-105, Rabies Regulations**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of this review is to determine whether each regulation should be repealed, amended, or retained in its current form. 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.

Public comment period begins November 6, 2023, and ends November 27, 2023.

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 published in the Virginia Register of Regulations.

Contact Information: Karen Mask, Senior Policy Analyst, Office of Epidemiology, Virginia Department of Health, James Madison Building, 109 Governor Street, Richmond, VA 23219, telephone (804) 654-9351, or email [karen.mask@vdh.virginia.gov](mailto:karen.mask@vdh.virginia.gov).

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD FOR BARBERS AND COSMETOLOGY

#### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board for Barbers and Cosmetology conducted a periodic review and a small business impact review of **18VAC41-11, Public Participation Guidelines**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated October 5, 2023, to support this decision.

The board's public participation guidelines mirror the Department of Planning and Budget's model public participation guidelines. The regulation is necessary to promote public involvement in the development, amendment, or repeal of regulations. Further, the regulation is clearly written and understandable.

On August 14, 2023, the board voted to retain this regulation as is without any change. The regulation continues to mirror the model public participation guidelines from the Department of Planning and Budget.

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## Periodic Reviews and Small Business Impact Reviews

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There is a continued need for this regulation. The board did not receive any comments or complaints during the public comment period. The regulation is not complex. The regulation does not overlap, duplicate, or conflict with any other federal or state laws or regulations. The regulation was last evaluated in 2019 and does not rely on technology, economic conditions, or any other factors due to the nature of public participation. This regulation outlines the Virginia Regulatory Town Hall as the mechanism for notification, registration, and meeting procedures for public participation. The board determined that the regulation has no economic impact of small businesses as this regulation promotes public involvement in the development, amendment, or repeal of the regulations of the board.

**Contact Information:** Kelley Smith, Executive Director, Board for Barbers and Cosmetology, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, or email [barbercosmo@dpor.virginia.gov](mailto:barbercosmo@dpor.virginia.gov).

### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board for Barbers and Cosmetology conducted a periodic review and a small business impact review of **18VAC41-20, Barbering and Cosmetology Regulations**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated October 4, 2023, to support this decision.

The regulation (i) contains the requirements for obtaining a license, renewal and reinstatement of licenses, safety and sanitation procedures, and standards of professional conduct to ensure competence and integrity of all licensees and that the health and sanitary standards and safety are adequate in shops, salons, schools, and other facilities where barber, cosmetology, wax, and nail technician services are provided and (ii) administers the regulatory program in accordance with Chapters 2 (§ 54.1-200 et seq.) and 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia.

The regulation is necessary for the protection of public health, safety, and welfare and is clearly written and understandable. On August 14, 2023, the board voted to retain the regulation as is without amendment. In accordance with the Governor's Executive Directive Number One (2022), the board is currently undertaking a separate action to perform a comprehensive line-by-line review of this regulation.

Section 54.1-201 A 1 and A 5 of the Code of Virginia mandate the board promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. The board provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals who meet specific criteria set forth in the statutes and regulations are eligible to receive a barber, cosmetology, or nail or wax technician, instructor, salon, or school license or temporary permit. The board is also tasked

with ensuring that the board's regulants meet standards of practice that are set forth in the regulation.

The comments received during the public comment period did not pertain to the regulation. The two identical public comments received pertained to the Esthetics Regulations (18VAC41-70) and reflected concerns regarding the board's future discussion of reducing or combining the Esthetics and Master Esthetics curriculum and licenses. The board has formed a regulatory advisory panel to review this subject.

The regulation is clearly written and easily understandable and does not overlap, duplicate, or conflict with federal or state law or regulation. The most recent periodic review of the regulation occurred in 2019. Currently, the board is conducting a comprehensive review of the regulation.

**Contact Information:** Kelley Smith, Executive Director, Board for Barbers and Cosmetology, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, or email [barbercosmo@dpor.virginia.gov](mailto:barbercosmo@dpor.virginia.gov).

### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board for Barbers and Cosmetology conducted a periodic review and a small business impact review of **18VAC41-50, Tattooing Regulations**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated October 5, 2023, to support this decision.

The regulation (i) contains the requirements for obtaining a license, renewal and reinstatement of licenses, safety and sanitation procedures, and standards of professional conduct to ensure competence and integrity of all licensees and that the health, sanitary, and safety standards are adequate in salons, parlors, schools, and other facilities where tattoo, permanent cosmetic tattooing, and master permanent cosmetic tattooing services are provided; and (ii) administers the regulatory program in accordance with Chapters 2 (§ 54.1-200 et seq.) and 7 (§ 54.-700 et seq.) of Title 54.1 of the Code of Virginia. The regulation is necessary for the protection of public health, safety, and welfare and is clearly written and understandable.

On August 14, 2023, the board voted to retain the regulation as is without amendment. In accordance with the Governor's Executive Directive Number One (2022), the board is currently undertaking a separate action to perform a comprehensive line-by-line review of this regulation.

Section 54.1-201 A 1 and A 6 of the Code of Virginia mandate the board promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. The board provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals who meet specific criteria set forth in the statutes and regulations are eligible to receive a tattooer, permanent cosmetic tattooer, or master permanent cosmetic tattooer instructor, parlor, salon, or school license or temporary

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## Periodic Reviews and Small Business Impact Reviews

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permit. The board is also tasked with ensuring that the board's regulants meet standards of practice that are set forth in the regulation.

There were no comments or complaints received during the public comment period. The regulation is clearly written and easily understandable and does not overlap, duplicate, or conflict with federal or state law or regulation. The most recent periodic review of the regulation occurred in 2019. Currently, the board is conducting a comprehensive review of the regulation.

Contact Information: Kelley Smith, Executive Director, Board for Barbers and Cosmetology, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, or email [barbercosmo@dpor.virginia.gov](mailto:barbercosmo@dpor.virginia.gov).

### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board for Barbers and Cosmetology conducted a periodic review and a small business impact review of **18VAC41-60, Body-Piercing Regulations**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated October 5, 2023, to support this decision.

The regulation (i) contains the requirements for obtaining a license, renewal and reinstatement of licenses, safety and sanitation procedures, and standards of professional conduct to ensure competence and integrity of all licensees and that the health and sanitary standards and safety are adequate in salons and other facilities where body-piercing and body-piercing ear only services are provided; and (ii) administers the regulatory program in accordance with Chapters 2 (§ 54.1-200 et seq.) and 7 (§ 54.-700 et seq.) of Title 54.1 of the Code of Virginia. The regulation is necessary for the protection of public health, safety, and welfare and is clearly written and understandable.

On August 14, 2023, the board voted to retain the regulation as is without amendment. In accordance with the Governor's Executive Directive Number One (2022), the board is currently undertaking a separate action to perform a comprehensive line-by-line review of this regulation.

Section 54.1-201 A 1 and A 2 of the Code of Virginia mandate the board promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. The board provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals who meet specific criteria set forth in the statutes and regulations are eligible to receive a body-piercing or body-piercing ear only license or temporary permit. The board is also tasked with ensuring that the board's regulants meet standards of practice that are set forth in the regulation.

There were no comments or complaints received during the public comment period. The regulation is clearly written and easily understandable and does not overlap, duplicate, or

conflict with federal or state law or regulation. The most recent periodic review of the regulation occurred in 2019. Currently, the board is conducting a comprehensive review of the regulation.

Contact Information: Kelley Smith, Executive Director, Board for Barbers and Cosmetology, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, or email [barbercosmo@dpor.virginia.gov](mailto:barbercosmo@dpor.virginia.gov).

### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board for Barbers and Cosmetology conducted a periodic review and a small business impact review of **18VAC41-70, Esthetics Regulations**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated October 10, 2023, to support this decision.

The regulation (i) contains the requirements for obtaining a license, renewal and reinstatement of licenses, safety and sanitation procedures, and standards of professional conduct to ensure competence and integrity of all licensees and that the health and sanitary standards and safety are adequate in spas, schools, and other facilities where esthetics services are provided; and (ii) administers the regulatory program in accordance with Chapters 2 (§ 54.1-200 et seq.) and 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia. The regulation is necessary for the protection of public health, safety, and welfare and is clearly written and understandable.

On August 14, 2023, the board voted to retain the regulation as is without amendment. In accordance with the Governor's Executive Directive Number One (2022), the board is currently undertaking a separate action to perform a comprehensive line-by-line review of this regulation.

Section 54.1-201 A 1 and A 2 of the Code of Virginia mandate the board promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. The board provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals who meet specific criteria set forth in the statutes and regulations are eligible to receive an esthetician or a master esthetician instructor, salon, or school license or temporary permit. The board is also tasked with ensuring that the board's regulants meet standards of practice that are set forth in the regulation.

The public comments received addressed concerns regarding the board's future discussion of reducing or combining the Esthetics and Master Esthetics curriculum and licenses. The board has formed a regulatory advisory panel to review this subject. The regulation is clearly written and easily understandable and does not overlap, duplicate, or conflict with federal or state law or regulation. The most recent periodic review of the regulation occurred in 2019. Currently, the board is conducting a comprehensive review of the regulation.

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# Periodic Reviews and Small Business Impact Reviews

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Contact Information: Kelley Smith, Executive Director, Board for Barbers and Cosmetology, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, or email [barbercosmo@dpor.virginia.gov](mailto:barbercosmo@dpor.virginia.gov).

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

### Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Funeral Directors and Embalmers is conducting a periodic review and a small business impact review of **18VAC65-11, Public Participation Guidelines**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). 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.

Public comment period begins November 6, 2023, and ends November 27, 2023.

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 published in the Virginia Register of Regulations.

Contact Information: Corie Tillman Wolf, Executive Director, Board of Funeral Directors and Embalmers, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4479, or email [fanbd@dhp.virginia.gov](mailto:fanbd@dhp.virginia.gov).

## DEPARTMENT OF HEALTH PROFESSIONS

### Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia the Department of Health Professions is conducting a periodic review and a small business impact review of **18VAC76-20, Regulations Governing the Prescription Monitoring Program**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). 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.

Public comment period begins November 6, 2023, and ends November 27, 2023.

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 published in the Virginia Register of Regulations.

Contact Information: Erin Barrett, Director of Legislative and Regulatory Affairs, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4688, or email [erin.barrett@dhp.virginia.gov](mailto:erin.barrett@dhp.virginia.gov).

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## TITLE 19. PUBLIC SAFETY

### DEPARTMENT OF STATE POLICE

#### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of State Police conducted a periodic review and a small business impact review of **19VAC30-220, Virginia Methamphetamine Precursor Information System**, and determined that this regulation should be retained as is. The department is publishing its report of findings dated October 17, 2023, to support this decision.

The purpose of this regulation is to provide guidance for use of and access to the web-accessed database by pharmacies and approved law-enforcement agencies to track pseudoephedrine (PSE) products. Pharmacies and retailers are currently required to capture certain data regarding ephedrine or PSE sales. The system enables pharmacies to easily enter the same PSE sales data currently being gathered online rather than recording the information into a manual log or in-store computer system. The regulation allows retailers to opt out of the electronic reporting system.

The regulation is being retained as is without amendment. Continued need for the regulation is necessary to promote public safety and reduce the improper and illegal use of PSE to manufacture methamphetamine. The department did not receive any comments or complaints during the 30-day public comment period. The regulation is not complex.

The regulation does not overlap, duplicate, or conflict with any other federal or state laws or regulations. The regulation is evaluated annually and does not rely on technology, economic conditions, or any other factors due to the nature of public participation.

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## Periodic Reviews and Small Business Impact Reviews

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The regulation provides a free, cost effective, and easy to use system for the reporting of PSE sales. Small businesses only need internet access to utilize the system, and the regulation provides for small business to opt out of the electronic reporting requirements in certain circumstances.

Contact Information: Keenon Hook, Law Enforcement Manager III, Department of State Police, P. O. Box 27472, Richmond, VA 23261-7472, telephone (804) 674-2739, or email [keenon.hook@vsp.virginia.gov](mailto:keenon.hook@vsp.virginia.gov).

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# NOTICES OF INTENDED REGULATORY ACTION

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## TITLE 2. AGRICULTURE

### BOARD OF AGRICULTURE AND CONSUMER SERVICES

#### 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 Agriculture and Consumer Services intends to consider promulgating **2VAC5-455, Regulations for Tradespersons Installing Invasive Plant Species**. The purpose of the proposed action is to develop and adopt regulations requiring tradespersons involved with proposing or installing plants to provide written notification to property owners for all plants proposed for installation that are included on the Virginia Department of Conservation and Recreation Invasive Plant Species List. The board is directed to promulgate the regulation by Chapter 153 of the 2023 Acts of Assembly.

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

Statutory Authority: §§ 3.2-109 and 3.2-802 of the Code of Virginia.

Public Comment Deadline: December 6, 2023.

Agency Contact: David Gianino, Program Manager, Office of Plant Industry Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3515, FAX (804) 371-7793, email [david.gianino@vdacs.virginia.gov](mailto:david.gianino@vdacs.virginia.gov).

VA.R. Doc. No. R24-7681; Filed October 11, 2023, 11:50 a.m.

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# REGULATIONS

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

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## Symbol Key

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

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## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

#### Forms

**REGISTRAR'S NOTICE:** Forms used in administering the regulation have been 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, 201 North Ninth Street, 4th Floor, Richmond, Virginia 23219.

**Title of Regulation:** [9VAC25-151. Virginia Pollutant Discharge Elimination System \(VPDES\) General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity.](#)

**Agency Contact:** Joseph Bryan, VPDES Permit Supervisor, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 659-2659, or email [joseph.bryan@deq.virginia.gov](mailto:joseph.bryan@deq.virginia.gov).

#### FORMS

[Chesapeake Bay TMDL Action Plan Form SWGP-VAR05-CBAP \(eff. 7/2019\)](#)

[Department of Environmental Quality Water Division Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

[VPDES General Permit for Industrial Activity Stormwater Discharges \(VAR05\) Registration Statement, SWGP VAR05-RS \(eff. 7/2014\)](#)

[VPDES General Permit for Industrial Activity Stormwater Discharges \(VAR05\) Notice of Termination, SWGP VAR05-NOT \(eff. 7/2014\)](#)

[Virginia Pollutant Discharge Elimination System \(VPDES\) Discharge Monitoring Report \(DMR\) \(eff. 7/2014\)](#)

[Virginia Pollutant Discharge Elimination System Change of Ownership Form \(undated\)](#)

VA.R. Doc. No. R24-7560; Filed October 10, 2023, 3:26 p.m.

#### Forms

**REGISTRAR'S NOTICE:** Forms used in administering the regulation have been 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, 201 North Ninth Street, 4th Floor, Richmond, Virginia 23219.

**Title of Regulation:** [9VAC25-193. Virginia Pollutant Discharge Elimination System \(VPDES\) General Permit for Concrete Products Facilities.](#)

**Agency Contact:** Joseph B. Bryan, Guidance and Regulation Coordinator, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 659-2659, or email [joseph.bryan@deq.virginia.gov](mailto:joseph.bryan@deq.virginia.gov).

#### FORMS

[Department of Environmental Quality Water Division Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

~~[Registration Statement for Dischargers Associated with Concrete Products Facilities Authorized under VPDES General Permit VAG11 \(rev. 1/2019\)](#)~~

[Registration Statement for Dischargers Associated with Concrete Products Facilities Authorized under VPDES General Permit VAG11 \(rev. 1/2024\)](#)

VA.R. Doc. No. R24-7707; Filed October 5, 2023, 11:10 a.m.

#### Final Regulation

**REGISTRAR'S NOTICE:** The State Water Control Board 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 board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** [9VAC25-900. Certification of Nonpoint Source Nutrient Credits \(amending 9VAC25-900-90\).](#)

**Statutory Authority:** § 62.1-44.19:20 of the Code of Virginia.

**Effective Date:** December 6, 2023.

**Agency Contact:** Derick Winn, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 965-4875, or email [derick.winn@deq.virginia.gov](mailto:derick.winn@deq.virginia.gov).

#### Summary:

*Pursuant to Chapter 526 of the 2022 Acts of Assembly, the amendments allow the Department of Environmental Quality to accelerate the release of nutrient credits*

*generated by a stream restoration project based on (i) a determination that the level of risk for restoration failure is low; (ii) the provision of additional financial assurance in an amount adequate to cover the cost of project repair or replacement in the event of failure; and (iii) the experience of the applicant who will implement the stream restoration project.*

#### **9VAC25-900-90. Nutrient credit release and registration.**

##### **A. Retirement of credits.**

1. Pursuant to the requirements of § 62.1-44.19:20 of the Act, 5.0% of the total credits certified will be retired by the department at the time of nutrient credit certification and will not be placed on the registry for exchange.

2. When phosphorus credits are acquired in accordance with 9VAC25-870-69, the associated nitrogen credits generated by the nutrient credit-generating project will be retired and removed from the registry by the department.

3. When nitrogen credits are acquired for purposes other than compliance with 9VAC25-870-69, the associated phosphorus credits generated by the nutrient credit-generating project shall not be available for compliance under 9VAC25-870-69.

4. Except as limited by this subsection, associated nitrogen and phosphorus credits generated by a nutrient credit-generating project may be exchanged independently.

##### **B. Schedule of release of nutrient credits. The department shall establish a schedule for release of credits as follows:**

1. For nutrient credit-generating projects using land use conversion, 25% of the credits will be released by the department after the department has verified completion of the conditions of the nutrient credit certification. For afforestation projects, an additional 25% of credits will be released by the department after the site has been planted with a minimum of 400 woody stems per acre. The remaining balance of credits will be released by the department after it is satisfied that the implementation plan's performance criteria required pursuant to 9VAC25-900-120 has been achieved. When a request for credit release is made concurrently with the application for nutrient credit certification from land conversion practices, the concurrent 25% initial release, and additional 25% release if planting has occurred, shall be processed on the same timeline as the application as provided in 9VAC25-900-80 C. When the request for credit release is from a previously approved land conversion project, the department shall schedule a site visit, if warranted, within 30 days of the request and shall deny, approve, or approve with conditions the release of the remaining 75% of the nutrient credits within 15 days of the site visit or determination that a site visit is not warranted.

2. For nutrient credit-generating projects using wetland or stream restoration, after construction 25% of the credits may be released by the department after the department has verified completion of the conditions of the nutrient credit certification.

Every monitoring year thereafter, 25% of the credits may be released if all performance standards are met, the area or channel is stable, and, for streams, evidence is presented that a bankfull event occurred within the monitoring year. For streams, if a bankfull event did not occur, but performance standards are met and the channel is stable, 10% of the credits may be released. No additional credits will be released after the fourth monitoring year until a bankfull event has occurred. After the fourth monitoring year, if a bankfull event occurs, the channel is stable, and all performance standards are met, 25% of the credits may be released that monitoring year, not to exceed the remaining credits available. The schedule for release of credits shall also require, prior to the release of credits, the approval of any required financial assurance mechanism established pursuant to Part VI (9VAC25-900-230 et seq.) of this chapter. The department may accelerate the release of a maximum of 50% of nutrient credits from a stream restoration project based on (i) a determination that the level of risk for restoration failure is low; (ii) the provision of additional financial assurance in an amount adequate to cover the cost of project repair or replacement in the event of failure; and (iii) the experience of the applicant or the applicant's agents who will implement the stream restoration project.

3. For nutrient credit-generating projects using practices other than land use conversion or wetland or stream restoration, the schedule for release of credits will be determined by the department on a case-by-case basis and provided to the applicant with the nutrient credit certification. For projects using structural BMPs, the schedule shall also require, prior to release of credits, the approval of any required financial assurance mechanism established pursuant to Part VI (9VAC25-900-230 et seq.) of this chapter.

C. Registration of nutrient credits. Credits will be placed on the registry and classified as term or perpetual credits by the department. The registry will also indicate the number of credits that have been released for exchange. Only credits released by the department are available for exchange.

VA.R. Doc. No. R24-7325; Filed October 13, 2023, 9:32 a.m.

## **TITLE 12. HEALTH**

### **STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES**

#### **Final Regulation**

Title of Regulation: **12VAC35-46. Regulations for Children's Residential Facilities (adding 12VAC35-46-1260, 12VAC35-46-1270).**

Statutory Authority: §§ 37.2-203 and 37.2-408 of the Code of Virginia.

Effective Date: December 7, 2023.

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# Regulations

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Agency Contact: Susan H. Puglisi, Regulatory Research Specialist, Office of Regulatory Affairs, Department of Behavioral Health and Developmental Services, 1220 Bank Street, 4th Floor South, Richmond, VA 23219, telephone (804) 371-8043, FAX (804) 371-4609, TDD (804) 371-8977, or email [susan.puglisi@dbhds.virginia.gov](mailto:susan.puglisi@dbhds.virginia.gov).

Summary:

*Item 318 D of Chapter 552 of the 2021 Acts of Assembly, Special Session 1, requires the State Board of Behavioral Health and Developmental Services to align the Regulations for Children's Residential Facilities (12VAC35-46) with the requirements of the federal Family First Prevention Services Act (FFPSA) for children's residential service providers who accept Title IV-E funding to meet the standards as qualified residential treatment programs (QRTPs). The amendments require QRTPs to (i) have a trauma-informed treatment model; (ii) have registered licensed nursing staff and licensed clinical staff who are available 24 hours a day and seven days a week; (iii) facilitate outreach to the family members of the child; (iv) facilitate participation of family members in the child's treatment program; (v) provide or arrange discharge planning and family-based aftercare support for at least six months after discharge; and (vi) be licensed and accredited by an independent, not-for-profit accrediting organization approved by the U.S. Secretary of Health and Human Services.*

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.

## **12VAC35-46-1260. Qualified residential treatment programs.**

A. A qualified residential treatment program (QRTP) shall have a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child.

B. In addition to the staffing requirements within Part II (12VAC35-46-170 et seq.) through Part VI (12VAC35-46-1120 et seq.) of this chapter, a QRTP shall have registered or licensed nursing staff and other licensed clinical staff who:

1. Provide care within the scope of their practice as defined by state law;
2. Are on-site according to the treatment model referred to in subsection A of this section; and
3. Are available 24 hours a day and seven days a week.

The QRTP is not required to acquire nursing or other clinical staff solely through means of a direct employer to employee relationship.

C. To the extent appropriate and in accordance with the child's best interests, the QRTP shall facilitate participation of family members in the child's treatment program.

D. The QRTP shall facilitate outreach to the family members of the child, including siblings, document how the outreach is made, including contact information, and maintain contact information for any known biological family and fictive kin of the child. Documentation of outreach to family members and contact information of family members shall be placed within the child's record at the QRTP.

E. The QRTP shall document how family members are integrated into the treatment process for the child, including after discharge, and how sibling connections are maintained. Documentation of family member integration shall be placed within the child's record at the QRTP.

F. The QRTP shall provide or ensure discharge planning and family-based aftercare support for at least six months following discharge.

G. The QRTP shall be licensed in accordance with 42 USC § 471(a)(10) and accredited by any of the following independent nonprofit organizations:

1. The Commission on Accreditation of Rehabilitation Facilities (CARF);
2. The Joint Commission on Accreditation of Healthcare Organizations (JCAHO);
3. The Council on Accreditation (COA); or
4. Any other independent, nonprofit accrediting organization approved by the U.S. Secretary of Health and Human Services.

## **12VAC35-46-1270. Additional requirements for QRTP placements for children within the custody of local social service boards.**

A. The qualified residential treatment program (QRTP) shall coordinate with the local departments of social services, the child's biological family members, relative and fictive kin of the child, and, as appropriate, professionals who are a resource to the family of the child, such as teachers, clergy, or medical or mental health providers who have treated the child.

B. All documents related to a child's need for placement shall be placed within the child's record at the qualified residential treatment program, including the assessment determination of the qualified individual, as defined in 42 USC § 675a(c)(1)(D)(i), and the written documentation of the approval or disapproval of the placement in a qualified residential treatment program by a court or administrative body.

C. This section shall not apply to direct parental placements of children into the QRTP that are made outside of the social services system.

VA.R. Doc. No. R22-6861; Filed October 17, 2023, 9:18 a.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 16VAC25-85-1904.41, Appendix A to Subpart E; adding Appendix B to Subpart E).

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

**Effective Date:** January 1, 2024.

**Agency Contact:** Cristin Bernhardt, Regulatory Coordinator, Department of Labor and Industry, Main Street Centre, 600 East Main Street, Suite 207, Richmond, VA 23219, telephone (804) 786-2392, FAX (804) 786-8418, or email [cristin.bernhardt@doli.virginia.gov](mailto:cristin.bernhardt@doli.virginia.gov).

**Summary:**

*In a final rule, federal Occupational Safety and Health Administration (OSHA) amended its Recording and Reporting Occupational Injuries and Illnesses regulation to improve tracking of workplace illnesses and injuries by requiring certain employers to electronically submit injury and illness information to OSHA that employers are already required to keep under the recordkeeping regulation. The amendments (i) require establishments with 100 or more employees in certain designated industries to electronically submit information from OSHA Form 300 and Form 301 to OSHA once a year; (ii) update NAICS codes used in Appendix A of Subpart E, which designates the industries required to submit Form 300A data; (iii) add Appendix B to Subpart E, which designates the industries required to submit Form 300 and Form 301 data; and (iv) require an establishment to include its company name when making electronic*

*submissions to OSHA. In this regulatory action, the Safety and Health Codes Board is adopting this final rule.*

**Note on Incorporation by Reference:** Pursuant to § 2.2-4103 of the Code of Virginia, 29 CFR Part 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 the 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, General Assembly Building, 201 North Ninth Street, 4th Floor, Richmond, Virginia 23219.

**Statement of Final Agency Action:** On September 18, 2023, the Safety and Health Codes Board adopted federal OSHA's final rule to Improve Tracking of Workplace Injuries and Illnesses, as published in 88 FR 47346 through 88 FR 47349 on July 21, 2023, with an effective date of January 1, 2024.

**Federal Terms and State Equivalents:** When the regulation as set forth in the final rule for Recording and Reporting Occupational Injuries and Illnesses is 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:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
January 1, 2024	January 1, 2024

VA.R. Doc. No. R24-7702; Filed October 17, 2023, 10:00 a.m.

**VIRGINIA WORKERS' COMPENSATION COMMISSION**

**Final Regulation**

**REGISTRAR'S NOTICE:** The Virginia Workers' Compensation Commission is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 15 of the Code of Virginia, which exempts regulations adopted pursuant to § 65.2-605 of the Code of Virginia, including regulations that adopt, amend, adjust, or repeal Virginia fee schedules for medical services, provided the commission (i) utilizes a regulatory advisory panel constituted as provided in § 65.2-605 F 2 of the Code of Virginia to assist in the development of such regulations and (ii) provides an opportunity for public comment on the regulations prior to adoption. The commission will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

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# Regulations

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**Title of Regulation:** 16VAC30-110. Medical Fee Schedules Regulations (amending 16VAC30-110-10, 16VAC30-110-20).

**Statutory Authority:** § 65.2-605 of the Code of Virginia.

**Effective Date:** December 6, 2023.

**Agency Contact:** James J Szablewicz, Chief Deputy Commissioner, Virginia Workers' Compensation Commission, 333 East Franklin Street, Richmond VA 23219, telephone (804) 205-3097, FAX (804) 823-6936, or email [james.szablewicz@workcomp.virginia.gov](mailto:james.szablewicz@workcomp.virginia.gov).

**Summary:**

*The amendments include the 2024 Medical Fee Schedules that will be applicable to medical services rendered in workers' compensation cases during the period from January 1, 2024, through December 31, 2025.*

**16VAC30-110-10. Definitions.**

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

"Commission" means the Virginia Workers' Compensation Commission.

"Community" means one of the six medical communities as defined in § 65.2-605 A of the Code of Virginia.

"Ground rules" means:

1. For medical services rendered during the period from January 1, 2018, through December 31, 2019, means the 2018 Medical Fee Schedule Ground Rules adopted by the commission on June 13, 2017, and revised on ~~November 14, 2017~~ July 18, 2019, incorporated by reference in this chapter and available on the commission's website at ~~<http://www.workcomp.virginia.gov/content/virginia-medical-fee-schedules-ground-rules>~~ <https://www.workcomp.virginia.gov/documents/2018-mfs-ground-rules>.

2. For medical services rendered during the period from January 1, 2020, through December 31, 2021, means the 2020 Medical Fee Schedule Ground Rules adopted by the commission on July 18, 2019, and revised on October 17, 2019, incorporated by reference in this chapter and available on the commission's website at ~~<http://www.workcomp.virginia.gov/content/virginia-medical-fee-schedules-ground-rules>~~ <https://www.workcomp.virginia.gov/documents/2020-medical-fee-schedules-ground-rules>.

3. For medical services rendered during the period from January 1, 2022, through December 31, 2023, means the 2022 Medical Fee Schedule Ground Rules adopted by the commission on June 29, 2021, incorporated by reference in this chapter and available on the commission's website at ~~<http://www.workcomp.virginia.gov/content/virginia-medical-fee-schedules-ground-rules>~~

~~ground-rules~~ <https://www.workcomp.virginia.gov/documents/2022-medical-fee-schedules-ground-rules>.

4. For medical services rendered during the period from January 1, 2024, through December 31, 2025, means the 2024 Medical Fee Schedule Ground Rules adopted by the commission on August 17, 2023, incorporated by reference in this chapter and available on the commission's website at <https://www.workcomp.virginia.gov/medical-fee-services/2024-medical-fee-schedules-ground-rules>.

"Medical services" means any medical, surgical, or hospital service required to be provided to an injured person pursuant to Title 65.2 of the Code of Virginia, exclusive of a medical service provided in the treatment of a traumatic injury or serious burn as those terms are defined in § 65.2-605 A of the Code of Virginia.

"Virginia fee schedules" means:

1. For medical services rendered during the period from January 1, 2018, through December 31, 2019, means the 2018 Medical Fee Schedules adopted by the commission on June 13, 2017, and revised on November 14, 2017, incorporated by reference in this chapter and available on the commission's website at ~~<http://www.workcomp.virginia.gov/content/virginia-medical-fee-schedules>~~ <https://www.workcomp.virginia.gov/content/2018-medical-fee-schedule>.

2. For medical services rendered during the period from January 1, 2020, through December 31, 2021, means the 2020 Medical Fee Schedules adopted by the commission on July 18, 2019, and revised on October 17, 2019, incorporated by reference in this chapter and available on the commission's website at ~~<http://www.workcomp.virginia.gov/content/virginia-medical-fee-schedules>~~ <https://www.workcomp.virginia.gov/content/2020-virginia-medical-fee-schedules>.

3. For medical services rendered during the period from January 1, ~~2024~~ 2022, through December 31, ~~2022~~ 2023, means the 2022 Medical Fee Schedules adopted by the commission on June 29, 2021, incorporated by reference in this chapter and available on the commission's website at ~~<http://www.workcomp.virginia.gov/content/virginia-medical-fee-schedules>~~ <https://www.workcomp.virginia.gov/content/2022-virginia-medical-fee-schedules>.

4. For medical services rendered during the period from January 1, 2024, through December 31, 2025, means the 2024 Medical Fee Schedules adopted by the commission on August 17, 2023, incorporated by reference in this chapter and available on the commission's website at <https://www.workcomp.virginia.gov/medical-fee-services/2024-medical-fee-schedules>.

**16VAC30-110-20. Applicability of fee schedules and ground rules; determination of communities.**

A. The Virginia fee schedules and ground rules shall apply to all medical services rendered on or after January 1, 2018, regardless of the date of injury.

B. The applicable community for providers of medical services rendered in the Commonwealth shall be determined by the zip code of the location where the services were rendered. ☹. The applicable community for providers of medical services rendered outside of the Commonwealth shall be determined by the zip code of the principal place of business of the employer if located in the Commonwealth or, if no such location exists, then the zip code of the location where the commission hearing regarding a dispute concerning the services would be conducted.

**DOCUMENTS INCORPORATED BY REFERENCE**

[Virginia Workers' Compensation 2018 Medical Fee Schedules Ground Rules](#), adopted June 13, 2017, revised ~~November 14, 2017~~ [July 18, 2019](#), Virginia Workers' Compensation Commission

[Virginia Workers' Compensation 2020 Medical Fee Schedules Ground Rules](#), adopted July 18, 2019, revised on October 17, 2019, Virginia Workers' Compensation Commission

[Virginia Workers' Compensation 2022 Medical Fee Schedules Ground Rules](#), adopted June 29, 2021, Virginia Workers' Compensation Commission

[Virginia Workers' Compensation 2024 Medical Fee Schedules Ground Rules](#), adopted August 17, 2023, Virginia Workers' Compensation Commission

[2018 Virginia Workers' Compensation Medical Fee Schedules](#), adopted June 13, 2017, revised November 14, 2017, Virginia Workers' Compensation Commission, <http://www.workcomp.virginia.gov/content/virginia-medical-fee-schedules> <https://www.workcomp.virginia.gov/content/2018-medical-fee-schedule>

[2020 Virginia Workers' Compensation Medical Fee Schedules](#) adopted July 18, 2019, and revised on October 17, 2019, Virginia Workers' Compensation Commission, <http://www.workcomp.virginia.gov/content/virginia-medical-fee-schedules> <https://www.workcomp.virginia.gov/content/2020-virginia-medical-fee-schedules>

[2022 Medical Fee Schedules](#) adopted June 29, 2021, Virginia Workers' Compensation Commission, <http://websiteqa/content/2022-virginia-medical-fee-schedules> <https://www.workcomp.virginia.gov/content/2022-virginia-medical-fee-schedules>

[2024 Medical Fee Schedules](#) adopted August 17, 2023, Virginia Workers' Compensation Commission.

<https://www.workcomp.virginia.gov/medical-fee-services/2024-medical-fee-schedules>

VA.R. Doc. No. R24-7711; Filed October 12, 2023, 2:03 p.m.

**TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING**

**COMMON INTEREST COMMUNITY BOARD**

**Final Regulation**

**REGISTRAR'S NOTICE:** The Common Interest Community Board 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 board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** **18VAC48-45. Time-Share Regulations (amending 18VAC48-45-110, 18VAC48-45-130, 18VAC48-45-160, 18VAC48-45-190, 18VAC48-45-310, 18VAC48-45-350).**

**Statutory Authority:** §§ 54.1-2349 and 55.1-2247 of the Code of Virginia.

**Effective Date:** January 1, 2024.

**Agency Contact:** Tanya Pettus, Administrator, Common Interest Community Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8510, FAX (866) 490-2723, or email [cic@dpor.virginia.gov](mailto:cic@dpor.virginia.gov).

**Summary:**

*Chapters 52 and 53 of the 2023 Acts of Assembly remove the requirement under the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq. of the Code of Virginia) that a time-share instrument state whether the developer reserves the right to add or delete any alternative purchase and replaces it with a requirement that the developer disclose in its public offering statement for a time-share program whether the developer will offer any alternative purchase. The amendments conform applicable provisions of the regulation to the legislation.*

**18VAC48-45-110. Prerequisites for registration of a time-share program.**

The following provisions are prerequisites for registration and are supplementary to the provisions of § 55.1-2239 of the Code of Virginia.

1. The developer shall own or have the right to acquire an estate in the land constituting or to constitute any time-share

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project included in the time-share program that is of at least as great a degree and duration as the estate to be conveyed in the time-shares.

2. The time-share instrument of any time-share project included in the time-share program must be adequate to bring a time-share project and time-share program into existence upon recordation. This subdivision does not apply to a time-share instrument that may be recorded after the time-share project and time-share program have been created.

~~3. The time-share instrument must include a statement detailing that the developer reserves or does not reserve the right to add or delete any alternative purchase.~~

4. ~~3.~~ The current and planned time-share advertising activities of the developer shall comply with § 18.2-216 of the Code of Virginia and this chapter.

~~§. 4.~~ If the developer is a firm, it shall be organized as a business entity under the laws of the Commonwealth of Virginia or otherwise authorized to transact business in Virginia. Firms shall register any trade or fictitious names with the State Corporation Commission in accordance with Chapter 5 of Title 59.1 (§ 59.1-69 et seq.) of the Code of Virginia before submitting an application to the board.

## **18VAC48-45-130. Minimum application requirements for registration of a time-share program.**

A. The documents and information contained in §§ 55.1-2208, 55.1-2209, 55.1-2210, 55.1-2214, 55.1-2217, and 55.1-2239 of the Code of Virginia, as applicable, shall be included in the application for registration of a time-share program.

B. The application for registration of a time-share program shall include the fee specified in 18VAC48-45-70.

C. The following documents shall be included in the application for registration of a time-share program as exhibits. All exhibits shall be labeled as indicated and submitted in a format acceptable to the board.

1. Exhibit A: A copy of the certificate of incorporation or certificate of authority to transact business in Virginia issued by the Virginia State Corporation Commission, or any other entity formation documents, together with any trade or fictitious name certificate.

2. Exhibit B: A certificate of recordation or other acceptable documents from the city or county where the time-share is located.

3. Exhibit C: A copy of the title opinion, the title policy, or a statement of the condition of the title to each time-share project included in the time-share program, including encumbrances as of a specified date within 30 days of the date of application by a title company or licensed attorney who is not a salaried employee, officer, or director of the

developer or owner, in accordance with subdivision A 5 of § 55.1-2239 of the Code of Virginia. If the developer is not the record owner of the land, a copy of any contract the developer has executed to purchase the land, any option the developer holds for the purchase of the land, or any lease under which the developer holds the land.

4. Exhibit D: Proof that the applicant or developer owns or has the right to acquire an estate in the land constituting or to constitute each time-share project included in the time-share program, which is of at least as great a degree and duration as the estate to be conveyed in the time-share.

5. Exhibit E: A statement of the zoning, subdivision, or land use obligations or proffers and other governmental regulations affecting the use of each time-share project included in the time-share program, including the site plans and building permits and their status, any existing tax, and existing or proposed special taxes or assessments that affect the time-share.

6. Exhibit F: A copy of the time-share instrument, including all applicable amendments and exhibits, that will be delivered to a purchaser and copies of the contracts and other agreements that a purchaser will be required to agree to or sign.

7. Exhibit G: A narrative description of the promotional plan for the disposition of the time-shares.

8. Exhibit H: A copy of the proposed public offering statement that complies with § 55.1-2217 of the Code of Virginia and this chapter. Pursuant to subsection H of § 55.1-2217, a similar disclosure statement required by other situs laws governing time-sharing may be submitted for a time-share located outside of the Commonwealth.

9. Exhibit I: A copy of the buyer's acknowledgment. Pursuant to § 55.1-2226 of the Code of Virginia, the purchaser shall be given this document prior to signing a purchase contract, and the document shall contain the information required by subsection B of § 55.1-2226.

10. Exhibit J: The signed original of (i) any bond or letter of credit obtained pursuant to § 55.1-2220 of the Code of Virginia in lieu of escrowing deposits and (ii) any bond or letter of credit required by subsection B of § 55.1-2234 of the Code of Virginia, as applicable.

11. Exhibit K: A copy of any management agreements and other contracts or agreements affecting the overall use, maintenance, management, or access of all or any part of the time-share program.

12. Exhibit L: A list with the names of every officer, manager, owner, or principal, as applicable to the type of firm under which the developer is organized to do

business, of the developer or persons occupying a similar status within or performing similar functions for the developer. The list must include each individual's residential address or other address valid for receipt of service, principal occupation for the past five years, and title.

13. Exhibit M: A statement whether any of the individuals or entities named in Exhibit L are or have been involved as defendants in any indictment, conviction, judgment, decree, or order of any court or administrative agency against the developer or managing entity for violation of a federal, state, local, or foreign country law or regulation in connection with activities relating to time-share sales, land sales, land investments, security sales, construction or sale of homes or improvements, or any similar or related activity.

14. Exhibit N: A statement whether, during the preceding five years, any of the individuals or entities named in Exhibit L have been adjudicated bankrupt or have undergone any proceeding for the relief of debtors.

15. Exhibit O: If the developer has reserved the right to add to or delete from the time-share program any incidental benefit ~~or alternative purchase~~, a description of the incidental benefit ~~or alternative purchase~~ shall be provided pursuant to subdivision A 13 of § 55.1-2239 of the Code of Virginia.

16. Exhibit P: For any time-share program containing a conversion time-share project, a copy of the notice required by subsection D of § 55.1-2217 of the Code of Virginia and a certified statement that such notice shall be mailed or delivered to each of the tenants in the building of each conversion time-share project included in the time-share program.

**18VAC48-45-160. Contents of public offering statement.**

A. A cover, if used, must be blank or bear identification information only.

B. The developer may include as part of the public offering statement a receipt page printed in such a way that the developer may obtain verification that a prospective purchaser has received the public offering statement. The receipt page shall include the effective date of the public offering statement as well as a place for the date of delivery and signature lines for the prospective purchaser. The authorized receipt page in proper form, duly executed, shall be evidence that the public offering statement was delivered.

C. The first page of the public offering statement shall be substantially as follows:

PURCHASER SHOULD READ THIS DOCUMENT FOR THE PURCHASER'S PROTECTION

PUBLIC OFFERING STATEMENT	
NAME OF TIME-SHARE PROGRAM:	_____
LOCATION OF TIME-SHARE PROJECT:	_____
NAME OF DEVELOPER:	_____
ADDRESS OF DEVELOPER:	_____
EFFECTIVE DATE OF PUBLIC OFFERING STATEMENT:	_____
REVISED:	_____

THE PURCHASER OF A TIME-SHARE MAY CANCEL THE CONTRACT UNTIL MIDNIGHT OF THE SEVENTH CALENDAR DAY FOLLOWING THE EXECUTION OF SUCH CONTRACT. THE PURCHASER SHOULD READ THIS DOCUMENT FOR THE PURCHASER'S OWN PROTECTION.

Purchasing a time-share carries with it certain rights, responsibilities, and benefits, including certain financial obligations, rights, and restrictions concerning the use and maintenance of units and common elements. The purchaser will be bound by the provisions of the time-share instruments and should review the Public Offering Statement, the time-share instruments, and other exhibits carefully prior to purchase.

This Public Offering Statement presents information regarding time-share(s) being offered for sale by the developer. The Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq. of the Code of Virginia) requires that a Public Offering Statement be given to every Purchaser in order to provide full and accurate disclosure of the characteristics of and material circumstances affecting the time-share program and the characteristics of the time-share(s) being offered. The Public Offering Statement is not intended, however, to be all-inclusive. The Purchaser should consult other sources for details not covered by the Public Offering Statement.

The Public Offering Statement summarizes information and documents furnished by the developer to the Virginia Common Interest Community Board. The Board has carefully reviewed the Public Offering Statement but does not guarantee the accuracy or completeness of the Public Offering Statement. In

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the event of any inconsistency between the Public Offering Statement and the material it is intended to summarize, the material shall control.

If the Purchaser elects to cancel the contract within the seven-day cancellation period, all payments made in connection with the purchase contract shall be refunded to the Purchaser within 45 days. If the Purchaser elects to cancel the contract, the Purchaser shall do so either by (i) hand-delivering the notice to the developer at its principal office or at the project or (ii) mailing the notice by certified United States mail, return receipt requested, to the developer or its agent designated in the contract.

Allegations of violation of any law or regulation contained in the Virginia Real Estate Time-Share Act or the Time-Share Regulations (18VAC48-45) should be reported to the Common Interest Community Board, Perimeter Center, Suite 400, 9960 Mayland Drive, Richmond, Virginia 23233.

D. A summary of important considerations shall immediately follow the first page for the purpose of reinforcing the disclosure of significant information. The summary shall be titled as such and shall be introduced by the following statement: "The following are important matters to be considered in acquiring a time-share. They are highlights only. The Public Offering Statement should be examined in its entirety to obtain detailed information." Appropriate modifications shall be made to reflect facts and circumstances that may vary. The summary shall consist of, but not be limited to, the following, as applicable:

1. A brief description of the time-share program and any time-share project included in the time-share program.
2. A statement regarding all incidental benefits or alternative purchases that may be offered by the developer.
3. A brief description of all amenities located within or outside of any time-share project included in the time-share program and available to time-share owners by virtue of ownership in the time-share program. If such amenities are not common elements of the time-share project, identify who owns the amenities and whether time-share owners are required to pay to access and use.
4. A statement describing any exchange program that may be offered to the purchaser.
5. A statement describing (i) the purchaser's responsibility to make principal and interest payment in connection with the purchase of the time-share as well as to pay maintenance fees or assessments, special assessments, user fees, insurance premiums, and real estate taxes and (ii) that a time-share owner cannot reduce the amount of any owner obligation for any reason.
6. A statement regarding the consequences for failure to pay maintenance fees or any special assessment when due. The statement may reference the enforcement mechanisms

available to the developer, and if applicable the association, by describing (i) any declaration of an owner being an "Owner Not in Good Standing"; (ii) any civil action taken for the collection of a debt; (iii) means for pursuing foreclosure or obtaining a lien against the time-share unit; and (iv) denial of access to the time-share project and participation in the time-share program.

7. A statement indicating whether the developer or managing agent has indictments, convictions, judgments, decrees, or order of any court or administrative agency for matters related to fraud or consumer protection violations that may be required to be disclosed by subdivisions A 1 c and A 1 d of § 55.1-2217 of the Code of Virginia.

8. A statement indicating the period of time the developer will retain control of the association.

9. A statement disclosing any management agreement with a managing agent to perform certain duties for any time-share project included in the time-share program.

10. A statement indicating whether the developer may expand the time-share program.

11. A statement indicating whether the right of the time-share owner to resell or transfer the time-share is subject to restrictions.

12. A statement indicating the time-share units are restricted to lodging only.

13. A statement indicating that the time-share owner may not alter the interior or exterior of the time-share unit.

14. A statement regarding the obligation of the developer or association to obtain certain insurance benefiting the time-share owner.

15. A statement regarding a time-share estate and time-share owner's obligation to pay real estate taxes.

~~16. A statement regarding whether or not the developer reserves the right to add or delete any alternative purchase.~~

E. The content after the summary of important considerations shall include the narrative sections in 18VAC48-45-170 through 18VAC48-45-310. Supplementary sections may be included as necessary.

F. Clear and legible copies of the following documents shall be included as either supplements or exhibits to the public offering statement:

1. Time-share instrument;
2. Association articles of incorporation;
3. Bylaws;
4. Association annual report or projected budget for time-share estate programs;
5. Rules and regulations of the association, if available;

- 6. Any management contract, if applicable;
- 7. Exchange program disclosure document and narrative statement required pursuant to subsection B of § 55.1-2217 of the Code of Virginia, if applicable; and
- 8. Other documents obligating the association or time-share owner to perform duties or obligations or pay charges or fees, if applicable.

G. Other information and documentation may be included as necessary to ensure full and accurate disclosure. The board may also require additional information as necessary to ensure full and accurate disclosure.

**18VAC48-45-190. Narrative sections; description of time-share project.**

A. The public offering statement shall contain a section captioned "Description of the Time-Share Project." The section shall provide a general description of any time-share project included in the time-share program and the units and common elements promised available to purchasers. This section shall also provide the developer's estimated schedule of commencement and completion of all promised and incomplete units and common elements.

B. The section shall state whether the developer has reserved the right to add and delete from the time-share program a time-share project or any incidental benefit ~~or alternative purchase~~.

C. The section shall refer the purchaser to the reverter deed for an explanation if the developer utilized the possibility of a reverter.

D. The section shall indicate all provisions that have been made for public utilities in the time-share project, including water, electricity, telephone, and sewerage facilities.

**18VAC48-45-310. Narrative sections; alternative purchase and incidental benefit.**

The public offering statement shall contain a section entitled "Alternative Purchases and Incidental Benefits." The section shall state whether or not the developer has reserved the right to add to or delete from the time-share program any incidental benefit ~~or~~. The section must state whether the developer will offer any alternative purchase. The section shall state that such alternative purchase has been or will be registered with the board.

**18VAC48-45-350. Nonmaterial changes to the public offering statement.**

Changes to the public offering statement that are not material are not required to be filed with the board, shall not be deemed an amendment of the public offering statement for the purposes of this chapter, and shall not give rise to a renewed right of rescission in any purchase. Nonmaterial changes to the public offering statement include the following:

- 1. Correction of spelling, grammar, omission, or other similar errors not affecting the substance of the public offering statement;
- 2. Changes in presentation or format;
- 3. Substitution of an executed, filed, or recorded copy of a document for the otherwise substantially identical unexecuted, unfiled, or unrecorded copy of the document that was previously submitted;
- 4. Inclusion of updated information such as identification or description of the current officers and directors of the developer;
- 5. Disclosure of completion of improvements for improvements that were previously proposed or not complete;
- 6. Changes in real estate tax assessment or rate or modifications related to those changes;
- 7. Changes in utility charges or rates or modifications related to those changes;
- 8. Addition or deletion of incidental benefits ~~or alternative purchases~~ provided the developer reserved in the time-share instrument the right to add or delete incidental benefits ~~or alternative purchases~~;
- 9. Adoption of a new budget that does not result in a significant change in fees or assessments or significantly impact the rights or obligations of the prospective purchasers;
- 10. Modifications related to changes in insurance company or financial institution, policy, or amount for bonds or letters of credit filed with the board in accordance with § 55.1-2220 of the Code of Virginia or required pursuant to § 55.1-2234 of the Code of Virginia;
- 11. Changes in personnel of the managing agent; and
- 12. Any change that is the result of orderly development of the time-share in accordance with the time-share instruments as described in the public offering statement.

**NOTICE:** The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, General Assembly Building, 201 North Ninth Street, 4th Floor, Richmond, Virginia 23219.

FORMS (18VAC48-45)

~~Time Share Registration/Amendment Application A492-0515REG-v6 (eff. 5/2021)~~

[Time-Share Registration/Amendment Application A492-0515REG-v7 \(eff. 8/2023\)](#)

[Time-Share Program Annual Report A492-0515ANRPT-v6 \(eff. 3/2021\)](#)

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[Time-Share Building Status Form A492-0515BLDST-v2](#) (eff. 3/2021)

[Time-Share Bond/Letter of Credit Verification Form A492-0515BOND-v4](#) (eff. 3/2021)

[Time-Share Exchange Program Registration Application A492-0516REG-v3](#) (eff. 4/2020)

[Time-Share Exchange Program Annual Report A492-0516ANRPT-v2](#) (eff. 1/2020)

[Alternative Purchase Registration Application A492-0524REG-v4](#) (eff. 3/2021)

[Alternative Purchase Annual Report A492-0524ANRPT-v3](#) (eff. 3/2021)

[Time-Share Reseller Registration Application A492-0525REG-v4](#) (eff. 4/2020)

[Time-Share Reseller Lead Dealer Change Form A492-0525LDCHG-v2](#) (eff. 1/2020)

VA.R. Doc. No. R24-7523; Filed October 11, 2023, 9:18 a.m.

## Final Regulation

**REGISTRAR'S NOTICE:** The Common Interest Community Board 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 board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Titles of Regulations:** **18VAC48-50. Common Interest Community Manager Regulations (amending 18VAC48-50-140, 18VAC48-50-190).**

**18VAC48-60. Common Interest Community Association Registration Regulations (amending 18VAC48-60-14).**

**18VAC48-70. Common Interest Community Ombudsman Regulations (amending 18VAC48-70-60).**

### Statutory Authority:

§ 54.1-2349 of the Code of Virginia (18VAC48-50-140, 18VAC48-50-190, 18VAC48-60-14).

§§ 54.1-2349 and 54.1-2354.4 of the Code of Virginia (18VAC48-70-60).

Effective Date: January 1, 2024.

Agency Contact: Tanya Pettus, Administrator, Common Interest Community Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8510, FAX (866) 490-2723, or email [cic@dpor.virginia.gov](mailto:cic@dpor.virginia.gov).

### Summary:

*Pursuant to Chapters 387 and 388 of the 2023 Acts of Assembly, which repeals provisions pertaining to*

*disclosure requirements for the resale of lots or units in developments subject to the Property Owners' Association Act (§ 55.1-1800 et seq. of the Code of Virginia), the Virginia Condominium Act (§ 55.1-1900 of the Code of Virginia), and the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq. of the Code of Virginia) and consolidates these into the new Resale Disclosure Act (§ 55.1-2307 of the Code of Virginia), the amendments conform applicable provisions of Common Interest Community Board regulations to the new provisions of Chapter 23.1 of Title 55.1, including (i) providing that the board may assess a monetary penalty or issue a cease and desist order against a common interest community manager for failure to deliver a resale certificate or updated resale certificate as required by Chapter 23.1 of Title 55.1 of the Code of Virginia; (ii) removing the stipulation that a disclosure packet or resale certificate is deemed not available if the common interest community association does not have a current registration with the board; and (iii) prohibiting the collection of authorized fees for resale certificates if the certificate is not registered with the board, current in filing an annual report, and current in paying any assessment made by the board pursuant to § 54.1-2354.5 of the Code of Virginia.*

### **18VAC48-50-140. Grounds for disciplinary action.**

A. The board may place a regulant on probation, impose a monetary penalty in accordance with § 54.1-202 A of the Code of Virginia, or revoke, suspend, or refuse to renew any license or certificate when the regulant has been found to have violated or cooperated with others in violating any provisions of the regulations of the board or Chapter 23.3 (§ 54.1-2345 et seq.) of Title 54.1 of the Code of Virginia.

B. In accordance with § 55.1-2314 D of the Code of Virginia, the board may assess a monetary penalty or issue a cease and desist order against a common interest community manager for failure to deliver a resale certificate or updated resale certificate as required by Chapter 23.1 (§ 55.1-2307 et seq.) of Title 55.1 of the Code of Virginia.

### **18VAC48-50-190. Prohibited acts.**

The following acts are prohibited and any violation may result in disciplinary action by the board:

1. Violating, inducing another to violate, or cooperating with others in violating any of the provisions of any of the regulations of the board; Chapter 23.3 (§ 54.1-2345 et seq.) of Title 54.1 of the Code of Virginia; or Chapter 18 (§ 55.1-1800 et seq.), Chapter 19 (§ 55.1-1900 et seq.), ~~or~~ Chapter 21 (§ 55.1-2100 et seq.), or Chapter 23.1 (§ 55.1-2307 et seq.) of Title 55.1 of the Code of Virginia or engaging in any acts enumerated in §§ 54.1-102 and 54.1-111 of the Code of Virginia.
2. Allowing a license or certificate issued by the board to be used by another.

3. Obtaining or attempting to obtain a license or certificate by false or fraudulent representation, or maintaining, renewing, or reinstating a license or certificate by false or fraudulent representation.
4. A regulant having been convicted, found guilty, or disciplined in any jurisdiction of any offense or violation enumerated in 18VAC48-50-180.
5. Failing to inform the board in writing within 30 days that the regulant was convicted, found guilty, or disciplined in any jurisdiction of any offense or violation enumerated in 18VAC48-50-180.
6. Failing to report a change as required by 18VAC48-50-150 or 18VAC48-50-170.
7. The intentional and unjustified failure to comply with the terms of the management contract, operating agreement, or association governing documents.
8. Engaging in dishonest or fraudulent conduct in providing management services.
9. Failing to satisfy any judgments or restitution orders entered by a court or arbiter of competent jurisdiction.
10. Egregious or repeated violations of generally accepted standards for the provision of management services.
11. Failing to handle association funds in accordance with the provisions of § 54.1-2353 A of the Code of Virginia or 18VAC48-50-160.
12. Failing to account in a timely manner for all money and property received by the regulant in which the association has or may have an interest.
13. Failing to disclose to the association material facts related to the association's property or concerning management services of which the regulant has actual knowledge.
14. Failing to provide complete records related to the association's management services to the association within 30 days of any written request by the association or within 30 days of the termination of the contract unless otherwise agreed to in writing by both the association and the common interest community manager.
15. Failing upon written request of the association to provide books and records such that the association can perform pursuant to §§ 55.1-1815 (Property Owners' Association Act), 55.1-1945 (Virginia Condominium Act), and 55.1-2151 (Virginia Real Estate Cooperative Act) of the Code of Virginia.
16. Commingling the funds of any association by a principal, ~~his~~ a principal's employees, or ~~his~~ a principal's associates with the principal's own funds or those of ~~his~~ the principal's firm.

17. Failing to act in providing management services in a manner that safeguards the interests of the public.
18. Advertising in any name other than the name in which licensed.
19. Failing to make use of a legible, written contract clearly specifying the terms and conditions of the management services to be performed by the common interest community manager. The contract shall include the following:
  - a. Beginning and ending dates of the contract;
  - b. Cancellation rights of the parties;
  - c. Record retention and distribution policy;
  - d. A general description of the records to be kept and the bookkeeping system to be used; and
  - e. The common interest community manager's license number.
20. Performing management services or accepting payments prior to the signing of the contract by an authorized official of the licensed firm and the client or the client's authorized agent.

**18VAC48-60-14. Association registration, generally.**

A. Within the meaning and intent of § 54.1-2349 A 8 of the Code of Virginia, an association is registered upon acceptance by the board of ~~an~~ a current annual report and issuance of a certificate of filing by the board in accordance with 18VAC48-60-15 and 18VAC48-60-17.

~~B. In accordance with §§ 55.1-1808 and 55.1-1990 of the Code of Virginia, for an association governing a condominium or for any property owners' association that does not have a current registration with the board in accordance with §§ 55.1-1835 and 55.1-1980 of the Code of Virginia, the disclosure packet or resale certificate, as applicable, is deemed not available.~~

~~C. A property owners'~~ B. In accordance with § 55.1-2316 E of the Code of Virginia, an association that is not (i) registered with the board, (ii) current in filing the most recent annual report with the board pursuant to § 55.1-1835 of the Code of Virginia, and (iii) current in paying any assessment made by the board pursuant to § 54.1-2354.5 of the Code of Virginia is prohibited from collecting fees for disclosure packets resale certificates authorized by §§ 55.1-1810 and 55.1-1811 § 55.1-2316 of the Code of Virginia.

~~D. C.~~ In accordance with §§ 54.1-2351 and 54.1-2352 of the Code of Virginia, the board may take action against the governing board of an association that fails to register in accordance with this chapter, which action may include issuance of a cease and desist order and an affirmative order to file an annual report or assessment of a monetary penalty of not more than \$1,000.

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## **18VAC48-70-60. Distribution of association complaint procedure.**

A. The association complaint procedure must be readily available upon request to all members of the association and citizens.

B. The association complaint procedure shall be included as an attachment to the resale certificate ~~or the association disclosure packet~~ described in § 55.1-2310 of the Code of Virginia.

VA.R. Doc. No. R24-7527; Filed October 11, 2023, 9:22 a.m.

### **Final Regulation**

**REGISTRAR'S NOTICE:** The Common Interest Community Board 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 board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** 18VAC48-70. Common Interest Community Ombudsman Regulations (amending 18VAC48-70-110, 18VAC48-70-120; adding 18VAC48-70-105).

**Statutory Authority:** §§ 54.1-2349 and 54.1-2354.4 of the Code of Virginia.

**Effective Date:** January 1, 2024.

**Agency Contact:** Tanya Pettus, Administrator, Common Interest Community Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8510, FAX (866) 490-2723, or email [cic@dpor.virginia.gov](mailto:cic@dpor.virginia.gov).

#### **Summary:**

*Pursuant to Chapters 20 and 21 of the 2023 Acts of Assembly, the amendments conform applicable provisions of the regulation to the legislation. Substantive amendments include (i) adding a new section to provide that upon receipt of a notice of final adverse decision, the Office of the Common Interest Community Ombudsman may either refer the adverse decision to the Common Interest Community Board for further review of whether the adverse decision is in conflict with the laws or board regulations governing common interest communities or review the adverse decision as provided in the board's regulation; (ii) requiring that upon receipt of a notice of final adverse decision, the Office of the Common Interest Community Ombudsman must provide a written copy of the notice to the governing board and, if applicable, the common interest community manager of the association that made the final adverse decision; (iii) providing that if the Director of the Department of Professional and Occupational Regulation determines that a final adverse*

*decision is in conflict with the laws or regulations governing common interest communities, the director must provide the governing board and, if applicable, the common interest community manager of the association, with the determination; and (iv) providing that if within 365 days of issuing a determination to an association that an adverse decision is in conflict with laws or regulations governing common interest communities, the director receives a subsequent notice of final adverse decision for the same violation by the association, the director must refer the repeat violation to the Common Interest Community Board, which must take action in accordance with § 54.1-2351 or 54.1-2352 of the Code of Virginia as deemed appropriate by the board.*

## **18VAC48-70-105. Receipt of notice of final adverse decision.**

In accordance with § 54.1-2354.3 B 3 of the Code of Virginia, upon receipt of a notice of final adverse decision, the Office of the Common Interest Community Ombudsman may either (i) refer such adverse decision to the board for further review of whether such adverse decision is in conflict with the laws or board regulations governing common interest communities or interpretations thereof by the board; or (ii) review such adverse decision in accordance with the requirements of this part.

## **18VAC48-70-110. Review of final adverse decision.**

Upon receipt of the notice of final adverse decision from the complainant, along with the filing fee or a board-approved waiver of filing fee, the Office of the Common Interest Community Ombudsman shall provide written acknowledgment of receipt of the notice to the complainant and shall provide a copy of the written notice to the governing board and, if applicable, the common interest community manager of the association that made the final adverse decision. The notice of adverse decision will not be reviewed until the filing fee has been received or a waiver of filing fee has been granted by the board.

In accordance with § 54.1-2354.4 C of the Code of Virginia, additional information may be requested from the association that made the final adverse decision. Upon request, the association shall provide such information to the Office of the Common Interest Community Ombudsman within a reasonable time.

## **18VAC48-70-120. Decision from the notice of final adverse decision.**

A. Upon review of the notice of final adverse decision in accordance with § 54.1-2354.4 C of the Code of Virginia, if the director determines that the final adverse decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the board, the director ~~may, in his sole discretion,~~ must provide the complainant and the governing board and, if applicable, the common interest community manager of the association with

information concerning such laws or regulations governing common interest communities or interpretations thereof by the board.

B. The determination of whether the final adverse decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the board ~~shall be a matter within the sole discretion of the director. Such decision is final and not subject to further review. The determination of the director shall not be binding upon the complainant or the association that made the final adverse decision.~~

C. In accordance with § 54.1-2354.4 C of the Code of Virginia, if within 365 days of issuing a determination that an adverse decision is in conflict with laws or board regulations governing common interest communities or interpretations thereof by the board, the director receives a subsequent notice of final adverse decision for the same violation by the association, the director must refer the repeat violation to the board, which must take action in accordance with § 54.1-2351 or 54.1-2352 of the Code of Virginia, as deemed appropriate by the board.

VA.R. Doc. No. R24-7529; Filed October 11, 2023, 9:24 a.m.

**BOARD FOR CONTRACTORS**

**Proposed Regulation**

Title of Regulation: **18VAC50-30. Individual License and Certification Regulations (amending 18VAC50-30-10, 18VAC50-30-30, 18VAC50-30-41, 18VAC50-30-70, 18VAC50-30-90, 18VAC50-30-140 through 18VAC50-30-200; adding 18VAC50-30-25; repealing 18VAC50-30-20).**

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

Public Hearing Information:

December 12, 2023 - 3 p.m. - Department of Professional and Occupational Regulation, 9960 Mayland Drive, 2nd Floor Conference Center, Training Room 2, Richmond, Virginia 23233

Public Comment Deadline: January 5, 2024.

Agency Contact: Marjorie King, Executive Director, Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-2785, FAX (866) 430-1033, or email [contractor@dpor.virginia.gov](mailto:contractor@dpor.virginia.gov).

Basis: Section 54.1-1102 of the Code of Virginia authorizes for the Board for Contractors to administer the licensure and certification programs for tradesmen, gas fitters, liquefied petroleum gas fitters, natural gas fitter providers, water well systems providers, elevator mechanics, residential building energy analysts, backflow prevention device workers, and automatic fire sprinkler inspectors. Section 54.1-201 of the Code of Virginia provides the powers and duties of regulatory boards, including to establish the qualifications of applicants for certification or licensure by any such board and to

promulgate regulations necessary to ensure continued competency, to prevent deceptive or misleading practices by practitioners, and to effectively administer the regulatory system administered by the regulatory board.

Purpose: The General Assembly has charged the board with the responsibility for regulating those who (i) engage, or offer to engage in, work as a tradesman (electrician, plumber, and HVAC technician), gas fitter, liquefied petroleum gas fitter, or natural gas fitter provider; (ii) engage in the drilling, installation, maintenance, or repair of a water well or water well system; (iii) engage in, or offer to engage in, work as an elevator mechanic or accessibility mechanic; (iv) engage in, or offer to engage in, work as a residential building energy analyst; (v) present themselves as a certified backflow prevention device worker; and (vi) perform or offer to perform inspections of automatic fire sprinkler systems, by requiring that such individuals obtain the appropriate licensure or certification.

The performing of trade-related work by those who lack sufficient expertise poses a risk to the public health, safety, and welfare. These risks include the potential for significant damage to property, personal injury, and death. In addition, the improper performing of trade-related work can pose a substantial risk of financial harm to property owner who will be responsible for assuming costs to correct or complete work that is defective.

Substance: The proposed amendments (i) revise numerous terms that are used in the regulation, but which are already defined in statute; (ii) repeal 18VAC50-30-20 and replace it with a new section 18VAC50-30-25, which will provide for application procedures that reflects current agency practice and is consistent with application procedures for other Department of Professional and Occupational Regulation programs; (iii) clarify and simplify provisions pertaining to the disclosure of criminal convictions for consistency with § 54.1-204 of the Code of Virginia; (iv) revise the application fees; (v) provide that the expiration date of a reinstated tradesman is three years from the previous expiration date; (vi) clarify the board's authority to impose regulatory discipline; and (vii) clarify the prohibited acts enumerated in the section for which any violation may result in disciplinary action by the board and make the regulation more consistent with the provisions of § 54.1-204 of the Code of Virginia.

Issues: The primary advantages to the public and the regulated community are that the amendments to the regulation will update and clarify the regulatory provisions; reduce regulatory burdens, while still protecting the public health, safety, and welfare; and remove requirements in the regulation that are not necessary to protect the public welfare. There are no identifiable disadvantages to the public, regulated community, or the Commonwealth. The primary advantage of the regulatory change to the Commonwealth is that it will permit the agency to more ably administer the licensure program.

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

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order 19. The analysis presented represents DPB's best estimate of the potential economic impacts as of the date of this analysis.<sup>1</sup>

Summary of the Proposed Amendments to Regulation. Pursuant to Executive Directive Number One (2022),<sup>2</sup> the Board for Contractors (board) proposes to clarify the regulatory language and repeal provisions that are no longer necessary.

Background. According to the Department of Professional and Occupational Regulation (DPOR), the initial impetus for this action was Executive Directive Number One (2022), which directs executive branch entities under the authority of the Governor "to initiate regulatory processes to reduce by at least 25 percent the number of regulations not mandated by federal or state statute..." In order to comply with the directive, the board proposes to amend this regulation to update definitions; ensure that the language reflects current agency procedures and practices; ensure the regulation compliments current Virginia law and is clearly written and understandable; and remove requirements in the regulation that are not necessary to protect the public welfare.

Estimated Benefits and Costs. One of the proposed changes would amend two provisions relating to a plea of nolo contendere for felony or misdemeanor charges. One current provision is prelicensure, and requires an applicant to disclose "a conviction, in any jurisdiction, of any felony or non-marijuana misdemeanor; the other provision is postlicensure, and includes in the list of prohibited acts any situation where a regulant has been convicted of any felony or of a misdemeanor involving lying, cheating or stealing, sexual offense, non-marijuana drug distribution, physical injury, or relating to the practice of the profession." In both provisions, the current regulation states that a plea of nolo contendere is considered to be a conviction for the purposes of a disciplinary action by the board. However, the board states that treating nolo contendere pleas as prima facie evidence of guilt appears to be contrary to the provisions of § 54.1-204 of the Code of Virginia. Under the regulation, any conviction of a regulant must be considered in accordance with § 54.1-204 of the Code of Virginia. Although this provision has never been enforced by the board, its removal would be beneficial in that it would remove a potential conflict with statute and eliminate potential litigation costs if these provisions were enforced in the future.

All of the remaining changes to the regulation appear to be editorial in nature by clarifying or amending the language to reflect current practices. Thus, no economic impact is expected other than improving the understandability of the regulation.

Businesses and Other Entities Affected. Currently there are 31,844 licensed individuals (28,762 tradesman, 1,656

backflow prevention device workers, 968 elevator mechanics, 432 water well systems provers, and 26 accessibility mechanics) who are subject to this regulation. None of the licensed individuals appear to be disproportionately affected.

The Code of Virginia requires the DPB to assess whether an adverse impact may result from the proposed regulation.<sup>3</sup> An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted, the repeal of the provision regarding the nolo contendere pleas has never been enforced and would not be enforced because the board believes it contradicts the statute. Also, the remaining changes are editorial in nature. For these reasons, no adverse impact on any entity is indicated.

Small Businesses<sup>4</sup> Affected.<sup>5</sup> The proposed amendments do not appear to adversely affect small businesses.

Localities<sup>6</sup> Affected.<sup>7</sup> The proposed amendments do not disproportionately or particularly affect localities nor affect costs for local governments.

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

Effects on the Use and Value of Private Property. No effect on the use and value of private property or real estate development costs is expected.

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<sup>1</sup> Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

<sup>2</sup> <https://www.governor.virginia.gov/media/governorvirginiagov/governor-of-virginia/pdf/ed/ED-1-Regulatory-Reduction.pdf>

<sup>3</sup> Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

<sup>4</sup> Pursuant to § 2.2-4007.04, 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."

<sup>5</sup> If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may

have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

<sup>6</sup> "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>7</sup> Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

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

Summary:

*The proposed amendments (i) update and clarify provisions of the regulation, ensuring that the regulation reflects current agency procedures and practices; (ii) ensure the regulation compliments current Virginia law and is clearly written and understandable; (iii) remove requirements in the regulation that are not necessary to protect the public welfare; and (iv) reduce regulatory burdens, while still protecting the public health, safety, and welfare and include significant changes to definitions, application procedures, general requirements for licensure or certification, Board for Contractors disciplinary authority, and prohibited acts.*

**18VAC50-30-10. Definitions.**

A. Section 54.1-1128 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

"Backflow prevention device worker"

"Board"

"Liquified petroleum gas fitter"

"Natural gas fitter provider"

"Tradesman"

"Water well systems provider"

B. Section 54.1-1140 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

"Accessibility mechanic"

"Certified accessibility mechanic"

"Elevator mechanic"

"Limited use/limited application endorsement"

C. Section 54.1-1144 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

"Accredited residential building energy analyst training program"

"Licensed residential building energy analyst"

"Residential building energy analysis"

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

"Apprentice" means a person who assists tradesmen while gaining knowledge of the trade through on-the-job training and related instruction in accordance with the Virginia Voluntary Apprenticeship Act (§ 40.1-117 et seq. of the Code of Virginia).

"Address of record" means the mailing address designated by the licensee to receive notices and correspondence from the board.

"Applicant" means an individual who has submitted an application for licensure.

"Application" means a completed, board-prescribed form submitted with the appropriate fee and other required documentation.

"Backflow prevention device work" means work performed by a backflow prevention device worker as defined in § 4.1-1128 of the Code of Virginia (13VAC5-63) for reconstruction or renewal of any part of a backflow prevention device for the purpose of returning to service a currently installed device. This does not include the removal or replacement of a defective device by the installation of a rebuilt or new device.

"Building official/inspector" is an employee of the state, a local building department, or other political subdivision who enforces the Virginia Uniform Statewide Building Code.

"Certified accessibility mechanic" means an individual who is certified by the board who is engaged in erecting, constructing, installing, altering, servicing, repairing, testing, or maintaining wheelchair lifts, incline chairlifts, dumbwaiters with a capacity limit of 300 pounds, and private residence elevators.

"Certified automatic fire sprinkler inspector" means an individual who is certified by this chapter and whose work includes the inspection of automatic fire sprinkler systems as defined in Section 3.6.4 of NFPA 25 (2014 edition), including subsections 3.6.4.1 through 3.6.4.6 the Virginia Construction Code (Part I (13VAC5-63-10 et seq.) of 13VAC5-63).

"Certified elevator mechanic" means an individual who is certified by the board who is engaged in erecting, constructing, installing, altering, servicing, repairing, testing, or maintaining elevators, escalators, or related conveyances in accordance with the Virginia Uniform Statewide Building Code.

"Division" means a limited subcategory within any of the trades, as approved by the department.

"Electrical work" consists of, but is not limited to, the following: (i) planning and layout of details for installation or modifications of electrical apparatus and controls including preparation of sketches showing location of wiring and equipment; (ii) measuring, cutting, bending, threading,

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assembling, and installing electrical conduits; (iii) performing maintenance on electrical systems and apparatus; (iv) observation of installed systems or apparatus to detect hazards and need for adjustments, relocation, or replacement; and (v) repairing faulty systems or apparatus.

"Electrician" means a tradesman who ~~does electrical work including performs~~ the construction, repair, maintenance, alteration, or removal of electrical systems ~~in accordance with the National Electrical Code and regulated under the Virginia Uniform Statewide Building Code (13VAC5-63).~~

"Formal vocational training" means courses in the trade administered at an accredited educational facility; or formal training, approved by the board, conducted by trade associations, businesses, the military, correspondence schools, or other similar training organizations.

"Gas fitter" means ~~an individual a tradesman who does performs~~ gas fitting-related work usually ~~as a division within the HVAC or plumbing trades in accordance with the regulated under~~ Virginia Uniform Statewide Building Code. This Gas fitting related work includes the installation, repair, improvement, or removal of industrial gas, fuel gas, gaseous hydrogen, liquefied petroleum or natural gas piping, tanks, chimneys and vents, direct vents, equipment, and appliances annexed to real property.

"Helper" or "laborer" means a person who assists a ~~licensed tradesman and who is not an apprentice as defined in this chapter~~ regulant.

"HVAC tradesman" means an individual ~~whose work includes the installation, alteration, repair, or maintenance of heating systems, ventilating systems, cooling systems, steam and hot water heating systems, boilers, process piping, backflow prevention devices, and mechanical refrigeration systems, including tanks incidental to the system who performs the construction, repair, maintenance, alteration, or removal of HVAC systems regulated under the Virginia Uniform Statewide Building Code.~~

"HVAC work" means work that includes the installation, alteration, repair, or maintenance of heating systems, ventilating systems, cooling systems, steam and hot water heating systems, boilers, process piping, backflow prevention devices, and mechanical refrigeration systems, including tanks incidental to the system.

"Inactive tradesman" means an individual who meets the requirements of 18VAC50-30-73 and is licensed under that section.

"Incidental" means work that is necessary for that particular repair or installation and is outside the scope of practice allowed to the regulant by this chapter.

"Journeyman" means a person who possesses the necessary ability, proficiency, and qualifications to install, repair, and maintain specific types of materials and equipment utilizing a

working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code and according to plans and specifications.

~~"Limited use/limited application endorsement" means an addition to the certification record of a certified accessibility mechanic authorizing the certificate holder to erect, construct, install, alter, service, repair, test, or maintain limited use/limited application elevators as defined by the Virginia Uniform Statewide Building Code.~~

~~"Liquefied petroleum gas fitter" means any individual who engages in or offers to engage in work for the general public for compensation in work that includes the installation, repair, improvement, alterations, or removal of piping, liquefied petroleum gas tanks, and appliances (excluding hot water heaters, boilers, and central heating systems that require a heating, ventilation and air conditioning, or plumbing certification) annexed to real property.~~

~~"Maintenance" means the reconstruction or renewal of any part of a backflow device for the purpose of maintaining its proper operation. This does not include the actions of removing, replacing, or installing, except for winterization.~~

"Master" means a person who possesses the necessary ability, proficiency, and qualifications to plan and lay out the details for installation and supervise the work of installing, repairing, and maintaining specific types of materials and equipment utilizing a working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code.

~~"Natural gas fitter provider" means any individual who engages in, or offers to engage in, work for the general public for compensation in the incidental repair, testing, or removal of natural gas piping or fitting annexed to real property, excluding new installation of gas piping for hot water heaters, boilers, central heating systems, or other natural gas equipment that requires heating, ventilation, and air conditioning or plumbing certification.~~

~~"Periodic inspection" means to examine a cross connection control device in accordance with the requirements of the locality to be sure that the device is in place and functioning in accordance with the standards of the Virginia Uniform Statewide Building Code.~~

"Plumber" means ~~an individual a tradesman who does plumbing work in accordance with~~ performs the construction, repair, maintenance, alteration, or removal of plumbing systems regulated under the Virginia Uniform Statewide Building Code.

"Plumbing work" means work that includes the installation, maintenance, extension, or alteration or removal of piping, fixtures, appliances, and appurtenances in connection with any of the following:

1. Backflow prevention devices;

2. Boilers;
3. Domestic sprinklers;
4. Hot water baseboard heating systems;
5. Hydronic heating systems;
6. Process piping;
7. Public or private water supply systems within or adjacent to any building, structure, or conveyance;
8. Sanitary or storm drainage facilities;
9. Steam heating systems;
10. Storage tanks incidental to the installation of related systems;
11. Venting systems; or
12. Water heaters.

These plumbing tradesmen may also install, maintain, extend, or alter the following:

1. Liquid waste systems;
2. Sewerage systems;
3. Storm water systems; and
4. Water supply systems.

"Regulant" means an individual (i) licensed as a tradesman, liquefied petroleum gas fitter, ~~or natural gas fitter provider, or gas fitter;~~ or (ii) certified as a backflow prevention device worker, accessibility mechanic, elevator mechanic, water well systems provider, or fire sprinkler inspector.

"Reinstatement" means having a license or certification card restored to effectiveness after the expiration date has passed the process and requirements through which an expired license can be made valid without the licensee having to apply as a new applicant.

"Renewal" means continuing the effectiveness of a license or certification card for another period of time the process and requirements for periodically approving the continuance of a license.

"Repair" means the reconstruction or renewal of any part of a backflow prevention device for the purpose of returning to service a currently installed device. This does not include the removal or replacement of a defective device by the installation of a rebuilt or new device.

"Supervisor" means the licensed master or journeyman tradesman who has the responsibility to ensure that the installation is in accordance with the applicable provisions of the Virginia Uniform Statewide Building Code, one of whom must be on the job site at all times during installation.

"Testing organization" means an independent testing organization whose main function is to develop and administer examinations.

"Trade" means ~~any of the following: electrical, gas fitting, HVAC (heating, ventilation, and air conditioning), liquefied petroleum gas fitting, natural gas fitting, plumbing, and divisions within them~~ regulated activity.

~~"Water distribution systems" includes fire sprinkler systems, highway/heavy, HVAC, lawn irrigation systems, plumbing, or water purveyor work.~~

## ~~18VAC50-30-20. Requirements for licensure or certification. (Repealed.)~~

~~Each applicant shall meet or exceed the requirements set forth in this section prior to issuance of the license or certification card.~~

~~The applicant shall be required to take an examination to determine his general knowledge of the regulated activity in which he desires licensure or certification. If the applicant successfully completes the examination, an application furnished by the department shall be completed. The application shall contain the applicant's name, home address, place of employment, and business address; information on the knowledge, skills, abilities and education or training of the applicant; and a statement certifying that the information on the application is correct. If the application is satisfactory to the board, a license or certification card shall be issued.~~

## 18VAC50-30-25. Application procedures.

A. All applicants seeking licensure or certification must submit an application with the appropriate fee specified in 18VAC50-30-90. Application must be made on forms provided by the board or the board's agent.

1. By submitting the application to the Department of Professional and Occupational Regulation, the applicant certifies that the applicant has read and understands the applicable statutes and the board's regulations.

2. The receipt of an application and the deposit of the fees by the board do not indicate approval of the application by the board.

B. The board may make further inquires and investigations with respect to the applicant's qualifications to confirm or amplify information supplied. All applications must be completed in accordance with the instructions contained in this section and on the application. Applications will not be considered complete until all required documents are received by the board.

C. The applicant will be notified of receipt of initial application if the application is incomplete. An individual who fails to complete the application process within 12 months of receipt of the application in the board's office must submit a new application.

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D. The applicant must immediately report all changes in information supplied with the application, if applicable, prior to the issuance of the license or expiration of the application.

## **18VAC50-30-30. General qualifications requirements for licensure or certification.**

~~Every~~ In addition to the applicable provisions of 18VAC50-30-40 and 18VAC50-30-41, every applicant to the ~~Board for Contractors board~~ for licensure or certification shall must meet the requirements ~~and have the qualifications~~ provided in this section.

1. The applicant shall be at least 18 years old.
2. ~~Unless otherwise exempted, the~~ The applicant shall ~~meet the current educational requirements by passing all required courses prior to the time the applicant sits for the examination and applies for licensure or certification must submit an application on a form provided by the board and documentation of identification, vocational training, and experience.~~ meet the requirements by passing all required courses prior to the time the applicant sits for the examination and applies for licensure or certification must submit an application on a form provided by the board and documentation of identification, vocational training, and experience.
3. ~~Unless exempted, the applicant shall have passed the applicable examination provided by the board or by a testing organization acting on behalf of the board.~~ Unless exempted, the applicant shall have passed the applicable examination provided by the board or by a testing organization acting on behalf of the board.
4. ~~The applicant shall meet the experience requirements as set forth in 18VAC50-30-40.~~ The applicant shall meet the experience requirements as set forth in 18VAC50-30-40.
5. ~~3.~~ In those instances where the applicant is required to take the license or certification examination, the applicant shall must follow all rules established by the board with regard to conduct at the examination. Such rules ~~shall~~ include any written instructions communicated prior to the examination date and any instructions communicated at the site, ~~either written or oral, on the date of the examination.~~ Failure to comply with all rules established by the board and the testing organization with regard to conduct at the examination shall be grounds for denial of application.
6. ~~4.~~ The applicant shall disclose the applicant's physical home address; a post office box alone is not acceptable must provide an address of record. A post office box is only acceptable when a physical address is also provided.
7. ~~Each nonresident applicant for a license or certification eard shall file and maintain with the department an irrevocable consent for the department to serve as service agent for all actions filed in any court in this Commonwealth. In those instances where service is required, the director of the department will mail the court document to the individual at the address of record.~~ Each nonresident applicant for a license or certification shall file and maintain with the department an irrevocable consent for the department to serve as service agent for all actions filed in any court in this Commonwealth. In those instances where service is required, the director of the department will mail the court document to the individual at the address of record.
8. ~~The applicant shall sign, as part of the application, a statement certifying that the applicant has read and understands Article 3 (§ 54.1-1128 et seq.) of Chapter 11 of Title 54.1 of the Code of Virginia and this chapter.~~ The applicant shall sign, as part of the application, a statement certifying that the applicant has read and understands Article 3 (§ 54.1-1128 et seq.) of Chapter 11 of Title 54.1 of the Code of Virginia and this chapter.

9. ~~The board may make further inquiries and investigations with respect to the qualifications of the applicant or require a personal interview with the applicant.~~

~~10.~~ 5. In accordance with § 54.1-204 of the Code of Virginia, each applicant ~~shall must~~ disclose a any conviction, in any jurisdiction, of any felony or non-marijuana misdemeanor. ~~Any plea of nolo contendere shall be considered a conviction for the purpose of this subdivision. The record of conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt.~~ The board, at its discretion, may deny licensure or certification to any applicant in accordance with § 54.1-204 of the Code of Virginia. The applicant has the right to request further review of any such action by the board under the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

~~11. The applicant shall report any suspensions, revocations, or surrendering of a certificate or license in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure or certification in Virginia. The board, at its discretion, may deny licensure or certification to any applicant based on prior suspensions, revocations, or surrender of certifications or licenses based on disciplinary action by any jurisdiction.~~ 6. The applicant must report any action taken by any board or administrative body in any jurisdiction against a professional or occupational license, certification, or registration issued to the applicant, to include any suspension, revocation, or surrender of a license, certification, or registration, imposition of a monetary penalty, or requirement to take remedial education or other corrective action. The board in its discretion may deny licensure to any applicant for any prior action taken by any board or administrative body in any jurisdiction. The applicant has the right to request further review of any such action by the board under the Administrative Process Act.

## **18VAC50-30-41. Evidence of ability and proficiency for automatic fire sprinkler inspector.**

Pursuant to § 54.1-1147 B of the Code of Virginia, an applicant for certification as an automatic fire sprinkler inspector ~~shall must~~ provide satisfactory proof to the board of a Level II or higher Inspection and Testing of Water-Based Systems Certificate issued through the National Institute for Certification in Engineering Technologies or a substantially similar certification from a nationally recognized training program approved by the board.

## **18VAC50-30-70. Other recognized programs.**

~~Individuals~~ Applicants certified or licensed as a journeyman or master tradesman or backflow prevention device worker by governing bodies located outside the Commonwealth of Virginia ~~shall be~~ are considered to be in compliance with this chapter if the board ~~or its designee~~ has determined the

~~certifying system to be requirements and standards under which the license or certificate was issued are substantially equivalent to the Virginia system those established in this chapter.~~ In addition to the requirements set forth in 18VAC50-30-30, ~~these individuals such applicants~~ must meet the following requirements:

1. The applicant ~~shall~~ must have received the tradesman certification or license by virtue of having passed in the jurisdiction of original certification or ~~licensing licensure~~ a written or oral examination deemed to be substantially equivalent to the Virginia examination. ~~2. The applicant shall, and~~ be in good standing as a certified or licensed tradesman in every jurisdiction where certified or licensed; ~~and the~~ The applicant ~~shall~~ must not have had a certificate or a license as a tradesman ~~which that~~ was suspended, revoked, or surrendered in connection with a disciplinary action or ~~which that~~ has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

~~3. 2.~~ Individuals certified or licensed by governing bodies other than the Commonwealth of Virginia may sit for the same level of tradesman examination by completing the required application and providing a copy of a currently valid journeyman or master license or certification.

~~4. 3.~~ Individuals certified or licensed as backflow prevention device workers by governing bodies located outside the Commonwealth of Virginia may sit for the Virginia backflow prevention device worker examination upon presentation of a currently valid certificate or card from such jurisdictions with their completed examination application and fee. ~~Upon successful completion of this examination, the applicant will be provided with the proper application for certification as a backflow prevention device worker in the Commonwealth of Virginia.~~

**18VAC50-30-90. Fees for licensure and certification.**

A. Each check or money order ~~shall~~ must be made payable to the Treasurer of Virginia. All fees required by the board are nonrefundable and shall not be prorated. The date of receipt by the department or its agent is the date that will be used to determine whether or not it is on time. Fees remain active for a period of one year from the date of receipt and all applications must be completed within that time frame.

B. Fees are as follows:

Original tradesman license by examination	\$130
Original tradesman license without examination	\$130
Card exchange (exchange of locality-issued card for state-issued Virginia tradesman license)	\$95
Liquefied petroleum gas fitter	\$130

Natural gas fitter provider	\$130
<u>Additional tradesman designation</u>	<u>\$90</u>
Backflow prevention device worker certification	\$130
Elevator mechanic certification	\$130
Certified accessibility mechanic	\$130
Certified automatic fire sprinkler inspector	\$130
Water well systems provider certification	\$130
Residential building energy analyst license	\$130
Limited use/limited application endorsement	\$65

**18VAC50-30-140. Status of regulant during the period prior to reinstatement.**

A. When a regulant is reinstated, the individual ~~shall~~ will continue to have the same number and ~~shall~~ be assigned an expiration date three years from the previous expiration date for tradesman and two years from the previous expiration date for all other licensees and certificate holders.

B. A regulant who reinstates ~~his~~ a license or certification ~~and shall will~~ be regarded as having been continuously licensed or certified without interruption. Therefore, the regulant ~~shall will~~ remain under the disciplinary authority of the board during this entire period and may be held accountable for ~~his~~ the regulant's activities during this period. Nothing in this chapter ~~shall will~~ divest the board of its authority to discipline a regulant for a violation of the law or regulations during the period of licensure or certification.

**18VAC50-30-150. Adding or deleting trade designations.**

A. A regulant may add designations to a license by demonstrating, on a form provided by the board, acceptable evidence of experience, and examination if appropriate, in the designation sought. The experience, and successful completion of examinations, must be demonstrated by meeting the requirements found in Part II (18VAC50-30-20 et seq.) of this chapter.

~~B. The fee for each addition is \$90. All fees required by the board are nonrefundable.~~

~~C. B.~~ While a regulant may have multiple trade designations on ~~his~~ the regulant's license, the renewal date will be based upon the date the card was originally issued to the individual by the board, not the date of the most recent trade designation addition.

~~D. C.~~ If a regulant is seeking to delete a designation, then the individual must provide a signed statement listing the

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designation to be deleted. ~~There is no fee for the deletion of a designation.~~ If the regulant only has one trade or level designation, the deletion of that designation will result in the termination of the license.

## **18VAC50-30-160. Change of address.**

Any change of address ~~shall~~ must be reported in writing to the board within 30 days of the change. The board ~~shall~~ will not be responsible for the regulant's failure to receive notices or correspondence due to the regulant's failure to report a change of address. A post office ~~address~~ box alone is not acceptable.

## **18VAC50-30-170. Transfer of license or certification card prohibited.**

No license or certification ~~card~~ issued by the board ~~shall~~ may be assigned or otherwise transferred.

## **18VAC50-30-185. ~~Revocation of licensure or certification~~ Grounds for disciplinary action.**

~~A. Licensure or certification may be revoked for misrepresentation or a fraudulent application or for incompetence as demonstrated by an egregious or repeated violation of the Virginia Uniform Statewide Building Code. B. The board shall have the power to require remedial education and to fine, suspend, revoke or deny renewal of a license or certification card of any individual who is found to be in violation of the statutes or regulations governing the practice of licensed tradesmen, liquefied petroleum gas fitters, natural gas fitter providers, backflow prevention device workers, elevator mechanics, accessibility mechanics, or residential building energy analysts in the Commonwealth of Virginia. The board may impose remedial education, a monetary penalty in accordance with § 54.1-202 A of the Code of Virginia or revoke, suspend, or refuse to renew any license or certification when the licensee or certificate holder has been found to have violated or cooperated with others in violating any provision of Chapter 1 (§ 54.1-100 et seq.) or Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia or the regulations of the board.~~

## **18VAC50-30-190. Prohibited acts.**

~~Any of the following are cause for~~ The following acts are prohibited and any violation may result in disciplinary action by the board:

1. Failure in any material way to comply with provisions of Chapter 1 (§ 54.1-100 et seq.) or Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia or the regulations of the board;
2. Furnishing substantially inaccurate or incomplete information to the board in obtaining, renewing, reinstating, or maintaining a license or certification ~~card~~;
3. Where the regulant has failed to report to the board, in writing, the suspension or revocation of a ~~tradesman, liquefied petroleum gas fitter or natural gas fitter provider~~

~~license, certificate or card, or backflow prevention device worker, water well systems provider, elevator mechanic, or accessibility mechanic license or certification card,~~ by another state or a conviction in a court of competent jurisdiction of a building code violation;

4. Negligence or incompetence in the practice of a ~~tradesman, liquefied petroleum gas fitter, natural gas fitter provider, backflow prevention device worker, elevator mechanic, accessibility mechanic, water well systems provider, or automatic fire sprinkler inspector~~ the licensed or certified profession;

5. Misconduct in the practice of a ~~tradesman, liquefied petroleum gas fitter, natural gas fitter provider, backflow prevention device worker, elevator mechanic, accessibility mechanic, water well systems provider, or automatic fire sprinkler inspector~~ the licensed or certified profession;

~~6. A finding of improper or dishonest conduct in the practice of a tradesman, liquefied petroleum gas fitter, natural gas fitter provider, backflow prevention device worker, elevator mechanic, accessibility mechanic, or water well systems provider by a court of competent jurisdiction;~~

~~7. 6.~~ For licensed tradesmen, liquefied petroleum gas fitters ~~or~~, natural gas fitter providers, or gas fitters performing jobs under \$1,000, or backflow prevention device workers, elevator mechanics, accessibility mechanics, or water well systems providers performing jobs of any amount, abandonment, the intentional and unjustified failure to complete work contracted for, or the retention or misapplication of funds paid, for which work is either not performed or performed only in part (unjustified cessation of work under the contract for a period of 30 days or more shall be considered evidence of abandonment);

~~8. 7.~~ Making any misrepresentation or making a false promise of a character likely to influence, persuade, or induce;

~~9. 8.~~ Aiding or abetting an unlicensed contractor to violate any provision of Chapter 1 or Chapter 11 of Title 54.1 of the Code of Virginia or these regulations or combining or conspiring with or acting as agent, partner, or associate for an unlicensed contractor; or allowing one's license or certification to be used by an unlicensed or uncertified individual;

~~10. 9.~~ Where the regulant has offered, given, or promised anything of value or benefit to any federal, state, or local government employee for the purpose of influencing that employee to circumvent, in the performance of ~~his~~ the employee's duties, any federal, state, or local law, regulation, or ordinance governing the construction industry;

~~11. 10.~~ Where the regulant has been convicted or found guilty, after initial licensure or certification, regardless of adjudication, in any jurisdiction of any felony or of a

~~misdeemeanor involving lying, cheating or stealing, sexual offense, non-marijuana drug distribution, physical injury, or relating to the practice of the profession, there being no appeal pending therefrom or the time of appeal having elapsed. Any pleas of guilty or nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt;~~

~~12. 11.~~ Having failed to inform the board in writing, within 30 days, that the regulant ~~has pleaded guilty or nolo contendere~~ or was convicted ~~and found guilty~~ of any felony or a misdemeanor involving lying, cheating, stealing, sexual offense, non-marijuana drug distribution, physical injury, or relating to the practice of the profession;

~~13. 12.~~ Having been disciplined by any county, city, town, or any state or federal governing body for actions relating to the practice of any trade, backflow prevention device work, elevator or accessibility work, or water well systems provider work, which action shall be reviewed by the board before ~~it~~ the board takes any disciplinary action of its own;

~~14. 13.~~ Failure to comply with the Virginia Uniform Statewide Building Code (13VAC5-63);

~~15. 14.~~ Practicing in a classification or specialty service for which the regulant is not licensed or certified;

~~16. 15.~~ Failure to obtain any document required by the Virginia Department of Health for the drilling, installation, maintenance, repair, construction, or removal of water wells, water well systems, water well pumps, or other water well equipment;

~~17. 16.~~ Failure to obtain a building permit or applicable inspection where required;

~~18. 17.~~ Failure to perform a residential building energy analysis consistent with the requirements set forth by the board, the U.S. Environmental Protection Agency, the U.S. Department of Energy, or the Energy Star Program;

~~19. 18.~~ Failure of a residential building energy analyst to maintain the general liability insurance required in 18VAC50-30-40 I 4; and

~~20. 19.~~ Failure of a certified automatic fire sprinkler inspector to continually maintain the certification required in § 54.1-1147 of the Code of Virginia.

**18VAC50-30-200. Vocational training.**

A. Vocational training courses must be completed through accredited colleges, universities, junior and community colleges; adult distributive, marketing and formal vocational training as defined in this chapter; Virginia Apprenticeship Council programs; or proprietary schools approved by the Virginia Department of Education.

B. Backflow prevention device worker courses must be completed through schools approved by the board. The board accepts the American Society of Sanitary Engineers' (ASSE) standards for testing procedures. Other programs could be approved after board review. The board requires all backflow training to include instruction in a wet lab.

C. Elevator mechanic courses must be completed through schools approved by the board. The board accepts training programs approved by the National Elevator Industry Education Program (NEIEP). Other programs could be approved after board review. ~~D. Water well systems provider and certified accessibility courses must be completed through schools or programs education providers approved by the board.~~

~~E. Certified accessibility courses must be completed through education providers approved by the board.~~

~~F. D.~~ Residential building energy analyst courses must be completed through programs that meet or exceed the standards set forth by the U.S. Environmental Protection Agency, the U.S. Department of Energy, or the Home Performance with Energy Star Program. Other programs could be approved after board review.

VA.R. Doc. No. R23-7420; Filed October 18, 2023, 10:49 a.m.

**BOARD OF PHYSICAL THERAPY**

**Forms**

REGISTRAR'S NOTICE: Forms used in administering the regulation have been 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, 201 North Ninth Street, 4th Floor, Richmond, Virginia 23219.

Title of Regulation: **18VAC112-20. Regulations Governing the Practice of Physical Therapy.**

Agency Contact: Erin Barrett, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4688, or email [erin.barrett@dhp.virginia.gov](mailto:erin.barrett@dhp.virginia.gov).

FORMS

[Application for Licensure by Examination to Practice Physical Therapy \(rev. 8/2023\)](#)

[Application for Licensure by Endorsement to Practice Physical Therapy \(rev. 8/2023\)](#)

~~[Application for Reinstatement to Practice Physical Therapy \(rev. 8/2023\)](#)~~

[Application for Reinstatement to Practice Physical Therapy \(rev. 8/2023\)](#)

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[Application for Reinstatement after Disciplinary Action to Practice Physical Therapy \(rev. 8/2023\)](#)

[Application for Traineeship to Practice Physical Therapy Statement of Authorization \(rev. 8/2023\)](#)

[Application for Unlicensed Graduate Traineeship to Practice Physical Therapy Statement of Authorization \(rev. 8/2023\)](#)

[Completion Form for 320-hour Traineeship to Practice Physical Therapy \(rev. 8/2023\)](#)

[Verification of Physical Therapy Education for Graduates of Approved Programs Only \(rev. 8/2023\)](#)

[Continued Competency Activity and Assessment Form \(rev. 8/2023\)](#)

[Continuing Education \(CE\) Credit Form for Volunteer Practice \(rev. 8/2023\)](#)

[Application for Direct Access Certification \(rev. 8/2023\)](#)

[Direct Access Patient Attestation and Medical Release Form \(rev. 7/2023\)](#)

[Physical Therapy Name/Address Change Form \(rev. 8/2023\)](#)

[Request for Verification of a Virginia Physical Therapy License \(rev. 8/2023\)](#)

[Application for Reactivation \(Inactive to Active\) to Practice Physical Therapy \(rev. 8/2023\)](#)

[Out-of-State Practitioner Reporting Form \(rev. 7/2023\)](#)

VA.R. Doc. No. R24-7718; Filed October 15, 2023, 1:29 p.m.

## REAL ESTATE APPRAISER BOARD

### Final Regulation

**REGISTRAR'S NOTICE:** The Real Estate Appraiser Board 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 board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** **18VAC130-20. Real Estate Appraiser Board Rules and Regulations (amending 18VAC130-20-30).**

**Statutory Authority:** §§ 54.1-201 and 54.1-2013 of the Code of Virginia.

**Effective Date:** January 1, 2024.

**Agency Contact:** Anika Coleman, Executive Director, Real Estate Appraiser Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (866) 826-8863, or email [reappraisers@dpor.virginia.gov](mailto:reappraisers@dpor.virginia.gov).

### Summary:

*Chapter 106 of the 2023 Acts of Assembly directs the Real Estate Appraiser Board to accept the Practical Applications of Real Estate Appraisal (PAREA) Program as fulfillment of some experience requirements for certified general, certified residential, and licensed residential real estate appraiser licenses. PAREA is a simulated appraisal training program that can be done entirely in a virtual environment, is endorsed by the Appraisal Foundation, and has federal authorization to provide guidance to the states regarding the practice of real estate appraisal. The amendments provide the experience requirements that PAREA training may fulfill for applicants.*

### 18VAC130-20-30. General qualifications for licensure.

Every applicant to the Real Estate Appraiser Board for a certified general, certified residential, or licensed residential real estate appraiser license shall meet the following qualifications:

1. The applicant shall be of good moral character, honest, truthful, and competent to transact the business of a licensed real estate appraiser in such a manner as to safeguard the interests of the public.

2. The applicant shall meet the current educational and experience requirements and submit a license application to the Department of Professional and Occupational Regulation or its agent prior to the time the applicant is approved to take the licensing examination. Applications received by the department or ~~its~~ the department's agent must be complete within 12 months of the date of the receipt of the license application and fee by the Department of Professional and Occupational Regulation or ~~its~~ the department's agent.

3. The applicant shall sign, as part of the application, a statement verifying that the applicant has read and understands the Virginia real estate appraiser license law and the regulations of the Real Estate Appraiser Board.

4. The applicant shall be in good standing as a real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification that was suspended, revoked, or surrendered in connection with a disciplinary action or that has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

5. The applicant shall possess a background that would not call into question the public trust. Each applicant shall submit to fingerprinting. A background investigation shall be conducted, which shall not reveal that the applicant has been convicted, found guilty, or pled guilty or nolo contendere to a crime that would call into question the applicant's fitness or suitability to engage in the profession. The applicant must disclose the following:

- a. All felony convictions; and
- b. All misdemeanor convictions except marijuana convictions in any jurisdiction that occurred within five years of the date of application.

Any plea of nolo contendere or finding of guilt regardless of adjudication or deferred adjudication shall be considered a conviction for purposes of this subdivision.

- 6. The applicant shall be at least 18 years old.
- 7. The applicant shall have successfully completed the following education:

- a. Licensed residential classification - 150 hours of approved real estate appraisal courses, including the 15-Hour National Uniform Standards of Professional Appraisal Practice course, from accredited colleges, universities, and junior and community colleges; adult distributive or marketing education programs; local, state, or federal government agencies, boards, or commissions; proprietary schools; or real estate appraisal or real estate related organizations. The required core curriculum for the certified general or certified residential real estate appraiser is a bachelor's degree or higher from an accredited college or university. The classroom hours required for the licensed residential classification may include the classroom hours required for the appraiser trainee.

- b. Certified residential classification - 200 hours of approved real estate appraisal courses, including the 15-Hour National Uniform Standards of Professional Appraisal Practice course, from accredited colleges, universities, and junior and community colleges; adult distributive or marketing education programs; local, state, or federal government agencies, boards, or commissions; proprietary schools; or real estate appraisal or real estate related organizations. The classroom hours required for the certified residential classification may include the classroom hours required for the appraiser trainee or the licensed residential classification. The applicant shall also meet one of the following options for the required core curriculum:

- (1) A bachelor's degree in any field of study;
- (2) An associate's degree in a field of study related to business administration, accounting, finance, economics, or real estate;
- (3) Successful completion of 30 semester hours of college-level courses that cover each of the following specific topic areas and hours: English composition (3 three hours); microeconomics (3 three hours); macroeconomics (3 three hours); finance (3 three hours); algebra, geometry, or higher math (3 three hours); statistics (3 three hours); computer science (3 three hours); business law or real estate law (3 three hours); and two elective courses in any of the topics described in this subdivision or in accounting,

geography, agricultural economics, business management, or real estate (3 three hours each);

(4) Successful completion of at least 30 hours of College Level Examination Program (CLEP) examinations that cover each of the specific topic areas in subdivision 7 b (3) of this section. For purposes of this option, the CLEP examination for college algebra (3 three hours) may be applied to the topic area of algebra, geometry, or higher math; the CLEP examination for college composition (6 six hours) may be applied to the topic area of English composition; the CLEP examination for college composition modular (3 three hours) may be applied to the topic area of English composition; the CLEP examination for college mathematics (6 six hours) may be applied to the topic area of algebra, geometry, or higher math or statistics; the CLEP examination for principles of macroeconomics (3 three hours) may be applied to the topic area of macroeconomics or finance; the CLEP examination for principles of microeconomics (3 three hours) may be applied to the topic area of microeconomics or finance; the CLEP examination for introductory business law (3 three hours) may be applied to the topic area of business law or real estate law; and the CLEP examination for information systems (3 three hours) may be applied to the topic area of computer science;

(5) Successful completion of at least 30 hours of any combination of college-level courses and CLEP examinations that includes all of the topics identified in subdivision 7 b (3) of this section; or

(6) No college-level education. This option applies only to applicants who have held a licensed residential credential for a minimum of five years and have no record of any adverse, final, and nonappealable disciplinary action affecting the licensed residential appraiser's legal eligibility to engage in appraisal practice within the five years immediately preceding the date of application for a certified residential credential.

- c. Certified general classification - 300 hours of approved real estate appraisal courses, including the 15-Hour National Uniform Standards of Professional Appraisal Practice course, from accredited colleges, universities, and junior and community colleges; adult distributive or marketing education programs; local, state, or federal government agencies, boards, or commissions; proprietary schools; or real estate appraisal or real estate related organizations. The applicant must complete an advanced level appraisal course of at least 30 classroom hours in the appraisal of nonresidential properties. The classroom hours required for the certified general classification may include the classroom hours required for the appraiser trainee, the licensed residential classification, or the certified residential classification. The required core curriculum is a bachelor's degree or higher from an accredited college or university.

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8. The applicant shall, as part of the application for licensure, verify the applicant's experience in the field of real estate appraisal. All applicants must submit, upon application, sample appraisal reports as specified by the board. In addition, all experience must be acquired within the five-year period immediately preceding the date application is made and be supported by adequate written reports or file memoranda, which shall be made available to the board upon request.

a. The applicant for a licensed residential real estate appraiser license shall have a minimum of 1,000 hours of appraisal experience, in no fewer than six months. Hours may be treated as cumulative in order to achieve the necessary 1,000 hours of appraisal experience.

b. The applicant for a certified residential real estate appraiser license shall have a minimum of 1,500 hours of appraisal experience obtained during no fewer than 12 months. Hours may be treated as cumulative in order to achieve the necessary 1,500 hours of appraisal experience.

c. The applicant for a certified general real estate appraiser license shall have a minimum of 3,000 hours of appraisal experience obtained during no fewer than 18 months. Hours may be treated as cumulative in order to achieve the necessary 3,000 hours of appraisal experience. At least 50% of the appraisal experience required (1,500 hours) must be in nonresidential appraisal assignments and include assignments that demonstrate the use and understanding of the income approach. An applicant whose nonresidential appraisal experience is predominately in such properties that do not require the use of the income approach may satisfy this requirement by performing two or more appraisals on properties in association with a certified general appraiser that include the use of the income approach. The applicant must have substantially contributed to the development of the income approach in such reports and shall provide evidence or verification of such contribution.

d. Applicants completing a Licensed Residential Practical Applications of Real Estate Appraisal (PAREA) Program shall receive credit for:

(1) 100% of the experience required by board regulations as a condition of licensure as a licensed residential real estate appraiser;

(2) 67% of the experience required by board regulations as a condition of licensure as a certified residential real estate appraiser; or

(3) 33% of the experience required by board regulations as a condition of licensure as a certified general real estate appraiser.

e. Applicants completing a Certified Residential PAREA Program shall receive credit for:

(1) 100% of the experience required by board regulations as a condition of licensure as a licensed residential real

estate appraiser or certified residential real estate appraiser; or

(2) 50% of the experience required by board regulations as a condition of licensure as a certified general real estate appraiser.

9. Within 12 months after being approved by the board to take the examination, the applicant shall have registered for and passed a written examination developed or endorsed by the Appraiser Qualifications Board and provided by the board or by a testing service acting on behalf of the board. Successful completion of the examination is valid for a period of 24 months.

10. Applicants for licensure who do not meet the requirements set forth in subdivisions 4 and 5 of this section may be approved for licensure following consideration of their application by the board.

VA.R. Doc. No. R24-7605; Filed October 17, 2023, 9:01 a.m.

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## TITLE 22. SOCIAL SERVICES

### STATE BOARD OF SOCIAL SERVICES

#### Notice of Objection to Fast-Track Rulemaking Action

**REGISTRAR'S NOTICE:** Pursuant to § 2.2-4012.1 of the Code of Virginia, the State Board of Social Services has filed a notice of objection to the fast-track rulemaking action published in 40:1 VA.R. 41-52 August 28, 2023. The board intends to proceed with the normal promulgation process set out in Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia, with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

**Title of Regulation:** 22VAC40-73. **Standards for Licensed Assisted Living Facilities (amending 22VAC40-73-10, 22VAC40-73-430; adding 22VAC40-73-435).**

**Statutory Authority:** §§ 63.2-217, 63.2-1732, 63.2-1802, 63.2-1805, and 63.2-1808 of the Code of Virginia.

The State Board of Social Services received more than the requisite 10 objections to the amendments. The objections describe concerns about the regulation's clarification of the appeals process and procedures, the potential financial burdens imposed on the residents and facilities, and the desire for utilization of the standard regulatory process to allow further analysis and development of the regulation. Due to the objections, the board has discontinued using the fast-track rulemaking process. The board will proceed with adoption of the amendments using the standard process under Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act, and the publication on August 28, 2023, will serve as the Notice of

Intended Regulatory Action in accordance with § 2.2-4012.1 of the Code of Virginia.

Agency Contact: Sharon Lindsay, Associate Director, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 972-0676, FAX (804) 726-7132, or email [sharon.lindsay@dss.virginia.gov](mailto:sharon.lindsay@dss.virginia.gov).

VA.R. Doc. No. R23-7391; Filed October 6, 2023, 9:20 a.m.

### **Notice of Extension of Emergency Regulation**

Title of Regulation: **22VAC40-705. Child Protective Services (amending 22VAC40-705-160, 22VAC40-705-170).**

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

The Governor has approved the request of the State Board of Social Services to extend the expiration date of the emergency regulation for 22VAC40-705 for six months as provided for in § 2.2-4011 D of the Code of Virginia. Therefore, the emergency regulation is continued in effect through August 31, 2024. This extension is required because a replacement regulation cannot be adopted and effective before the expiration of the original 18-month emergency period. The regulatory action is necessary to remove the notary requirement for the consent an individual signs requesting a search of the Central Registry System (CRS) to determine an individual has no founded case of child abuse or neglect. The purpose of the amendments is to expedite searches by the Central Virginia Child Abuse and Neglect Central Registry Unit of CRS to make it less burdensome for individuals who wish to provide services or care to children through employment, foster care, adoption, or volunteer opportunities. The emergency regulation was published in [39:3 VA.R. 72-74 September 26, 2022](#).

Effective Date Extended Through: August 31, 2024.

Agency Contact: Kristen Eckstein, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7897, or email [kristen.eckstein@dss.virginia.gov](mailto:kristen.eckstein@dss.virginia.gov).

VA.R. Doc. No. R23-7198; Filed October 10, 2023, 7:02 p.m.

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# GUIDANCE DOCUMENTS

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## PUBLIC COMMENT OPPORTUNITY

Pursuant to § 2.2-4002.1 of the Code of Virginia, a certified guidance document is subject to a 30-day public comment period after publication in the Virginia Register of Regulations and prior to the guidance document's effective date. During the public comment period, comments may be made through the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) or sent to the agency contact. Under subsection C of § 2.2-4002.1, the effective date of the guidance document may be delayed for an additional period. The guidance document may also be withdrawn.

The following guidance documents have been submitted for publication by the listed agencies for a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 201 North Ninth Street, 4th Floor, Richmond, Virginia 23219.

### DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Title of Document: [Virginia State Plan for Aging Services](#).

Public Comment Deadline: December 6, 2023.

Effective Date: December 7, 2023.

Agency Contact: Charlotte Arbogast, Senior Policy Analyst and Regulatory Coordinator, Department of Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7093, or email [charlotte.arbogast@dars.virginia.gov](mailto:charlotte.arbogast@dars.virginia.gov).

### VIRGINIA INFORMATION TECHNOLOGIES AGENCY

Title of Document: [Information Technology Procurement - Small Purchase Policy](#).

Public Comment Deadline: December 6, 2023.

Effective Date: December 7, 2023.

Agency Contact: Joshua Heslinga, Policy Planning Manager, Virginia Information Technologies Agency, 7325 Beaufont Springs Drive, Richmond, VA 23225, telephone (804) 551-2902, or email [joshua.heslinga@vita.virginia.gov](mailto:joshua.heslinga@vita.virginia.gov).

### BOARD OF LONG-TERM CARE ADMINISTRATORS

Title of Document: [Qualifying for Licensure- Required Content for College Coursework and Approval of Nursing Home Administrator Administrator-in-Training Training Hours](#).

Public Comment Deadline: December 6, 2023.

Effective Date: December 7, 2023.

Agency Contact: Erin Barrett, Director of Legislative and Regulatory Affairs, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4688, or email [erin.barrett@dhp.virginia.gov](mailto:erin.barrett@dhp.virginia.gov).

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Titles of Documents: [Chapter 2 Provider Requirements](#).

[Nursing Facility Manual, Chapter 7](#).

[Nursing Facility Manual, Chapter 9](#).

[Nursing Facility Manual, Chapter 10](#).

[Nursing Facility Manual, Chapter 12](#).

[Psychiatric Services Manual, Chapter 6](#).

Public Comment Deadline: December 6, 2023.

Effective Date: December 7, 2023.

Agency Contact: Meredith Lee, Policy, Regulations, and Manuals Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, or email [meredith.lee@dmas.virginia.gov](mailto:meredith.lee@dmas.virginia.gov).

### DEPARTMENT OF MOTOR VEHICLES

Title of Document: [Virginia Motor Carrier Manual](#).

Public Comment Deadline: December 6, 2023.

Effective Date: December 7, 2023.

Agency Contact: Nicholas Megibow, Senior Policy Analyst, Department of Motor Vehicles, 2300 West Broad Street, Richmond, VA 23220, telephone (804) 367-6701, or email [nicholas.megibow@dmv.virginia.gov](mailto:nicholas.megibow@dmv.virginia.gov).

### STATE BOARD OF SOCIAL SERVICES

Title of Document: [Supplemental Nutrition Assistance Program Manual](#).

Public Comment Deadline: December 6, 2023.

Effective Date: December 7, 2023.

Agency Contact: Michele Thomas, Supplemental Nutrition Assistance Program Manager, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7866, or email [michele.thomas@dss.virginia.gov](mailto:michele.thomas@dss.virginia.gov).

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# GENERAL NOTICES

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## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Proposed Enforcement Action for Mr. Gurcharan Lail

An enforcement action has been proposed for Mr. Gurcharan Lail for violations of State Water Control Law and regulations and applicable permit at the One Stop Trailer Park facility located in Leesburg, Virginia. The proposed consent order is available from the DEQ contact or at <https://www.deq.virginia.gov/permits/public-notices>. The DEQ contact will accept written comments from November 7, 2023, to December 7, 2023.

Contact Information: Katherine Mann, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email [katherine.mann@deq.virginia.gov](mailto:katherine.mann@deq.virginia.gov).

### Proposed Enforcement Action for Amherst County Service Authority

An enforcement action has been proposed for Amherst County Service Authority (ACSA) for violations in Amherst County, Virginia. The Virginia Department of Environmental Quality (DEQ) proposes to issue a special order by consent to ACSA to address noncompliance with the State Water Control Law and regulations. Descriptions of the proposed actions are available at the Department of Environmental Quality office listed or online at <http://www.deq.virginia.gov>. Comments will be accepted from November 6, 2023, to December 6, 2023.

Contact Information: Timothy Fletcher, Department of Environmental Quality, 901 Russell Drive, Salem, VA 24153, telephone (540) 524-0665, or email [timothy.fletcher@deq.virginia.gov](mailto:timothy.fletcher@deq.virginia.gov).

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Intent to Amend Pursuant to § 1902(a)(13) of the Social Security Act (USC § 1396a(a)(13)) the Virginia State Plan for Medical Assistance - Emergency Room Charges

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance to provide for changes to the Methods and Standards for Establishing Payment Rates - Other Types of Care (12VAC30-80).

This notice is intended to satisfy the requirements of 42 CFR 447.205 and of § 1902(a)(13) of the Social Security Act (42 USC § 1396a(a)(13)). A copy of this notice is available for public review from the contact listed at the end of this notice.

DMAS is specifically soliciting input from stakeholders, providers, and beneficiaries on the potential impact of the proposed changes discussed in this notice. Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to the contact listed at the end of this notice, and such comments are available for review at the same address. Comments may also be submitted, in writing, on the Virginia Regulatory Town Hall at <https://townhall.virginia.gov/L/generalnotice.cfm>.

Methods and Standards for Establishing Payment Rates-Other Types of Care (12VAC30-80)

Item 313.AAAAA of the 2020 Appropriations Act required DMAS to allow the pending, reviewing, and the reducing of fees for avoidable emergency room claims for codes 99282, 99283, and 99284, both physician and facility. DMAS utilized the avoidable emergency room diagnosis code list currently used for managed care organization (MCO) clinical efficiency rate adjustments. If the emergency room claim was identified as a preventable emergency room diagnosis, DMAS directed the MCO to default to the payment amount for code 99281, commensurate with the acuity of the visit. This also applied to fee-for-service.

However, pursuant to a federal court order, dated April 27, 2023, (Va. Hosp. & Healthcare Assoc. et al. v. Roberts et al., No. 3:20-cv-00587-HEH), DMAS must repeal or remove the state plan language that fulfilled the 2020 General Assembly mandate and can no longer enforce the fee adjustments for avoidable emergency room claims for codes 99282, 99283, and 99284, for both physicians and facilities.

The expected increase in annual aggregate expenditures is \$62,024 in state general funds, \$8,251 in special funds, and \$141,666 in federal funds in federal fiscal year 2024 and \$62,024 in state general funds, \$8,251 in special funds, and \$141,666 in federal funds in federal fiscal year 2025.

Contact Information: Jimeequa Williams, Department of Medical Assistance Services, 600 Broad Street, Suite 1300, Richmond, VA 23219, or by email at [jimeequa.williams@dmass.virginia.gov](mailto:jimeequa.williams@dmass.virginia.gov).

## BOARD OF PHARMACY

### Scheduling Chemicals in Schedule I pursuant to § 54.1-3443 of the Code of Virginia

Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy is giving notice of a public hearing to consider placement of chemical substances in Schedule I of the Drug Control Act. The public hearing will be conducted at 9:05 a.m. on December 6, 2023. Instructions will be included in the agenda for the board meeting, also on December 6. Public comment may also be submitted electronically or in writing prior to December 6, 2023, to

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## General Notices

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Caroline Juran, Executive Director, Board of Pharmacy, at [caroline.juran@dhp.virginia.gov](mailto:caroline.juran@dhp.virginia.gov).

Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Virginia Department of Forensic Science (DFS) has identified two compounds for recommended inclusion into the Code of Virginia.

Based on their chemical structures, the following compounds are expected to have hallucinogenic properties. Compounds of this type have been placed in Schedule I (subdivision 3 of § 54.1-3446 of the Code of Virginia) in previous legislative sessions.

1-(3,5-Dimethoxy-4-propoxyphenyl)-2-propanamine (other names: 4-propoxy-3,5-DMA; 3C-P; 1-(3,5-Dimethoxy-4-propoxyphenyl)propan-2-amine), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

2-(5-methoxy-1H-indol-3-yl)ethanamine (other names: 5-methoxytryptamine, 5-MeOT), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

Contact Information: Caroline Juran, RPh, Executive Director, Board of Pharmacy 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4456, FAX (804) 527-4472, or email [caroline.juran@dhp.virginia.gov](mailto:caroline.juran@dhp.virginia.gov).

### STATE WATER CONTROL BOARD

#### Public Comment Period Extension - Sewage Collection and Treatment Regulations (9VAC25-790)

The 30-day public comment period on the Notice of Intended Regulatory Action (NOIRA) for the Sewage Collection and Treatment Regulations (9VAC25-790) began September 11, 2023, and ended on October 11, 2023. The public comment period is being extended until December 6, 2023. The NOIRA was published in [Volume 40, Issue 2, VA.R. 68, on September 11, 2023](#).

Comments were to be submitted to the agency by postal mail, through the Virginia Regulatory Town Hall public comment forum, or by email to Scott Van Der Hyde at [scott.vanderhyde@deq.virginia.gov](mailto:scott.vanderhyde@deq.virginia.gov). This email address did not accept email messages for a portion of the comment period that ended October 11, 2023. If a commenter submitted or attempted to submit comments to the agency using [scott.vanderhyde@deq.virginia.gov](mailto:scott.vanderhyde@deq.virginia.gov) before October 11, 2023, please resubmit these comments by postal mail, the Virginia Regulatory Town Hall public comment forum, or email to the individual listed at the end of this notice prior to December 6, 2023, to ensure that the comment has been received. DEQ will consider all comments on the NOIRA that are received between September 11, 2023, and December 6, 2023.

The intent of this regulatory action is to require reporting by wastewater utilities of all septic systems (or other onsite sewage disposal systems) taken offline and connected to sewage collection systems. The goal of this new regulatory requirement is to ensure a more accurate count of nutrient reductions resulting from septic systems connected to sewer, which will assist with tracking the Commonwealth's progress toward water quality goals, including Chesapeake Bay watershed restoration goals. Further information on this regulatory action is available on the Virginia Regulatory Town Hall website at <https://townhall.virginia.gov/L/ViewAction.cfm?actionid=6231>.

How to comment: Comments may be provided on the Virginia Regulatory Town Hall website's comment forum. Additionally, DEQ accepts written comments by hand-delivery, email, or postal mail. Comments shall include the full name, address, and telephone number of the person commenting and be received by DEQ by 11:59 p.m. on the last day of the comment period.

Contact Information: Erica Duncan, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, 23218, telephone (804) 337- 5407, or email [erica.duncan@deq.virginia.gov](mailto:erica.duncan@deq.virginia.gov).

#### Extension of Public Comment Opportunity - General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880)

The 60-day public comment period on the proposed General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880) began August 14, 2023, and was scheduled to end October 13, 2023. The public comment period is being extended until December 6, 2023. The proposed regulation was published in [Volume 39, Issue 26, VA.R. 2858, on August 14, 2023](#).

Comments were to be submitted to the agency by postal mail, through the Virginia Regulatory Town Hall public comment forum, or by email to Scott Van Der Hyde at [scott.vanderhyde@deq.virginia.gov](mailto:scott.vanderhyde@deq.virginia.gov). This email address did not accept email messages for a portion of the comment period. If a commenter submitted or attempted to submit comments to the agency using [scott.vanderhyde@deq.virginia.gov](mailto:scott.vanderhyde@deq.virginia.gov) before October 13, 2023, please resubmit these comments by postal mail, the Virginia Regulatory Town Hall public comment forum, or by email to the individual listed at the end of this notice prior to December 6, 2023, to ensure that the comment has been received. DEQ will consider all comments on the proposed regulation that are received between August 14, 2023, and December 6, 2023.

The General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880) authorizes the discharge of stormwater from construction activities equal to or greater than one acre of land disturbance or less than one acre of land disturbance within a larger common plan of development or sale. This regulatory action is needed in order

for existing and new construction activities to be covered under this general permit regulation. Further information on this regulatory action is available on the Virginia Regulatory Town Hall website at <https://townhall.virginia.gov/L/ViewAction.cfm?actionid=5921>.

How to comment: Comments may be provided on the Virginia Regulatory Town Hall website's comment forum. Additionally, DEQ accepts written comments by hand-delivery, email, or postal mail. Comments shall include the full name, address, and telephone number of the person commenting and be received by DEQ by 11:59 p.m. on the last day of the comment period.

**Contact Information:** Rebecca W. Rochet, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, 23218, telephone (804) 801-2950, or email [rebeccah.rochet@deq.virginia.gov](mailto:rebeccah.rochet@deq.virginia.gov).

### VIRGINIA CODE COMMISSION

#### Notice to State Agencies

**Contact Information:** *Mailing Address:* Virginia Code Commission, General Assembly Building, 201 North Ninth Street, 4th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* [varegs@dls.virginia.gov](mailto: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/cumulstab.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.

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## General Notices

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