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THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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.

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 Popp; 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, Managing Editor.**

PUBLICATION SCHEDULE AND DEADLINES

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

February 2024 through March 2025

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
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
41:9	November 26, 2024 (Tuesday)	December 16, 2024
41:10	December 11, 2024	December 30, 2024
41:11	December 23, 2024 (Monday)	January 13, 2025
41:12	January 8, 2025	January 27, 2025
41:13	January 22, 2025	February 10, 2025
41:14	February 5, 2025	February 24, 2025
41:15	February 19, 2025	March 10, 2025

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF NURSING

Agency Decision

Title of Regulation: 18VAC90-27. Regulations for Nursing Education Programs.

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

Name of Petitioner: Leah Jaquez.

Nature of Petitioner's Request: The petitioner requests that the Board of Nursing amend 18VAC90-27-60 A 4 to allow nurses with 20 years or more of experience to serve as faculty for nursing education programs.

Agency Decision: Request denied.

Statement of Reason for Decision: The Board of Nursing voted at its January 23, 2024, meeting to take no action on the petition and send the issue to the regulatory committee to review as the regulatory committee is currently in the process of reviewing this chapter and this provision.

Agency Contact: Jay P. Douglas, RN, Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, VA, 23233, telephone (804) 367-4520, or email jay.douglas@dhp.virginia.gov.

VA.R. Doc. No. PFR24-25; Filed January 23, 2024, 12:21 p.m.

BOARD OF SOCIAL WORK

Initial Agency Notice

Title of Regulation: 18VAC140-20. Regulations Governing the Practice of Social Work.

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

Name of Petitioner: Sophia Stephenson.

Nature of Petitioner's Request: The petitioner requests that the Board of Social Work amend 18VAC140-20-50 B to permit licensed professional counselors to serve as supervisors for supervised post-master-degree clinical experience.

Agency Plan for Disposition of Request: The petition for rulemaking will be published in the Virginia Register of Regulations on February 12, 2024. The petition will also be published on the Virginia Regulatory Town Hall at www.townhall.virginia.gov to receive public comment, which opens February 12, 2024, and closes March 4, 2024. The board will consider the petition and all comments in support or opposition at the next meeting after the close of public comment. Currently that meeting is scheduled for March 29,

2024. The petitioner will be notified of the board's decision after that meeting.

Public Comment Deadline: March 4, 2024.

Agency Contact: Jaime Hoyle, Executive Director, Board of Social Work, 9960 Mayland Drive, Suite 300, Henrico, VA, 23233, telephone (804) 367-4441, or email jaime.hoyle@dhp.virginia.gov.

VA.R. Doc. No. PFR24-24; Filed January 13, 2024, 4:06 p.m.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Funeral Directors and Embalmers conducted a periodic review and a small business impact review of **18VAC65-11, Public Participation Guidelines**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated January 16, 2024, to support this decision.

This regulation of the Board of Funeral Directors and Embalmers is necessary for the protection of public health, safety, and welfare because it sets forth procedures for participation of the public in the development of board regulations. Additionally, this regulation is required by statute, and the board has no discretion whether to maintain this regulation. The board has reviewed this regulation and determined that it is clearly written and understandable.

The board voted to retain this regulation as is. Public participation guideline language is only changed when the Department of Planning and Budget (DPB) has new model regulations for all agencies to adopt, which it does not. As a result, no change is necessary.

There have been no complaints received related to this regulation, which is not complex. The regulation does not overlap with any other law. This regulation has not changed since approximately 2017. The board will alter this regulation when DPB recommends changes to the model regulation.

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.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board for Waste Management Facility Operators conducted a periodic review and a small business impact review of **18VAC155-11, Public Participation Guidelines**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated January 19, 2024, to support this decision.

The board's public participation guidelines mirror the Department of Planning and Budget (DPB) model public

participation guidelines. The guidelines having the status of a regulation is necessary to promote public involvement in the development, amendment, or repeal of regulations. Further, the regulation is clearly written and understandable.

On October 26, 2023, the board voted to retain this regulation without amendment. The regulation continues to mirror the model public participation guidelines from DPB.

There is a continued need for this regulation because the regulation promotes public involvement in the development, amendment, or repeal of the regulations of the board. The board received no comments or complaints during the public comment period. The regulation is not complex. The regulation does not overlap, duplicate, or conflict with other federal or state laws or regulations. The regulation was last evaluated in 2022 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 the regulation has no economic impact on small businesses.

Contact Information: Marjorie King, Executive Director, Board for Waste Management Facility Operators, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8511, or email wastemgt@dpwr.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board for Waste Management Facility Operators conducted a periodic review and a small business impact review of **18VAC155-20, Waste Management Facility Operators Regulations**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated January 19, 2024, to support this decision.

The regulation contains the requirements for (i) obtaining a license or training course approval; (ii) renewal and reinstatement of licenses, standards of practice and conduct, and preclicensure; (iii) continuing education to ensure competence and integrity of all licensees; and (iv) administering the regulatory program in accordance with Chapters 2 (§ 54.1-200 et seq.) and 22.1 (§ 54.1-2209 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 October 26, 2023, the board voted to retain the regulation 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 of the Code of Virginia mandates 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

Periodic Reviews and Small Business Impact Reviews

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 regulation are eligible to receive a waste management facility operator license. The board is also tasked with ensuring that its regulants meet standards of practice set forth in the regulation.

Both comments received during the public comment period were related to the board's requirement that examinations are given in a closed book format. One commenter suggested that if the examinations were offered in an open book format there may be an increase in the pass rate while the other commenter suggested that an open book format allows for broader subject knowledge as it discourages applicants from committing specific facts to memory. The board elected to retain the regulation in its current form with the acknowledgment that such decision does not prevent the board from initiating action to review or amend the regulation in the future.

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 occurred in 2022. The board is currently conducting a comprehensive review of the regulation in accordance with Executive Directive Number One (2022).

Contact Information: Marjorie King, Executive Director, Board for Waste Management Facility Operators, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8511, or email wastemgt@dpor.virginia.gov.

actions address necessary changes. Otherwise, the regulation is clearly written. It provides details and procedures families may need regarding the services provided by the department. The review included a study of whether the regulation is clearly written and easily understandable.

Considering the result of the periodic review, the department recommends no additional changes. The regulation provides clarity for the public regarding services provided, how the department prioritizes cases, what factors can be considered for deviation from the child support guidelines, and other important topics. There were no complaints or comments concerning the regulation from the public during the public comment period. The department works to make the program accessible for small businesses through a customer service center and online resources. The regulation does not overlap, duplicate, or conflict with federal or state law or other regulation.

The board evaluated the regulation in 2019. Recent technological changes have shaped department processes and procedures, and as a result, the pending actions already cover necessary updates due to the issuance of other regulations or statutes and modern technology. Current economic conditions do not require a change in the regulation. While the Child Support Guidelines Review Panel periodically reviews the provisions for determining the appropriate dollar amount of monthly child support payments, those changes are codified in statute, not in the regulation. The board's decision will minimize the economic impact of the regulation on small businesses. Eliminating the regulation would cause greater uncertainty in the department's use of statutory mechanisms and increase the burden for small businesses.

Contact Information: Thomasine Stewart, Legislative Liaison, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 802-4783, or email thomasine.r.stewart@dss.virginia.gov.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Social Services conducted a periodic review and a small business impact review of **22VAC40-880, Child Support Enforcement Program**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated December 7, 2023, to support this decision.

The regulation is necessary for the protection of public welfare because the regulation provides clarity and transparency regarding the services provided by the Department of Social Services. There are pending actions to update the regulation posted on the Virginia Regulatory Town Hall. One of the actions makes several technical improvements, including clarifying the criteria for administrative deviation and providing direction regarding imputation of income and consideration of additional factors when imputing income. The other action codifies family engagement services and amends family engagement case management services. Both pending

NOTICES OF INTENDED REGULATORY ACTION

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Criminal Justice Services Board intends to consider promulgating **6VAC20-65, Rules Relating to Professional Standards of Conduct and Procedures for Decertification**. The purpose of the proposed action is to establish, pursuant to Chapter 37 of the 2020 Acts of Assembly, Special Session I, (i) statewide professional standards of conduct applicable to all certified law-enforcement officers and certified jail officers and (ii) appropriate due process procedures for decertification of law-enforcement officers and jail officers based on serious misconduct in violation of the established standards.

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

Statutory Authority: § 9.1-102 of the Code of Virginia.

Public Comment Deadline: March 13, 2024.

Agency Contact: Kristi Shalton, Regulatory Coordinator, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-7801, FAX (804) 786-0410, or email kristi.shalton@dcjs.virginia.gov.

VA.R. Doc. No. R22-6811; Filed January 16, 2024, 5:01 p.m.

REGULATIONS

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

Symbol Key

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

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: **4VAC20-720. Pertaining to Restrictions on Oyster Harvest (amending 4VAC20-720-40).**

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

Effective Date: February 1, 2024.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building

96, Fort Monroe, VA 23651, telephone (757) 247-2248, FAX (757) 247-2002, or email jennifer.farmer@mrc.virginia.gov.

Summary:

The amendments adjust the 2024 public open oyster harvest season.

4VAC20-720-40. Open oyster harvest season, harvest areas, and harvest limits.

A. It shall be unlawful for any person to harvest oysters from public and unassigned grounds except within the dates and areas and with the harvest gears set forth in this section.

B. It shall be unlawful to harvest clean cull oysters from the public oyster grounds and unassigned grounds except within the seasons and areas and with the harvest gears as described in Table 1 in this subsection.

It shall be unlawful to exceed the daily individual bushel harvest limit or the daily vessel bushel limit of clean cull oysters in Table 1 in this subsection.

Table 1
Clean Cull Oyster Harvest Area, Harvest Dates, Harvest Gear, and Daily Bushel Limits

Harvest Area	Harvest Dates	Harvest Gear	Daily Individual Bushel Limit	Daily Vessel Bushel Limit
Great Wicomico River Rotation Area 1	December 1, 2023, through January 31, 2024, and <u>February 15, 2024, through February 29, 2024</u>	Hand Scrape	8	16
James River Area 1 and 2	October 15, 2023, through February 29, 2024, and <u>March 16, 2024 through March 31, 2024</u>	Hand Scrape	8	16
James River Area 3	November 1, 2023, through March 15, 2024	Hand Scrape	8	16
Middle Ground	November 1, 2023, through November 15, 2023	Hand Scrape	8	16
<u>Rappahannock River Rotation Area 1</u>	<u>March 1, 2024, through March 15, 2024</u>	<u>Hand Scrape</u>	<u>8</u>	<u>16</u>
Rappahannock River Area 8	January 1, 2024, through January 31 <u>February 14, 2024</u>	Hand Scrape	8	16
Rappahannock River Area 7	December 1, 2023, through December 31, 2023	Hand Scrape	8	16

Regulations

Rappahannock River Rotation Area 4 <u>2</u>	October 15, 2023, through October 31, 2023 <u>February 15, 2024, through February 29, 2024</u>	Hand Scrape	8	16
Rappahannock River Rotation Area 6	November 1, 2023, through November 30, 2023, and February 1, 2024, through February 29, 2024	Hand Scrape	8	16
Upper Chesapeake Bay - Blackberry Hangs Area	February 1, 2024, through February 29, 2024	Hand Scrape	8	16
York River Rotation Area 1	November 1, 2023, through November 30, 2023, <u>and February 15, 2024, through February 29, 2024</u>	Hand Scrape	8	16
Coan River Area	October 1, 2023, through December 31, 2023	Hand Tong	14	28
Corrotoman Hand Tong Area	October 1, 2023, through March 31, 2024	Hand Tong	14	28
Indian Creek	March 1, 2024, through March 31, 2024	Hand Tong	14	28
James River Area 1 and 2	March 1, 2024, <u>through March 15, 2024, and April 1, 2024, through April 30, 2024</u>	Hand Tong	14	28
James River Area 3	March 16, 2024, through April 30, 2024	Hand Tong	14	28
James River Seed Area, including the James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area	October 1, 2023, through May 31, 2024	Hand Tong	14	28
Little Wicomico River	October 1, 2023, through December 31, 2023	Hand Tong	14	28
Milford Haven	November 1, 2023, through March 31, 2024	Hand Tong	14	28
Nomini Creek Area	October 1, 2023, through December 31, 2023	Hand Tong	14	28
Pocomoke Sound Area Public Ground 9 and 10	November 1, 2023, through March 31, 2024	Hand Tong	14	28
Rappahannock River Area 9	October 1, 2023, through March 31, 2024	Hand Tong	14	28

Yeocomico River Area	October 1, 2023, through December 31, 2023	Hand Tong	14	28
York River Hand Tong Area	November 1, 2023, through March 31, 2024	Hand Tong	14	28
York River Rotation Area 1	October 1, 2023, through October 31, 2023, and December 1, 2023, through <u>February 15, 2024, and March 1, 2024, through</u> March 31, 2024	Hand Tong	14	28
Beasley Bay Area	March 1, 2024, through March 15, 2024	Oyster Dredge	8	16
California Rock Area	November 15, 2023, through November 30, 2023	Oyster Dredge	8	16
Pocomoke Sound Rotation Area 1	December 1, 2023, through February 29, 2024	Oyster Dredge	8	16
Tangier Sound Rotation Area 1	December 1, 2023, through February 29 <u>March 15, 2024</u>	Oyster Dredge	8	16
Larsons Bay Area	December 1, 2023, through February 29, 2024	Patent Tong	8	16
Deep Rock Area	November 1, 2023, through February 29 <u>March 31, 2024</u>	Patent Tong	8	16
Rappahannock River Rotation Area 1	October 15, 2023, through January 31 <u>February 29, 2024</u>	Patent Tong	8	16
Seaside Eastern Shore	November 1, 2023, through March 31, 2024	By Hand or Hand Tong	14	28

C. It shall be unlawful to harvest seed oysters from the public oyster grounds or unassigned grounds, except within the dates and areas and with the harvest gears described in Table 2 in this subsection.

Table 2. Seed Oyster Harvest Area, Harvest Dates, and Harvest Gear		
Harvest Area	Harvest Dates	Harvest Gear
James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area	October 1, 2023, through May 31, 2024	Hand Tong

D. In the Pocomoke and Tangier Sounds Rotation Areas, it shall be unlawful to possess on board any vessel more than 250 hard clams.

E. It shall be unlawful to possess any blue crabs on board any vessel with an oyster scrape or oyster dredge.

F. It shall be unlawful for any person or vessel to harvest oysters with more than one gear type in any single day from the public oyster grounds or unassigned grounds in the waters of the Commonwealth of Virginia.

VA.R. Doc. No. R24-7785; Filed January 25, 2024, 3:00 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: 4VAC20-950. Pertaining to Black Sea Bass (amending 4VAC20-950-45).

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

Effective Date: January 26, 2024.

Regulations

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248, FAX (757) 247-2002, or email jennifer.farmer@mrc.virginia.gov.

Summary:

The amendments (i) open a recreational black sea bass season in February 2024 and set the conditions for participating in it and (ii) adjust the dates for the 2024 open recreational fishing season for black sea bass.

4VAC20-950-45. Recreational possession limits and seasons.

A. It shall be unlawful for any person fishing with hook-and-line, rod and reel, spear, gig, or other recreational gear to possess more than 15 black sea bass. When fishing from a recreational vessel where the entire catch is held in a common hold or container, the possession limit shall be for that vessel and shall be equal to the number of persons on board legally licensed to fish, multiplied by 15. The captain or operator of the vessel shall be responsible for that vessel possession limit. Any black sea bass taken after the possession limit has been reached shall be returned to the water immediately.

B. Possession of any quantity of black sea bass that exceeds the possession limit described in subsection A of this section shall be presumed to be for commercial purposes.

C. The open recreational fishing season shall be from May 15 through July 6 ~~15~~ and ~~August 9~~ July 27 through December 31.

D. It shall be unlawful for any person fishing recreationally to take, catch, or possess any black sea bass, except during an open recreational season.

E. From February 1 through the last day of February, it shall be unlawful for any person to possess or land any black sea bass harvested from a recreational vessel, unless the captain or operator of that recreational vessel has obtained a Recreational Black Sea Bass Permit from the Marine Resources Commission (commission).

1. The captain or operator shall be responsible for reporting for all anglers on the recreational vessel and shall provide that captain's or that operator's Marine Resources Commission identification (MRC ID) number, the date of fishing, the number of persons on board, the mode of fishing, and the number of black sea bass kept or released. That report shall be submitted to the commission on forms provided by the commission or through the Virginia Saltwater Fisherman's Journal.

a. It shall be unlawful for any permittee to fail to report each trip where black sea bass were targeted, whether black sea bass were harvested, released, or not caught, by March 15 of the current calendar year.

b. It shall be unlawful for any permittee who did not take any fishing trips to target black sea bass in the February

recreational black sea bass season to fail to report lack of participation by March 15 of the current calendar year.

2. It shall be unlawful for any permittee to fail to contact the Law Enforcement Operations at 1-800-541-4646 before or immediately after the start of each fishing trip. The permittee shall provide the Law Enforcement Operations with the permittee's name, MRC ID number, the point of landing, a description of the vessel, estimated return to shore time, and a contact telephone number.

3. Any permittee shall allow the commission to sample the vessel's catch to obtain biological information for scientific and management purposes.

VA.R. Doc. No. R24-7782; Filed January 23, 2024, 3:38 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: **4VAC20-960. Pertaining to Tautog (amending 4VAC20-960-48, 4VAC20-960-49).**

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

Effective Date: February 1, 2024.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248, FAX (757) 247-2002, or email jennifer.farmer@mrc.virginia.gov.

Summary:

The amendments (i) remove all fees associated with unreturned commercial tautog tags or tags returned after the yearly February 15 deadline; and (ii) update a cross reference to another regulation.

4VAC20-960-48. Commercial permitting and tagging requirements.

A. It shall be unlawful for any registered commercial fisherman to take, catch, or possess any tautog without obtaining a valid Tautog Commercial Permit.

B. It shall be unlawful to land or possess for commercial purposes any tautog that has not been identified with a tag issued by the commission for the current calendar year, applied by the following conditions, except as specified in subsections D and E of this section:

1. Tags must be affixed to the bony portion of the gill cover (operculum) of a whole fish such that the tag number faces outward from the body.

2. Processed or filleted tautog must be accompanied by the tags removed from the fish when processed.

C. It shall be unlawful for any dealer to buy, sell, barter, or trade or offer to buy, sell, barter, or trade any untagged tautog.

D. After the last day of February of the current calendar year, it shall be unlawful for any dealer to buy, sell, barter, or trade or offer to buy, sell, barter, or trade any tautog with a tag issued for any previous calendar year, except to the final consumer.

E. Any person, other than the original harvester, may only possess tautog with a tag issued by a state other than Virginia provided that it is for the purpose of resale and is accompanied by a bill of sale that shall include the name of the seller and the permit or license number of the seller if such permit or license is required in the jurisdiction of harvest.

F. Tags are valid only for use by the permittee to whom the tags were allotted. The permittee shall be on board the vessel when tautog are harvested and tags are applied.

G. It shall be unlawful for any person to possess tags on board a vessel during a closed season or that were issued for any year other than the current calendar year.

H. Possession of any quantity of tautog that exceeds the recreational possession limit described in 4VAC20-960-45 shall be presumed to be for commercial purposes. The possession of any untagged tautog shall be prima facie evidence of a violation of this chapter and subject to the provisions of 4VAC20-960-50 and 4VAC20-960-60.

I. It shall be unlawful for a person to possess commercially harvested tautog in a quantity greater than the number of tags in the person's possession. If a permittee violates this section, the entire amount of untagged tautog shall be confiscated or returned to the water.

J. Altering or attempting to alter any tag for the purpose of reuse shall constitute a violation of this chapter.

K. An annual fee of \$25 for tags shall be assessed prior to an individual being eligible for a Tautog Commercial Permit.

L. A tautog commercial permittee shall be required to have returned all unused tags from the previous calendar year to the commission by February 15 of the current calendar year. Any unused tags that cannot be returned shall be accounted for by the harvester submitting a notarized affidavit that explains the disposition of the tags. ~~Each individual with any unused tags that are not returned shall be required to pay a processing fee of \$25, plus \$0.28 per tag.~~

4VAC20-960-49. Commercial reporting.

A. All permitted commercial harvesters shall report daily harvest of tautog to the commission in accordance with 4VAC20-610, specifying the number of tags used each day on forms provided by the commission. Such reports shall be submitted to the commission no later than the fifth day of the following month.

B. Harvest of tautog from beyond Virginia's tidal waters and sold to a federally permitted dealer shall be reported through the mandatory harvest reporting program as provided by subsection A of this section and is not subject to the exemption in ~~4VAC20-610-60~~ 4VAC20-610.

VA.R. Doc. No. R24-7784; Filed January 23, 2024, 3:39 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: 4VAC20-1120. Pertaining to Tilefish and Grouper (amending 4VAC20-1120-30, 4VAC20-1120-35).

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

Effective Date: February 1, 2024.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248, FAX (757) 247-2002, or email jennifer.farmer@mrc.virginia.gov.

Summary:

The amendments (i) change the recreational blueline tilefish season to coincide with the recreational black sea bass season; and (ii) clarify that the form required for a tilefish charter party is a federal form.

4VAC20-1120-30. Recreational harvest and possession limit.

A. It shall be unlawful for any person fishing recreationally to possess or land more than eight golden tilefish in Virginia tidal waters.

B. The recreational harvest, landing, and possession limit for blueline tilefish for any person fishing from a private or rental vessel shall be three fish. The recreational harvest, landing, and possession limit for blueline tilefish for any person fishing from a for-hire vessel that has been issued a valid federal Tilefish Charter/Party Permit but does not have a current U.S. Coast Guard certificate of inspection shall be five blueline tilefish per person per trip. The recreational harvest, landing, and possession limit for blueline tilefish for any person fishing from a for-hire vessel that has both a valid federal Tilefish Charter/Party Permit and a current U.S. Coast Guard certificate of inspection shall be seven blueline tilefish per person per trip.

C. The recreational harvest, landing, and possession limit for grouper, as described in 4VAC20-1120-20, shall be one fish. It shall be unlawful for any person to recreationally harvest, land, or possess more than one grouper within or ~~without~~ outside of Virginia tidal waters.

D. When fishing recreationally from any boat or vessel, where the entire catch is held in a common hold or container, the boat or vessel possession limit for any species described in subsection A or B of this section shall be equal to the sum of the personal possession limits, as described in subsection A or B of this section, of those persons on board legally eligible to fish. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limits.

4VAC20-1120-35. Recreational blueline tilefish season.

It shall be unlawful for any person fishing recreationally to harvest or possess any blueline tilefish from January 1 through ~~April 30~~ May 14 and from November ~~1~~ 16 through December 31.

VA.R. Doc. No. R24-7783; Filed January 23, 2024, 3:40 p.m.

Chapter 65

Rules Relating to Professional Standards of Conduct and Procedures for Decertification

6VAC20-65-10. Definitions.

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

"Agency administrator" means any chief of police, sheriff, or agency head of a state or local law-enforcement agency.

"Board" means the Criminal Justice Services Board.

"Department" means the Department of Criminal Justice Services.

6VAC20-65-20. Professional standards of conduct applicable to all certified law-enforcement officers and certified jail officers.

A. Pursuant to the provisions of subdivision 61 of § 9.1-102 of the Code of Virginia, the department under the direction of the board shall adopt statewide professional standards of conduct applicable to all certified law-enforcement officers and certified jail officers and appropriate due process procedures for decertification based on serious misconduct in violation of this section.

B. All certified law-enforcement officers and certified jail officers must comply with the following standards:

1. Enforce the Constitution of the United States, the laws of the United States, and the laws and Constitution of the Commonwealth of Virginia;
2. Demonstrate exemplary commitment to obeying the laws of the United States and laws of the Commonwealth of Virginia and the policies of the employing agency for each certified law-enforcement officer or certified jail officer;
3. Treat all individuals with dignity and respect, regardless of race or ethnicity, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, military status, disability, or other protected status, consistent with the Virginia Human Rights Act (§ 2.2-3900 et seq. of the Code of Virginia);
4. Ensure the preservation of human life and the constitutional right of liberty, equality, and justice;
5. Uphold public trust;
6. Maintain the highest ethical standards;
7. Take every reasonable opportunity to enhance and improve professional knowledge and competence; and
8. Hold oneself and others accountable to the adherence of the the standards in this subsection.

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TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Emergency Regulation

Title of Regulation: **6VAC20-65. Rules Relating to Professional Standards of Conduct and Procedures for Decertification (adding 6VAC20-65-10 through 6VAC20-65-40).**

Statutory Authority: § 9.1-102 of the Code of Virginia.

Effective Dates: March 14, 2024, through September 13, 2025.

Agency Contact: Kristi Shalton, Regulatory Coordinator, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-7801, FAX (804) 786-0410, or email kristi.shalton@dcjs.virginia.gov.

Preamble:

Section 2.2-4011 B of the Code of Virginia states that agencies may adopt emergency regulations in situations in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment, and the regulation is not exempt under the provisions of § 2.2-4006 A 4 of the Code of Virginia.

Pursuant to Chapter 37 of the 2020 Acts of Assembly, Special Session I, the action establishes (i) statewide professional standards of conduct applicable to all certified law-enforcement officers and certified jail officers and (ii) appropriate due process procedures for decertification based on serious misconduct in violation of those standards.

6VAC20-65-30. Designation of serious misconduct warranting officer decertification.

A. Pursuant to § 15.2-1707 B of the Code of Virginia, the following types of misconduct by certified law-enforcement officers or certified jail officers are sufficiently serious as to warrant decertification when an officer of any rank is terminated or resigns from the officer's employing agency as a result of such misconduct, and the employer reports that information to the board.

1. Knowingly, intentionally, or without a legitimate law-enforcement purpose, making misleading, deceptive, untrue, or fraudulent representations in the practice of being or becoming a law-enforcement officer or a jail officer, including:

- a. Willfully falsifying or omitting any material information to obtain or maintain certification;
- b. Obtaining a false confession or statement;
- c. Filing a written police report containing a material false statement;
- d. Making a false arrest;
- e. Creating or using falsified evidence;
- f. Failing to report known exculpatory and impeachment information in a criminal case to a superior officer, in accordance with agency reporting requirements;
- g. Tampering with, hiding, destroying, or attempting to tamper with, hide, or destroy evidence or potential evidence with the purpose of creating a false impression; and
- h. Committing perjury.

2. Knowingly and intentionally abusing the power inherent to the law-enforcement and jail officer professions, including:

- a. Intentionally and willfully exploiting an individual's disability or other impairment for the purposes of securing either a law-enforcement officer or jail officer outcome or personal benefit;
- b. Tampering with a witness, victim, or informant;
- c. Engaging in retaliation against any individual making a good-faith report of misconduct;
- d. Engaging in a sexual relationship with an individual in the custody or care of the law-enforcement officer or jail officer or with an individual the officer knows or should have known is a victim, witness, defendant, or informant in an investigation or matter with which the officer is involved;
- e. Intentionally, willfully, and without authorization disclosing confidential information or information that may compromise an official investigation;

f. Intentionally and without authorization using the employing agency's property, equipment, funds, or data for personal gain; and

g. Soliciting or otherwise knowingly participating in acts of bribery or extortion associated with the officer's official duties as defined in § 2.2-3103 of the Code of Virginia and in Articles 2 (§ 18.2-438 et seq.) and 3 (§ 18.2-446 et seq.) of Chapter 10 of Title 18.2 of the Code of Virginia.

3. Knowingly and intentionally engaging in discriminatory policing or on-duty conduct toward incarcerated individuals, defined as an identified and uncorrected pattern of, or single egregious instance of, on-duty conduct demonstrating bias on the basis of such characteristics as race or ethnicity, color, religion, national origin, sex, pregnancy, childbirth or related conditions, age, marital status, sexual orientation, gender identity, military status, disability, or other protected status.

4. Knowingly and intentionally engaging in, failing to intervene when present and witnessing, or failing to report the use of excessive force in accordance with § 19.2-83.6 of the Code of Virginia, unless such information was obtained in the course of participating in a critical incident stress management or peer support team pursuant to § 32.1-11.3 of the Code of Virginia or disclosure would be in violation of § 19.2-274.1 of the Code of Virginia.

5. Knowingly and intentionally interfering with or obstructing compliance with the provisions of § 15.2-1707 of the Code of Virginia, including:

- a. Failing to report, investigate, and act on as appropriate known serious misconduct by another officer; and
- b. Failing to cooperate with an investigation into potential law-enforcement officer or jail officer misconduct.

6. Engaging in a pattern of acts or a single egregious act showing an intentional or reckless disregard for the rights, safety, or well-being of others, including repeated use of prohibited practices for law-enforcement officers during an arrest or detention or violations of individual rights as guaranteed by the Constitution of the United States, the laws of the United States, and the laws and Constitution of the Commonwealth of Virginia.

7. Engaging in any conduct unbecoming that demonstrates an inability or unwillingness to uphold an officer's sworn oath.

6VAC20-65-40. Due process procedures for decertification resulting from serious misconduct.

A. Written notification to the department, pursuant to § 15.2-1707 of the Code of Virginia, shall be submitted using the DCJS Notification of Eligibility for Decertification Form (DC-1), within 48 hours of becoming aware of an officer's eligibility for decertification.

B. The department shall serve notice upon the decertified officer and agency, to include decertification action taken and

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remedies available in accordance with § 15.2-1708 of the Code of Virginia.

C. Appeal hearings shall follow due process procedures and steps in accordance with §§ 15.2-1707 and 15.2-1708 of the Code of Virginia.

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 (6VAC20-65)

[Notification of Eligibility for Decertification, DC-1 \(rev. 11/2022\)](#)

VA.R. Doc. No. R22-6811; Filed January 16, 2024, 5:01 p.m.

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TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Final Regulation

REGISTRAR'S NOTICE: The State Air Pollution Control Board is claiming an exemption from the Administrative Process Act in accordance with the second enactment of Chapter 263 of the 2021 Acts of Assembly, Special Session I, which allows that regulations required to be adopted by the board as required by the act shall be exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

Titles of Regulations: **9VAC5-95. Regulation for Low Emissions and Zero Emissions Vehicle Standards (adding 9VAC5-95-10 through 9VAC5-95-50).**

Statutory Authority: § 10.1-1307.05 of the Code of Virginia.

Effective Date: March 13, 2024.

Agency Contact: Karen G. Sabasteanski, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-1973, or email karen.sabasteanski@deq.virginia.gov.

Summary:

Pursuant to Chapter 263 of the 2021 Acts of Assembly, Special Session I, the action establishes Regulation for Low Emissions and Zero Emissions Vehicle Standards (9VAC5-95), which adopts model year standards relating to the control of emissions from new motor vehicles or new

motor vehicle engines, including low emissions vehicle (LEV) and zero emissions vehicle (ZEV) standards pursuant to § 177 of the federal Clean Air Act, the Advanced Clean Cars Program. Provisions include (i) an LEV program for criteria pollutants and greenhouse gas emissions and (ii) a ZEV program only for motor vehicles with a gross vehicle weight of 14,000 pounds or less. These programs must be applicable to motor vehicles beginning with the 2025 model year or to the first model year for which adoption of such standards is practicable.

Chapter 95

Regulation for Low Emissions and Zero Emissions Vehicle Standards

9VAC5-95-10. Applicability.

The provisions of this chapter apply to new motor vehicles or new motor vehicle engines beginning with the 2025 model year as follows:

1. A low emission vehicle (LEV) program for criteria pollutants and greenhouse gas emissions for motor vehicles with a gross vehicle weight of 14,000 pounds or less, and
2. A zero emission vehicle (ZEV) program only for motor vehicles with a gross vehicle weight of 14,000 pounds or less.

9VAC5-95-20. Definitions.

A. As used in this chapter, all terms not defined in this section shall have the meanings given them in General Definitions (9VAC5-10), unless otherwise required by context.

B. For the purpose of this chapter or any orders issued by the board, the following words or terms shall have the following meanings:

"Authorized emergency vehicle" has the meaning given in § 46.2-920 of the Code of Virginia.

"CARB" means the California State Air Resources Board, as defined in California Health and Safety Code (HSC) § 39003.

"Light-duty truck" has the meaning given under 13 CCR § 1900(b)(11).

"Medium-duty passenger vehicle" has the meaning given under 13 CCR § 1900(b)(12).

"Medium-duty vehicle" has the meaning given under 13 CCR § 1900(b)(13).

"Military tactical vehicle" means a land combat or transportation vehicle, excluding a rail-based vehicle, that is designed for and used by a branch of the United States Armed Forces or used as an authorized emergency vehicle by or for a governmental agency.

"Model year" means the manufacturer's annual production period that includes January 1 of a calendar year, or if the

manufacturer has no annual production period, the calendar year. The model year for a motor vehicle manufactured in two or more stages is the model year in which the chassis is completed.

"Motor vehicle manufacturer" means a small, independent low, intermediate, or large volume manufacturer as defined under 13 CCR §§ 1900(b)(8), (b)(9), (b)(10), and (b)(22).

"New motor vehicle" means a first effective model year or later model year motor vehicle with less than 7,500 miles of use accumulated as of the date of the sale or lease.

"Passenger car" has the meaning given under 13 CCR § 1900(b)(17).

"Transitional zero-emission vehicle" or "TZEV" has the meaning given under 13 CCR §§ 1962.2(c) and (i)(16).

"Used motor vehicle" means a first effective model year or later model year motor vehicle with 7,500 miles or more of use accumulated as of the date of the sale or lease.

"Zero emission vehicle" or "ZEV" has the meaning given under 13 CCR § 1962.2(i)(18).

9VAC5-95-30. Low emission vehicle standards.

A. No person, including a manufacturer or dealer, shall deliver for sale or lease, offer for sale or lease, sell or lease, import, acquire, receive, purchase, or rent a vehicle listed in subdivisions 1, 2, and 3 of this subsection that is a 2025 or subsequent model year vehicle in Virginia unless the vehicle is California-certified and complies with the standards incorporated by reference except as provided under subsection B of this section.

1. New motor vehicles that are passenger cars, light-duty trucks, medium-duty passenger vehicles, and medium-duty vehicles;
2. New light-duty or medium-duty motor vehicle engines; and
3. Motor vehicles with a new motor vehicle engine.

B. This chapter does not apply to:

1. A used motor vehicle;
2. A new motor vehicle sold to another dealer;
3. A new motor vehicle sold to be wrecked or dismantled;
4. A new motor vehicle designed exclusively for off-highway use;
5. A new motor vehicle sold for registration out-of-state;
6. A new motor vehicle that has been certified to standards adopted under authority granted in 42 USC § 7521 and that is in the possession of a rental agency in Virginia and that is next rented with a final destination outside of Virginia;
7. An authorized emergency vehicle;

8. A military tactical vehicle;

9. A new motor vehicle transferred by inheritance;

10. A new motor vehicle transferred by court decree; or

11. A new motor vehicle purchased and registered in another state by a person who is a resident of that state and who subsequently establishes residency in Virginia. Upon registering the new motor vehicle in Virginia, the person shall provide evidence to the board of the previous residence and registration.

C. Fleet average emissions shall be determined as follows:

1. For 2025 model year motor vehicles and all subsequent model year motor vehicles to which this chapter applies, a motor vehicle manufacturer shall not exceed the fleet average emission values under 13 CCR § 1961.2. Credits and debits may be accrued and used based on a manufacturer's sales in Virginia of motor vehicles subject to this chapter according to 13 CCR § 1961.2.

2. For 2025 model year motor vehicles and all subsequent model year motor vehicles to which this chapter applies, a motor vehicle manufacturer shall not exceed the fleet average greenhouse gas (GHG) exhaust emission standards under 13 CCR § 1961.3 or the GHG emission standards under 13 CCR § 1956.8(h)(6). Credits and debits may be accrued and used based on a manufacturer's sales in Virginia of motor vehicles subject to this chapter according to 13 CCR § 1961.3.

D. Beginning with the 2025 model year and all subsequent model years, all new motor vehicles subject to this chapter produced by a motor vehicle manufacturer and delivered for sale or lease in Virginia shall be affixed with emission control labels and environmental performance labels according to 13 CCR § 1965.

E. For all motor vehicles subject to this chapter, the motor vehicle manufacturer shall provide defect warranty coverage that complies with 13 CCR §§ 2035, 2037 to 2041, and 2046.

F. For all motor vehicles subject to this chapter and subject to recall in California, the motor vehicle manufacturer shall undertake a recall campaign in Virginia according to 13 CCR §§ 2111 to 2121 and 2122 to 2135, unless the manufacturer demonstrates to the board that the recall is not applicable to motor vehicles registered in Virginia.

G. Reporting requirements shall be as follows:

1. By May 1 of the calendar year after the end of the model year, a motor vehicle manufacturer shall annually submit to the board a report demonstrating that the motor vehicle manufacturer has met the requirements of subdivision C 1 of this section, for its fleet delivered for sale in Virginia.

2. By May 1 of the calendar year after the end of the model year, a motor vehicle manufacturer shall annually submit to

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the board a report demonstrating that the motor vehicle manufacturer has met the requirements of subdivision C 2 of this section, for its fleet delivered for sale in Virginia.

3. If requested by the board, a motor vehicle manufacturer shall submit copies of all assembly-line emissions testing and functional test results collected as a result of compliance with this chapter, warranty claim reports, recall reports, and any other reports that are submitted to CARB as incorporated by reference. For purposes of compliance with this requirement, manufacturers may submit copies of the Failure of Emission-Related Components reports that are submitted to the California Air Resources Board in lieu of submitting reports for vehicles subject to this chapter.

4. If the board deems it necessary to administer and enforce this chapter, the board will require a motor vehicle manufacturer subject to this chapter to submit additional documentation, including all certification materials submitted to CARB.

H. Record availability and retention and reporting noncompliance shall be as follows:

1. Upon request of the board, a manufacturer subject to this chapter shall furnish to the board all records that relate to the motor vehicles that are subject to this chapter and that are relevant for determining compliance with this chapter. Unless otherwise specified, a person subject to this chapter shall retain all relevant records for at least five years after creating the records.

2. If a report issued by a motor vehicle manufacturer under subsection G of this section demonstrates noncompliance with the fleet average under subsection C of this section for a model year, the manufacturer shall, within 60 days, file a report with the board to document the noncompliance. The report shall identify all motor vehicles delivered for sale or lease in Virginia, the models' corresponding certification standards, and the percentage of each model delivered for sale in Virginia and California in relation to total fleet sales in the respective state.

9VAC5-95-40. Zero emission vehicle standards.

A. Any motor vehicle manufacturer may establish a Virginia-specific ZEV credit account in the ZEV Credit System and make a one-time deposit into its account a number of proportional credits equal to its 2025 model year starting California credit balance multiplied by the ratio of the average number of passenger cars and light-duty trucks that a manufacturer produced and delivered for sale in Virginia to the average number of passenger cars and light-duty trucks the manufacturer produced and delivered for sale in California during the time period selected by the manufacturer for calculation of its ZEV requirement for the first effective model year. The deposit shall be made only after all credit obligations for model year 2024 and earlier have been satisfied. While manufacturers may trade or sell these proportional credits to

any other manufacturer, these credits may be used to meet up to 18% of its ZEV program credit requirements in any model year, unless and until this chapter is superseded by regulations updating the Advanced Clean Car Program. No vehicle manufacturer will be awarded or provided with any other form of ZEV program credits or credit balance prior to January 1, 2024, or at the beginning of the compliance period of this chapter.

B. Beginning with the 2025 model year, a motor vehicle manufacturer's sales fleet of passenger cars and light-duty trucks produced by motor vehicle manufacturers and delivered for sale or lease in Virginia shall generate at least the same applicable percentage of ZEV credits required under 13 CCR § 1962.2.

C. Credit bank, reporting, and recordkeeping requirements shall be as follows:

1. Beginning in the 2025 model year, a motor vehicle manufacturer subject to this chapter shall open an account in the California ZEV Credit System for banking credits earned in Virginia. The account shall be opened no later than March 1 of the calendar year after the end of 2025. A motor vehicle manufacturer shall notify the board within 30 days of opening an account in the California ZEV Credit System for the manufacturer's Virginia ZEV credits.

2. At least annually by May 1 of the calendar year after the close of a model year, a motor vehicle manufacturer shall submit a report to the board that identifies the necessary delivery and placement data of all motor vehicles generating ZEV credits and all transfers and acquisitions of ZEV credits, according to 13 CCR § 1962.2. The report may be amended based on late sales.

3. Upon request of the board, a manufacturer subject to this chapter shall furnish to the board all records that relate to the motor vehicles that are subject to this chapter and that are relevant for determining compliance with this chapter. Unless otherwise specified, a person subject to this chapter shall retain all relevant records for at least five years after creating the records.

D. A motor vehicle manufacturer that delivers for sale in Virginia fewer ZEVs or TZEVs than required to meet its ZEV credit obligation in a given model year shall make up the deficit by submitting a commensurate amount of ZEV credits to the board according to 13 CCR § 1962.2(g)(7). The number of motor vehicles not meeting the ZEV credit obligation shall be equal to the manufacturer's credit deficit, rounded to the nearest 1/100th and calculated according to the equation in 13 CCR § 1962.2(g)(8).

9VAC5-95-50. Interpreting documents incorporated by reference.

In the standards incorporated by reference into this chapter, make the following substitutions, unless context requires otherwise:

1. "California" means "Virginia";
2. "CARB," "ARB," or "Air Resources Board" means the department; and
3. "Executive Officer" means the board.

DOCUMENTS INCORPORATED BY REFERENCE (9VAC5-95)

Title 13 California Code of Regulations (13 CCR) sections:

[13 CCR §§ 1900](#)

[13 CCR § 1956.8\(h\) \(medium duty greenhouse gas emission standards only\)](#)

[13 CCR § 1961.2](#)

[13 CCR § 1961.3](#)

[13 CCR § 1962.2](#)

[13 CCR § 1962.3](#)

[13 CCR § 1965](#)

[13 CCR § 1968.2](#)

[13 CCR § 1976](#)

[13 CCR § 1978](#)

[13 CCR § 2035](#)

[13 CCR §§ 2037 to 2041](#)

[13 CCR § 2046](#)

[13 CCR § 2062](#)

[13 CCR § 2109](#)

[13 CCR §§ 2111 to 2121](#)

[13 CCR §§ 2122 to 2135](#)

[13 CCR § 2139](#)

[13 CCR §§ 2141 to 2149](#)

Effective November 30, 2022, California Air Resources Board, 1001 I Street, Sacramento, CA 95814, P.O. Box 2815, Sacramento, CA 95812, (800) 242-4450, <https://oal.ca.gov/publications/ccr/>

VA.R. Doc. No. R24-6728; Filed January 12, 2024, 1:43 p.m.



TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Extension of Emergency Regulation

Titles of Regulations: **12VAC30-110. Eligibility and Appeals (amending 12VAC30-110-10, 12VAC30-110-220, 12VAC30-110-370; adding 12VAC30-110-185).**

12VAC30-120. Waivered Services (amending 12VAC30-120-670).

12VAC30-141. Family Access to Medical Insurance Security Plan (amending 12VAC30-141-40, 12VAC30-141-700).

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

The Governor has approved the request of the Department of Medical Assistance Services to extend the expiration date of the emergency regulation for 12VAC30-110, 12VAC30-120, and 12VAC30-141 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 September 6, 2024. This extension is required in order to continue enforcing the legislative mandate as set out in the Item 317 GG 2 of the 2021 Appropriations Acts to clarify (i) the burden of proof in client appeals; (ii) the scope of review for de novo hearings in client appeals, and (iii) the timeframes for submission of documents and decision deadlines for de novo client hearings. This package is essential to clarify the client appeal rules for Medicaid members. The emergency regulation was published in [39:3 VA.R. 61-65 September 26, 2022](#).

Effective Date Extended Through: September 6, 2024.

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

VA.R. Doc. No. R23-6871; Filed January 17, 2024, 9:33 a.m.



TITLE 16. LABOR AND EMPLOYMENT

DEPARTMENT OF LABOR AND INDUSTRY

Final Regulation

Title of Regulation: **16VAC15-60. Regulation Governing On-The-Job Training Programs or Other Training Programs (adding 16VAC15-60-10, 16VAC15-60-20).**

Statutory Authority: §§ 40.1-6 and 40.1-28.10 of the Code of Virginia.

Effective Date: March 13, 2024.

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

Summary:

In response to Chapters 1204 and 1242 of the 2020 Acts of Assembly and pursuant to § 40.1-28.10 of the Code of Virginia, the new regulation provides the standards required for any employer on-the-job training program or other training program established in accordance with the requirements of § 40.1-28.10 and includes (i) the period for which the employee can be paid the training wage; (ii) the lowest the employer can pay an employee while training; (iii) when an employee, who is trained or substantially trained to do the job does not need the training, prohibition of the employer paying reduced wages simply by calling the first 90 days of employment a training period; (iv) prohibiting an employer from reducing the work of or firing current employees and replacing them with trainees at a reduced wage; and (v) what comprises an established training program. Two nonsubstantive clarifications were added since the proposed regulation.

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

Chapter 60

Regulation Governing On-The-Job Training Programs or Other Training Programs

16VAC15-60-10. Definitions.

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

["Approved apprenticeship program" means any program that has received approval from a federal or state apprenticeship agency.]

"Employee" means any person or individual who is enrolled in an established employer on-the-job training program for a period not to exceed 90 days that meets standards set by this chapter.

"Employer" means any individual, partnership, association, corporation, or business trust or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee. "Employer" includes the Commonwealth, any of its agencies, institutions, or political subdivisions, and any public body.

"Good faith effort" means done honestly, objectively, and with no deliberate intent to defraud.

"Limited responsibility" means job duties that are substantially less than the expectations for a worker who has

achieved a sufficient degree of technical skill and has completed a job training program.

"Reasonable expectation" means a fair and sensible belief that something will happen.

"Seasonal employee" means an employee in an occupation that can be carried out only at certain seasons or fairly definite periods of the year and that does not include such occupations as may be carried on through an entire year.

"Similar or related experience" means knowledge or skill in a particular job or activity gained because the person has done that job or activity or a comparable job or activity for a meaningful period of time.

"Sufficient degree of technical skill" means the ability to use the processes, practices, techniques, or tools of a particular area of expertise enough to meet the purpose and requirements of the job.

"Temporary employee" means an employee supplied to a host employer and paid by a staffing agency whether or not the job is actually temporary.

16VAC15-60-20. Requirements for job training programs.

Beginning May 1, 2021, an employee enrolled in an established on-the-job or other training program may, for the first 90 calendar days after start of employment, be paid a training wage of not less than [the federal minimum wage or] 75% of the minimum hourly wage specified at § 40.1-28.10 of the Code of Virginia, [whichever is greater,] provided the following conditions are met:

1. The employee has been hired in and is receiving training for an occupation in which the employee has no previous similar or related experience;
2. The employer is not utilizing the employee being paid the training wage in a manner that causes, induces, encourages, or assists any displacement or partial displacement of any currently employed worker, including:
 - a. By displacing any previous recipient of the training wage;
 - b. By reducing hours of a currently employed worker;
 - c. By replacing a current or laid off employee with a trainee; [or]
 - d. [~~By relocating operations resulting in a loss of employment at a previous workplace; or~~
 - e.] In a manner that replaces, supplants, competes with, or duplicates any approved apprenticeship program;
3. The occupation for which the employee is receiving training must require a sufficient degree of technical skill to necessitate a learning period. The training must not be for the purpose of acquiring manual dexterity and high production speed in repetitive operations;

4. Such a training program must involve either formal instruction or on-the-job training during a period when the learners are entrusted with limited responsibility and are under supervision or guidance;

5. Such a training program shall describe in writing the nature and extent of the instruction and supervision provided;

6. The employer makes a good faith effort to continue to employ the employee after the period of the training wage expires;

7. The employer shall not hire the employee at the training wage unless there is a reasonable expectation that there will be employment, paying at or above the effective minimum wage, for the trainee upon the successful completion of the period of the training wage. The training wage shall not be applied to:

- a. Seasonal employees; or
- b. Temporary employees; and

8. An employee can only undergo one on-the-job training program or other training program established in accordance with § 40.1-28.10 [of the Code of Virginia] per employer.

a. A change in employment classification or duties required by the employer of the employee would not allow an employer to place that employee in another on-the-job training program or other training program established in accordance with § 40.1-28.10 [of the Code of Virginia].

b. An employee may be placed in another on-the-job training program or other training program established in accordance with § 40.1-28.10 [of the Code of Virginia] with a subsequent employer so long as placing that employee in the on-the-job training program or other training program established in accordance with § 40.1-28.10 [of the Code of Virginia] would not violate subdivision 1 of this subsection.

VA.R. Doc. No. R21-6714; Filed January 19, 2024, 9:13 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF ACCOUNTANCY

Fast-Track Regulation

Title of Regulation: 18VAC5-22. Board of Accountancy Regulations (amending 18VAC5-22-60, 18VAC5-22-70, 18VAC5-22-80).

Statutory Authority: §§ 54.1-4402 and 54.1-4403 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: March 13, 2024.

Effective Date: March 28, 2024.

Agency Contact: Kelli Yoder, Communications Coordinator, Board of Accountancy, 9960 Mayland Drive, Suite 402, Henrico, VA 23233, telephone (804) 367-1568, FAX (804) 527-4409, TDD (804) 367-9753, or email kelli.yoder@boa.virginia.gov.

Basis: Section 54.1-4403 of the Code of Virginia grants authority to the Board of Accountancy to promulgate regulations necessary to ensure continued competency, to prevent deceptive or misleading practices by licensees, and to effectively administer the regulatory system.

Purpose: The National Association of State Boards of Accountancy (NASBA) has adopted updated subject matter requirements and other guidance for the certified public accountant (CPA) exam, which it administers. The board is updating its regulations so that Virginia's requirements are in line with national standards. CPAs have license mobility nationally through every jurisdiction with substantially the same requirements over the CPA exam. The amendments ensure Virginia continues to meet the mobility requirements and that any CPA working for a Virginia citizen or business has met the national requirements of education for licensure. This regulatory change will ensure that Virginia students and CPA applicants are competitive with other states, and that substantial equivalency and reciprocity is maintained.

Rationale for Using Fast-Track Rulemaking Process: It is expected this rulemaking will be noncontroversial because the board is taking action to ensure students at Virginia accounting programs are prepared for the CPA exam and are not disadvantaged when compared with students from other states.

Substance: These amendments update education requirements that impact Virginia CPA applicants. The Uniform CPA Exam is a nationally administered exam. There are model rules known as the Uniform Accountancy Act (UAA), which the board follows for significant matters. Not related to the changes in UAA, these amendments are updating the accreditation organizations to the current approved organizations. This is a housekeeping issue. The board has the authority to approve accreditation organizations but took this opportunity to clean up the ones listed. Based on the UAA and the new CPA exam, the materials in the exam blueprint now require Accounting Information System in place of the prior requirement of Management Accounting. The amendments also allow for three credits of introductory accounting courses to count towards the education requirements. Finally, the 55 jurisdictions that license and regulate CPAs are moving the credit expiration from 18 months to 30 months.

Issues: The primary advantage to the public is continued mobility with other states in taking the CPA exam. Educational institutions may need to update their curricula. There are no

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primary disadvantages to the public. The primary advantage to the board and Commonwealth is consistency with national standards and updated regulations. There are no primary disadvantages to the board or Commonwealth.

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.¹

Summary of the Proposed Amendments to Regulation. The Board of Accountancy (board) seeks to update the education requirements for applicants for the certified public accountant (CPA) examination so that they conform to national standards.

Background. The National Association of State Boards of Accountancy, which administers the CPA exam, has updated subject matter requirements and other guidance for the CPA exam.² The board seeks to update the education requirements in the regulation so that CPA applicants in Virginia are appropriately prepared and to maintain equivalency and reciprocity with other state accountancy programs. The most substantive changes are summarized.

18VAC5-22-60 Determining whether a college or university is an accredited institution. The regulation currently requires the board to form a task force to determine if an accrediting body's accreditation process is "substantially equivalent" to the process used by the major regional accrediting organizations. The proposed change would provide the board with greater flexibility in determining whether an accreditation organization that is "neither one of the major regional accreditation organizations or their successors, nor an accreditation organization recognized by the Council on Higher Education Accreditation (CHEA) or its successor" is substantially equivalent to the accreditation process recognized by the board. Under the proposed language, the board would be responsible for setting requirements and maintaining records of those organizations deemed eligible by the board."

18VAC5-22-70 Education. To conform with changes in national standards, "management accounting" would be replaced with "accounting information systems" as one of the required subjects for an accounting concentration.

The proposed changes would allow up to three hours of introductory or foundational accounting courses to be counted towards the 48 semester hours required for an accounting concentration. The current regulation does not allow the introductory accounting course to count toward this requirement; this change is also due to changes in national standards.

The board also seeks to specify that, "A person who has passed the CPA examination in a state other than Virginia and who has met the educational requirements of that state will be

deemed to have obtained an accounting concentration or equivalent if the requirements of that state are substantially equivalent as defined in § 54.1-4411 of the Code of Virginia." Currently, when an applicant is transferring grades to become licensed in Virginia, the board must conduct another complete education review which takes staff time and requires the applicant to order original transcripts again. The proposed change would allow the applicant to just demonstrate that they have passed the CPA examination and met the education requirements of the state they are transferring from.

18VAC5-22-80 Examination. To conform to changes in national standards, a person who passes the first section (of four) of the CPA exam would now have 30 months to pass the other three sections. This change would increase the time limit from the current 18-month requirement.

Estimated Benefits and Costs. The proposed changes serve to conform the regulation to national standards and would broadly benefit CPA applicants in Virginia by ensuring that they are appropriately prepared for the exam, are competitive with applicants from other states, and that they benefit from the longer time limit to pass all four sections of the exam. Out-of-state applicants seeking a license in Virginia would benefit from not having to request additional transcripts, and the board would benefit from not having to go through the full education review process. Some educational institutions offering undergraduate accounting degree programs may face one-time costs to develop curriculum in accounting information systems. However, to the degree that educational institutions will incur new costs, these primarily result from changes in national standards, which the regulatory changes reflect. In addition, educational institutions have incentives to keep their course offerings current so that their graduates can be competitive as CPA applicants and to maintain the reputation of their programs. The board reports that the new required course is already offered by most educational institutions and that all accounting programs in the state are aware of these changes.

Businesses and Other Entities Affected. This regulation primarily affects Virginia CPA applicants and Virginia educational institutions that offer undergraduate accounting degrees. There are 34 such educational institutions, and roughly 1,200 new candidates for the CPA exam each year. The board reports that all educational institutions are aware of the changes in national standards and that most of them have already changed their curriculum in order to prepare their students for the changes to the CPA examination. Lastly, the board may experience greater efficiency as a result of the changes to 18VAC5-22-60 and 18VAC5-22-70, since they will reduce the administrative burden on staff.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.³ 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. To the degree that

educational institutions will incur new costs, these primarily result from changes in national standards, which the regulatory changes reflect. Because the proposed changes would not create any new costs for educational institutions that are not required for conformity with national standards, and because such costs have likely already been incurred, an adverse impact is not indicated.

Small Businesses⁴ Affected.⁵ The proposed amendments would not create any new costs for small businesses.

Localities⁶ Affected.⁷ The proposed changes would not disproportionately affect any particular localities and would not affect costs for local governments.

Projected Impact on Employment. The proposed amendments are not likely to have a substantive impact on total employment. However, the proposed changes, and the changes in national standards they derive from, are likely to increase the number of licensed CPAs in the long term. As mentioned previously, the Board reports that roughly 1,200 new candidates start the process of taking the CPA exam each year. Students currently have 18 months to pass all four sections of the CPA exam; the board reports that there are roughly 4,000 candidates in the process of taking the exam at any given time. Under the 30-month timeframe, candidates are likely to take more time to prepare for each section and will have more time to re-take the specific section they did not pass without having to start over. As a result, the overall pass rate on the CPA exam is likely to increase. As students become aware of the longer timeframe and higher pass rate, some students who may have been on the fence about attempting the CPA exam may decide to register for it, which would also increase the number of new candidates. Even modest increases in the pass rate and in the number of new candidates would expand the labor pool of licensed CPAs.

Effects on the Use and Value of Private Property. To the extent that the proposed amendments serve to expand the labor pool as described above, private firms that employ or contract licensed CPAs would experience a decrease in their hiring costs, which would result in a corresponding increase in the value of those firms. The proposed amendments would not affect real estate development costs.

¹Section 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.

²See <https://www.evolutionofcpa.org/>.

³Pursuant to § 2.2-4007.04D: 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.

⁴Pursuant 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."

⁵If 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.

⁶"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.

⁷Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

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

Summary:

The amendments update education requirements to conform with national standards, including (i) providing the Board of Accountancy with greater flexibility in determining whether an accreditation organization is substantially equivalent to the accreditation process recognized by the board; (ii) adjusting the required subjects for an accounting concentration to allow up to three hours of introductory or foundational accounting courses to be counted toward the 48 semester hours required for an accounting concentration; (iii) allowing an applicant to simply demonstrate that the applicant has passed the certified public accountant (CPA) examination and met the education requirements of the state from which they are transferring to Virginia; and (iv) extending to 30 months the amount of time a person who passes the first section of the CPA exam has to pass the other three sections.

18VAC5-22-60. Determining whether a college or university is an accredited institution.

A. For the purpose of complying with subdivision A 1 a of § 54.1-4409.2 of the Code of Virginia, a college or university that is not accredited by one of the six major regional accrediting organizations listed in the definition of accredited institution in § 54.1-4400 of the Code of Virginia or their successors shall be considered an accredited institution if it is accredited by an accrediting organization recognized by the Council on Higher Education Accreditation (CHEA) or its successor. Publication of the name of the accrediting

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organization by CHEA or its successor shall be sufficient notification that the accrediting organization is recognized by CHEA or its successor.

~~B. To determine whether a college or university is an accredited institution if it is accredited by an accrediting organization that is neither one of the six major regional accrediting organizations or their successors, nor an accrediting organization recognized by CHEA or its successor, representatives of the accrediting organization shall meet with a task force appointed by the board to study and recommend to the board how the organization shall demonstrate that its accreditation process and standards are substantially equivalent to the accreditation process and standards of the six major regional accrediting organizations or their successors. The size and composition of the task force shall depend on the facts and circumstances. However, at least one of the members of the task force shall have substantial experience with the accreditation process and standards of the six major regional accrediting organizations or their successors.~~

~~After the task force provides its recommendations to the board, the board shall decide what the requirements shall be to demonstrate that the accreditation process and standards of the accrediting organization are substantially equivalent to the accreditation process and standards of the six major regional accrediting organizations or their successors and shall communicate its decision to the organization. The organization shall then provide the required documentation to the board that will enable the board to decide whether a college or university accredited by the organization is an accredited institution as defined in § 54.1-4400 of the Code of Virginia. The board shall determine whether accrediting organizations that are neither one of the major regional accrediting organizations or their successors nor an accrediting organization recognized by CHEA or its successor are substantially equivalent to the accreditation process recognized by the board. The board will be responsible for setting requirements and maintaining records of those organizations deemed eligible by the board.~~

18VAC5-22-70. Education.

A. In order for a person to take the CPA examination through Virginia, ~~he~~ the person must have obtained from one or more accredited institutions at least 120 semester hours of education, a baccalaureate or higher degree, and an accounting concentration or equivalent prior to taking any part of the CPA examination.

B. For the purpose of complying with subsection A of this section and with subdivision A 1 a of § 54.1-4409.2 of the Code of Virginia, obtaining an accounting concentration or equivalent requires obtaining at a minimum:

1. 24 semester hours of accounting courses that must include courses in auditing, financial accounting, ~~management~~ accounting information systems, and taxation; and

2. 24 semester hours of business courses, no more than six semester hours of which could be considered accounting courses.

~~Principles or~~ No more than three semester hours of introductory or foundational accounting courses cannot can be considered in determining whether a person has obtained the 48 minimum number of semester hours required for an accounting concentration or equivalent. A person who has passed the CPA examination in a state other than Virginia and who has met the educational requirements of that state will be deemed to have obtained an accounting concentration or equivalent if the requirements of that state are substantially equivalent as defined in § 54.1-4411 of the Code of Virginia.

18VAC5-22-80. Examination.

A. In order to comply with subdivision A 1 b of § 54.1-4409.2 of the Code of Virginia:

1. Each section of the CPA examination must be passed by attaining a uniform passing grade established through a psychometrically acceptable standard-setting procedure approved by the board.
2. Persons may take sections of the CPA examination in any order.
 - a. Subject to subdivision 2 b of this subsection, a person who fails a section of the CPA examination may not retake that section until the next quarter of the calendar year unless otherwise prescribed by the board.
 - b. The board may decide to eliminate the current restriction outlined in subdivision 2 a of this subsection and allow a person to retake sections of the CPA examination as soon as the person's grade for any previous attempt of that same section has been released.
3. When a person first passes a section of the CPA examination, the person has ~~18~~ 30 months to pass the remaining sections. If the remaining sections are not passed within the ~~18-month~~ 30-month period, the person loses credit for the first section passed, and a new ~~18-month~~ 30-month period starts with the next section passed. Depending on the facts and circumstances, the board may grant additional time to pass the remaining sections provided that the waiver or deferral is in the public interest.

B. Failure to comply with the policies established by the board for conduct at the CPA examination may result in the loss of eligibility to take the CPA examination or credit for sections of the CPA examination passed. Cheating by a person in connection with the CPA examination shall invalidate any grade earned on any section of the CPA examination and may warrant expulsion from the CPA examination site and disqualification from taking the CPA examination for a specified period of time as determined by the board.

C. The board may postpone scheduled CPA examinations, the release of grades, or the issuance of licenses under the following circumstances:

1. A breach of CPA examination security;
2. Unauthorized acquisition or disclosure of the contents of a CPA examination;
3. Suspected or actual negligence, errors, omissions, or irregularities in conducting a CPA examination; or
4. Any other reasonable circumstances.

D. Prior to being considered for a Virginia license, a person shall pass an ethics examination approved by the board.

V.A.R. Doc. No. R24-7686; Filed January 19, 2024, 11:41 a.m.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

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: **18VAC65-20. Regulations Governing the Practice of Funeral Services.**

Agency Contact: Erin Barrett, 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.

FORMS (18VAC65-20)

[Checklist and Instructions for Funeral License \(rev. 3/2023\)](#)

[Funeral Service Licensee Reinstatement Application \(rev. 3/2023\)](#)

[Application for Reactivation \(Inactive to Active\) of Funeral Service, Funeral Director, or Embalmer License \(1/2024\)](#)

[Request for Verification of a Virginia Funeral License \(rev. 11/2019\)](#)

[Checklist and Instructions for Courtesy Card Application \(rev. 3/2023\)](#)

[Checklist and Instructions for Surface Transportation and Removal Service Registration Application \(rev. 3/2023\)](#)

[Crematory Registration Application \(rev. 8/2023\)](#)

[Checklist and Instructions for Continuing Education Providers \(rev. 3/2021\)](#)

[Instructions for Completing the Continuing Education Summary Form for the Virginia Board of Funeral Directors and Embalmers \(rev. 8/2016\)](#)

[Instructions for Continuing Education Providers Adding Additional Courses \(rev. 3/2021\)](#)

[Continuing Education \(CE\) Credit Form for Volunteer Practice \(rev. 7/2020\)](#)

[Continued Competency Activity and Assessment Form \(rev. 7/2012\)](#)

[Funeral Service New Establishment Application \(rev. 3/2023\)](#)

[Funeral Service Establishment/Branch Application \(rev. 3/2023\)](#)

[Funeral Service Branch Establishment Application \(rev. 3/2023\)](#)

[Funeral Service Establishment/Branch Change Application \(rev. 3/2023\)](#)

[Funeral Establishment or Branch Change of Manager Application \(rev. 3/2023\)](#)

[Request for Reinspection due to Structural Change to Preparation Room \(rev. 7/2020\)](#)

[Waiver of Full-Time Manager \(rev. 3/2023\)](#)

[Funeral Service Establishment Reinstatement Application \(rev. 3/2023\)](#)

[Courtesy Card Reinstatement Application \(rev. 3/2023\)](#)

[Surface Transportation and Removal Services Reinstatement Application \(rev. 3/2023\)](#)

[Presentation Request Form \(rev. 7/2020\)](#)

[Name/Address Change Form \(rev. 2/2016\)](#)

[Appendix I. General Price List \(rev. 10/2019\)](#)

[Appendix II. Casket Price List, Outer Burial Container Price List \(rev. 10/2019\)](#)

[Appendix III. Itemized Statement of Funeral Goods and Services Selected \(rev. 10/2019\)](#)

V.A.R. Doc. No. R24-7792; Filed January 20, 2024, 8:16 a.m.

BOARD OF MEDICINE

Fast-Track Regulation

Title of Regulation: **18VAC85-101. Regulations Governing the Practice of Radiologic Technology (amending 18VAC85-101-25, 18VAC85-101-145, 18VAC85-101-163; repealing 18VAC85-101-20).**

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

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Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: March 13, 2024.

Effective Date: March 28, 2024.

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, FAX (804) 915-0382, or email erin.barrett@dhp.virginia.gov.

Basis: Regulations of the Board of Medicine are promulgated under the general authority of § 54.1-2400 of the Code of Virginia. Section 54.1-2956.8:1 of the Code of Virginia requires the board to license radiologic assistants, radiologic technologists, and radiologic technologists- limited.

Purpose: The elimination of redundant provisions and reduction of barriers to licensure generally protect the health, safety, and welfare of citizens by ensuring a sufficient workforce of radiologic assistants, radiologic technologists, and radiologic technologists-limited.

Rationale for Using Fast-Track Rulemaking Process: These amendments are noncontroversial and appropriate for the fast-track rulemaking process because the amendments delete or modify provisions that, as currently effective, are redundant of statutory requirements, not related to radiologic technologists, outdated, or otherwise ineffectual.

Substance: The amendments delete redundant statutory provisions or useless directions in regulation, including provisions related to public participation regulations; fees related to voluntary practice by out-of-state licensees; and provisions related to obtaining informed consent prior to involving patients as subjects in human research.

Issues: There are no primary advantages or disadvantages to the public. There are no primary advantages or disadvantages to the agency or the Commonwealth.

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.¹

Summary of the Proposed Amendments to Regulation. As the result of a 2022 periodic review,² the Board of Medicine (board) proposes to remove text from various portions of 18VAC85-101 Regulations Governing the Licensure of Radiologic Technology (regulation).

Background. Each portion of text proposed for removal qualifies as one of the following: (1) refers to another regulation that is not used in this regulation, (2) obsolete, (3) imposes a rarely used \$10 fee that costs more to administer

than the amount of the fee, or (4) not relevant to the practice of individuals licensed under this regulation.

Estimated Benefits and Costs. According to DHP, the \$10 fee, which applies to an individual who is licensed out-of-state and wishes to register for voluntary practice in Virginia, is rarely used and costs more administratively to collect than the \$10 that it generates. Thus, eliminating the fee would be beneficial in that it would both reduce cost for respiratory therapists licensed out-of-state seeking to volunteer in Virginia and net costs for the board.

Removing the other instances noted "text that refers to another regulation that is not used in this regulation, is obsolete, or not relevant to the practice of individuals licensed under this regulation" would have no impact on requirements for regulated entities or the public.

Businesses and Other Entities Affected. The proposed amendments affect the 5,051 radiologic technologists, 526 radiologic technologists-limited, and 17 radiologist assistants licensed in the Commonwealth,³ as well as their patients and employers. According to survey data from the most recently published Virginia Healthcare Workforce Data Center report on radiologic technologists,⁴ the primary type of employers of radiologic technologists in the Commonwealth are distributed as follows:

<u>Establishment Type</u>	<u>Percentage</u>
Physician Office	21%
Outpatient/Community Clinic	19%
General Hospital, Inpatient Department	17%
Diagnostic Imaging Center, Stationary	17%
General Hospital, Outpatient Department	10%
Diagnostic Imaging Center, Mobile	3.0%
Academic Institution	2.0%
Skilled Nursing Facility	0.34%
Device Manufacturer/Distributor	0.23%
Dentist Office	0.03%
Other Practice Setting	10%

The Code of Virginia requires the DPB to assess whether an adverse impact may result from the proposed regulation.⁵ 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 no proposed

amendment increases costs or reduces net revenue for any entity, no adverse impact is indicated.

Small Businesses⁶ Affected.⁷ The proposed amendments do not appear to adversely affect small businesses.

Localities⁸ Affected.⁹ The proposed amendments do not disproportionately affect any particular localities, nor introduce costs for local governments.

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

Effects on the Use and Value of Private Property. The proposed amendments do not appear to affect the use and value of private property or real estate development costs.

¹Section 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.

²See <https://townhall.virginia.gov/L/ViewPReview.cfm?PRid=2151>.

³Source:

<https://www.dhp.virginia.gov/about/stats/2023Q3/04CurrentLicenseCountQ3FY2023.pdf>

⁴See

<https://www.dhp.virginia.gov/media/dhpweb/docs/hwdc/medicine/0120RadTch2021.pdf>

⁵Pursuant 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.

⁶Pursuant 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."

⁷If 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.

⁸"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.

⁹Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

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

Summary:

The amendments remove redundant statutory provisions or useless directions in regulation, including (i) provisions related to public participation regulations; (ii) fees related to voluntary practice by out-of-state licensees; and (iii) provisions related to obtaining informed consent prior to involving patients as subjects in human research.

18VAC85-101-20. Public Participation Guidelines. (Repealed.)

~~18VAC85-11, Regulations Governing Public Participation Guidelines, provide for involvement of the public in the development of all regulations of the Virginia Board of Medicine.~~

18VAC85-101-25. Fees.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Initial licensure fees.

1. The application fee for radiologic technologist or radiologist assistant licensure shall be \$130.
2. The application fee for the radiologic technologist-limited licensure shall be \$90.

3. All examination fees shall be determined by and made payable as designated by the board.

C. Licensure renewal and reinstatement for a radiologic technologist or a radiologist assistant.

1. The fee for active license renewal for a radiologic technologist shall be \$135, and the fee for inactive license renewal shall be \$70. ~~For 2021, the fees for renewal shall be \$108 for an active license as a radiologic technologist and \$54 for an inactive license.~~ If a radiologist assistant holds a current license as a radiologic technologist, the renewal fee shall be \$50. If a radiologist assistant does not hold a current license as a radiologic technologist, the renewal fee shall be \$150. ~~For renewal of a radiologist assistant license in 2021, the fee shall be \$40 for a radiologist assistant with a current license as a radiologic technologist and \$120 for a radiologist assistant without a current license as a radiologic technologist.~~

2. An additional fee of \$50 to cover administrative costs for processing a late renewal application within one renewal cycle shall be imposed by the board.

3. The fee for reinstatement of a radiologic technologist or a radiologist assistant license that has lapsed for a period of two years or more shall be \$180 and shall be submitted with an application for licensure reinstatement.

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4. The fee for reinstatement of a license pursuant to § 54.1-2408.2 of the Code of Virginia shall be \$2,000.

D. Licensure renewal and reinstatement for a radiologic technologist-limited.

1. The fee for active license renewal shall be \$70, and the fee for inactive license renewal shall be \$35. ~~For 2021, the fees for renewal shall be \$54 for an active license as a radiologic technologist and \$28 for an inactive license.~~

2. An additional fee of \$25 to cover administrative costs for processing a late renewal application within one renewal cycle shall be imposed by the board.

3. The fee for reinstatement of a license that has lapsed for a period of two years or more shall be \$120 and shall be submitted with an application for licensure reinstatement.

4. The fee for reinstatement of a license pursuant to § 54.1-2408.2 of the Code of Virginia shall be \$2,000.

E. Other fees.

1. The application fee for a traineeship as a radiologic technologist or a radiologic technologist-limited shall be \$25.

2. The fee for a letter of good standing or verification to another state for licensure shall be \$10; the fee for certification of scores to another jurisdiction shall be \$25.

3. The handling fee for a returned check or a dishonored credit card or debit card shall be \$50.

4. The fee for a duplicate license shall be \$5.00, and the fee for a duplicate wall certificate shall be \$15.

18VAC85-101-145. Registration for voluntary practice by out-of-state licensees.

Any radiologist assistant, radiologic technologist, or radiologic technologist-limited who does not hold a license to practice in Virginia and who seeks registration to practice under subdivision 27 of § 54.1-2901 of the Code of Virginia on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people shall:

1. File a complete application for registration on a form provided by the board at least five business days prior to engaging in such practice. An incomplete application will not be considered;

2. Provide a complete record of professional licensure in each state in which ~~he~~ the radiologist assistant, radiologic technologist, or radiologic technologist-limited has held a license and a copy of any current license;

3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services; and

~~4. Pay a registration fee of \$10; and~~

~~5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of subdivision 27 of § 54.1-2901 of the Code of Virginia.~~

18VAC85-101-163. Practitioner-patient communication.

A. Except as provided in § 32.1-127.1:03 F of the Code of Virginia, a practitioner shall accurately present information to a patient or ~~his~~ a patient's legally authorized representative in understandable terms and encourage participation in decisions regarding the patient's care.

B. A practitioner shall not deliberately make a false or misleading statement regarding the practitioner's skill or the efficacy or value of a medication, treatment, or procedure prescribed or directed by the practitioner in the treatment of any disease or condition.

C. A practitioner shall refer to or consult with other health care professionals, if so indicated.

~~D. Practitioners shall adhere to requirements of § 32.1-162.18 of the Code of Virginia for obtaining informed consent from patients prior to involving them as subjects in human research with the exception of retrospective chart reviews.~~

VA.R. Doc. No. R24-7382; Filed January 17, 2024, 12:20 p.m.

Fast-Track Regulation

Title of Regulation: **18VAC85-120. Regulations Governing the Licensure of Athletic Trainers (amending 18VAC85-120-10, 18VAC85-120-35, 18VAC85-120-75, 18VAC85-120-80, 18VAC85-120-85, 18VAC85-120-120, 18VAC85-120-156; repealing 18VAC85-120-20, 18VAC85-120-40, 18VAC85-120-140).**

Statutory Authority: §§ 54.1-2400 and 54.1-2957.4 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: March 13, 2024.

Effective Date: March 28, 2024.

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, FAX (804) 915-0382, or email erin.barrett@dhp.virginia.gov.

Basis: Regulations of the Board of Medicine are promulgated under the general authority of § 54.1-2400 of the Code of Virginia. Section 54.1-2957.4 of the Code of Virginia requires the board to license and regulate athletic trainers.

Purpose: The elimination of redundant provisions and reduction of barriers to licensure generally protect the health, safety, and welfare of citizens by ensuring a sufficient

workforce of licensed athletic trainers with a reduction of barriers and reduction of redundant or outdated requirements.

Rationale for Using Fast-Track Rulemaking Process: These amendments are noncontroversial and appropriate for a fast-track rulemaking process because the amendments delete or modify provisions that, as currently effective, are redundant of statutory requirements, are not related to the practice of athletic training, are outdated, or are otherwise ineffectual.

Substance: The amendments delete redundant statutory provisions or useless directions in regulation, including (i) provisions related to unused defined terms; (ii) public participation regulations; (iii) fee reductions for previous renewal periods; (iv) a statement that repeats the requirement for licensure from the board that is found in statute; (v) requirements to provide documentation from other jurisdictions for temporary authorization to practice; (vi) fees related to voluntary practice by out-of-state licensees; (vii) confusing supervision language; (viii) statements that violating the law may subject a licensee to sanctions; and (ix) provisions related to handling of patient records that were intended to cover physicians.

Issues: There are no primary advantages or disadvantages to the public. There are no primary advantages or disadvantages to the agency or the Commonwealth.

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.¹

Summary of the Proposed Amendments to Regulation. The Board of Medicine (board) proposes to delete outdated or redundant provisions and clarify some provisions to be consistent with current practice.

Background. As a result of a 2022 periodic review, the board seeks to amend the regulation to remove outdated language and references to the Code of Virginia that are redundant, and to update certain provisions so that they accurately reflect current practice.² The most substantive changes are summarized as follows:

18VAC85-120-75 contains application requirements for a temporary authorization to practice for 45 days pending submission of all other required documentation and issuance of a license. These include a requirement that individuals licensed or certified by another jurisdiction in the United States provide documentation that the license or certificate is current and unrestricted. Applicants from other jurisdictions already have to provide this documentation to obtain the license; thus, requiring it for the temporary authorization as well is duplicative and would be removed.

18VAC85-120-85 contains the registration requirements for voluntary practice by out-of-state trainers, including a \$10 fee. The board proposes to remove this fee.

18VAC85-120-156 contains requirements pertaining to patient records. The current text includes a number of specific requirements for practitioners who are "self-employed or employed by an entity in which the individual practitioner does own and is responsible for patient records." These requirements include maintaining records for six years following the last patient encounter, except in specific cases; informing patients of the timeframe for record retention and destruction; and only destroying records in a manner that protects patient confidentiality. These requirements would be removed and replaced with a more general requirement that such practitioners "develop policies regarding retention of records and adhere to those policies."

The remaining changes would be to remove references to other chapters of the Virginia Administrative Code or to remove language that is redundant of statute.³

Estimated Benefits and Costs. According to the Department of Health Professions (DHP), the \$10 fee for an individual licensed out-of-state to register for voluntary practice itself costs more administratively to collect than \$10. Thus, eliminating the fee would be beneficial in that it would both reduce the cost for out-of-state athletic trainers volunteering in Virginia and net costs for the board.

The proposed changes pertaining to the retention of patient records in 18VAC85-120-156 are intended to reduce the burden on practitioners who are "self-employed or employed by an entity in which the individual practitioner does own and is responsible for patient records."⁴ DHP reports that the current requirements were developed by the board in the early 2000s specifically for physicians (MDs and DOs) but were also applied to other professions, including athletic training and acupuncture.⁵ The board now finds these requirements to be too burdensome for athletic trainers, because they "do not handle the same type of records that are maintained by physicians."⁶ However, DHP states that athletic trainers would still be bound by the privacy requirements of the Health Insurance Portability and Accountability Act (HIPAA), which sets a floor on the recordkeeping requirements for self-employed athletic trainers and ensures that removing the more restrictive requirements in the regulation would not compromise patient privacy. Accordingly, self-employed athletic trainers may face a one-time cost in developing their own HIPAA-compliant recordkeeping policy but would also benefit to the extent that the proposed changes reduce their ongoing costs of record retention; thus, their net costs are not expected to increase. DHP does not track the number of licensed athletic trainers who are self-employed or currently subject to the more restrictive requirements; thus, it is unclear how many athletic trainers would be affected.

Removing the other instances noted "definitions that are not used in the regulation, and text that either refers to another

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regulation, or is obsolete (no longer applicable), or is repetitive of other regulatory text, or is duplicative of statute" would have no impact on requirements for athletic trainers or the public.

Businesses and Other Entities Affected. The proposed amendments affect the 1,843 athletic trainers licensed in the Commonwealth,⁷ as well as their patients and employers. DHP reports that athletic trainers are primarily employed by hospitals, long-term care facilities, rehabilitation facilities, independent physician offices (such as orthopedic practices), and professional sports teams or facilities.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁸ 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 described, the proposed changes are not anticipated to create any net new costs. Thus, an adverse impact is not indicated.

Small Businesses⁹ Affected.¹⁰ As noted, DHP does not track the number of licensed athletic trainers who are self-employed. Therefore, based upon the available data it is not clear if the proposed amendments adversely affect small businesses.

Localities¹¹ Affected:¹²

The proposed amendments do not appear to disproportionately affect any particular localities, nor introduce costs for local governments.

Projected Impact on Employment. The proposed amendments are not likely to have a substantive impact on total employment.

Effects on the Use and Value of Private Property. The proposed amendments are not expected to affect the value of private property. The proposed amendments do not affect real estate development costs.

¹Section 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: (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.

²See <https://townhall.virginia.gov/ViewPReview.cfm?PRid=2153>.

³See the Agency Background Document (ABD), pp. 7-8 for the specific references that would be removed: [https://townhall.virginia.gov/GetFile.cfm?File=26\(6118\(9837\)AgencyState%20ment_DHP_9837_v5.pdf](https://townhall.virginia.gov/GetFile.cfm?File=26(6118(9837)AgencyState%20ment_DHP_9837_v5.pdf).

⁴DHP explained that athletic trainers working as independent contractors would instead be expected to follow the recordkeeping policy of the entity that contracted them.

⁵The board proposes to similarly repeal these requirements for acupuncturists as well. See <https://townhall.virginia.gov/ViewStage.cfm?stageid=9838>.

⁶ABD, p. 8.

⁷Source: <https://www.dhp.virginia.gov/about/stats/2023Q3/04CurrentLicenseCountQ3FY2023.pdf>

⁸Pursuant 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.

⁹Pursuant 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."

¹⁰If 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.

¹¹"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.

¹²Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

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

Summary:

The amendments delete redundant statutory provisions or useless directions in regulation, including (i) provisions related to unused defined terms; (ii) public participation requirements; (iii) fee reductions for previous renewal periods; (iv) a requirement for licensure from the board that is found in statute; (v) requirements to provide documentation from other jurisdictions for temporary authorization to practice; (vi) fees related to voluntary practice by out-of-state licensees; (vii) confusing supervision language; (viii) statements that violating the law may subject a licensee to sanctions; and (ix) provisions related to handling of patient records that were intended to cover physicians.

18VAC85-120-10. Definitions.

In addition to words and terms defined in § 54.1-2900 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

~~"Advisory board" means the Advisory Board on Athletic Training to the board as specified in § 54.1-2957.5 of the Code of Virginia.~~

"Athletic trainer" means a person licensed by the Virginia Board of Medicine to engage in the practice of athletic training as defined in § 54.1-2900 of the Code of Virginia.

"Board" means the Virginia Board of Medicine.

"Direction" means authorization by a doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry for care and treatment by a verbal order if the doctor or dentist is present or by written order, telecommunication, plans of care, protocols, or standing orders if the doctor or dentist is not present.

"NATABOC" means the National Athletic Trainers' Association Board of Certification.

"Student athletic trainer" means a person enrolled in an accredited bachelor's or master's level educational program in athletic training.

18VAC85-120-20. Public participation. (Repealed.)

~~A separate board regulation, 18VAC85-11, Public Participation Guidelines, provides for involvement of the public in the development of all regulations of the Virginia Board of Medicine.~~

18VAC85-120-35. Fees.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. The following fees have been adopted by the board:

1. The application fee shall be \$130.
2. The fee for renewal of licensure shall be \$135 and shall be due in the licensee's birth month, in each odd-numbered year.
3. A fee of \$50 for processing a late renewal within one renewal cycle shall be paid in addition to the renewal fee.
4. The fee for reinstatement of a license that has expired for two or more years shall be \$180 and shall be submitted with an application for reinstatement.
5. The fee for reinstatement of a license pursuant to § 54.1-2408.2 of the Code of Virginia shall be \$2,000.
6. The fee for a duplicate renewal license shall be \$5.00, and the fee for a duplicate wall certificate shall be \$15.
7. The handling fee for a returned check or a dishonored credit card or debit card shall be \$50.
8. The fee for a letter of verification to another jurisdiction shall be \$10.
9. The fee for an inactive license shall be \$70, and the fee for a late renewal shall be \$25.
10. ~~For 2021, the fee for renewal of an active license shall be \$108, and the fee for renewal of an inactive license shall be \$54.~~

18VAC85-120-40. General requirements. (Repealed.)

~~No person shall practice or hold himself out as practicing as an athletic trainer in the Commonwealth unless licensed by the board except as provided in § 54.1-2957.6 of the Code of Virginia.~~

18VAC85-120-75. Temporary authorization to practice.

Upon written request from an applicant and ~~his~~ an applicant's employer and for good cause shown, an applicant who provides documentation of current NATABOC certification ~~and, if licensed or certified by another jurisdiction in the United States, documentation that his license or certificate is current and unrestricted,~~ may be granted temporary authorization to practice as an athletic trainer for 45 days pending submission of all other required documentation and issuance of a license. At the discretion of the board, additional time, not to exceed 15 days, may be allowed to complete the application process.

18VAC85-120-80. Provisional licensure.

A. An applicant who has been approved by NATABOC to sit for the certification examination may be granted a provisional license to practice athletic training under the supervision ~~and control~~ of an athletic trainer.

B. The graduate shall submit an application for a provisional license to the board for review and approval by the Chair of the Advisory Board on Athletic Training or ~~his~~ the chair's designee.

C. The provisional license shall expire six months from issuance or upon receipt of notification of a failing score on the NATABOC certification examination or upon licensure as an athletic trainer by the board, whichever comes first.

18VAC85-120-85. Registration for voluntary practice by out-of-state trainers.

Any athletic trainer who does not hold a license to practice in Virginia and who seeks registration to practice on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people shall:

1. File an application for registration on a form provided by the board at least five business days prior to engaging in such practice;
2. Provide a complete record of professional certification or licensure in each state in which ~~he~~ the athletic trainer has held a certificate or license and a copy of any current certificate or license;
3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services; and
4. ~~Pay a registration fee of \$10; and~~
5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with

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provisions of subdivision 27 of § 54.1-2901 of the Code of Virginia.

18VAC85-120-120. General responsibilities.

~~A. An athletic trainer shall be responsible for the actions of persons engaging in the practice of athletic training under his supervision and direction.~~

~~B. An athletic trainer shall ensure that unlicensed persons under his the athletic trainer's supervision shall not perform those functions that require professional judgment or discretion in the practice of athletic training. An athletic trainer shall be responsible for the actions of persons acting under the athletic trainer's supervision and direction.~~

18VAC85-120-140. Violations. (Repealed.)

~~Violations of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia may subject a licensee to sanctions as set forth in § 54.1-2915 of the Code of Virginia.~~

18VAC85-120-156. Patient records.

A. Practitioners shall comply with the provisions of § 32.1-127.1:03 of the Code of Virginia related to the confidentiality and disclosure of patient records.

~~B. Practitioners shall provide patient records to another practitioner or to the patient or his personal representative in a timely manner and in accordance with provisions of § 32.1-127.1:03 of the Code of Virginia.~~

~~C. Practitioners shall properly manage patient records and keep timely, accurate, legible, and complete patient records.~~

~~D. C. Practitioners who are employed by a health care institution, school system, or other entity in which the individual practitioner does not own or maintain his the individual practitioner's own records shall maintain patient records in accordance with the policies and procedures of the employing entity.~~

~~E. D. Practitioners who are self-employed or employed by an entity in which the individual practitioner does own and is responsible for patient records shall:~~

~~1. Maintain a patient record for a minimum of six years following the last patient encounter with the following exceptions:~~

~~a. Records of a minor child, including immunizations, shall be maintained until the child reaches the age of 18 or becomes emancipated, with a minimum time for record retention of six years from the last patient encounter regardless of the age of the child;~~

~~b. Records that have previously been transferred to another practitioner or health care provider or provided to the patient or his personal representative; or~~

~~e. Records that are required by contractual obligation or federal law may need to be maintained for a longer period of time.~~

~~F. From October 19, 2005, athletic trainers who maintain their own patient records shall post information or in some manner inform all patients concerning the time frame for record retention and destruction. Patient records shall only be destroyed in a manner that protects patient confidentiality, such as by incineration or shredding.~~

~~G. When a practitioner is closing, selling or relocating his practice, he shall meet the requirements of § 54.1-2405 of the Code of Virginia for giving notice that copies of records can be sent to any like regulated provider of the patient's choice or provided to the patient develop policies regarding retention of records and adhere to those policies.~~

VA.R. Doc. No. R24-7384; Filed January 17, 2024, 12:39 p.m.

GOVERNOR

EXECUTIVE ORDER NUMBER THIRTY (2024)

IMPLEMENTATION OF STANDARDS FOR THE SAFE USE OF ARTIFICIAL INTELLIGENCE ACROSS THE COMMONWEALTH

By virtue of the authority vested in me as Governor, I hereby issue this Executive Order to promulgate important safety standards to ensure the responsible, ethical, and transparent use of artificial intelligence technology by state government in order to protect the rights of Virginians, to provide best-in-class state government services, and to ensure that our students are well prepared for this technology.

Importance of the Initiative

Artificial Intelligence (AI) products are already deployed across a number of state government agencies. As the availability of AI products continue to increase, it is vital that we recognize both the usefulness of the technology and the necessity to place guardrails on its use in order to protect Virginians against potential misuse. AI technology has the capability to enhance the delivery of essential services to all Virginians, but the integration of this tool into the life of Virginians must be done through a continuously discerning and responsive approach that guarantees the protection of the privacy, security, and confidentiality of all Virginians' personally identifiable information.

It is important to implement both policy and information technology standards that safeguard the state's business applications while simultaneously protecting the individual data of all Virginians. We can take full advantage of the benefits of AI, but we must also mitigate the risks with this evolving technology.

AI's application in the educational ecosystem cannot be a substitute for teacher-facilitated instruction and learning experiences; however, it can be an important tool to transform, support, and complement tailored and effective educational experiences. Virginia's colleges and universities lead the nation in technology research and development, and the most critical national security and military intelligence institutions in the United States are headquartered in Virginia. These unique factors provide Virginia with a responsibility to spearhead a policy environment that builds trust, safety, and security in the development and deployment of AI technologies as well as the opportunity to assemble experts in the field to provide ongoing advice and assistance in the employment of AI products.

Preamble

In order to implement the guardrails for the use of AI technologies across state government, I am directing the Virginia Information Technologies Agency (VITA) to publish the AI Policy Standards and AI Information Technology Standards and to make them available to all Executive Branch Agencies and the general public. I direct all Executive Branch Agencies to follow the approval processes and procedures as

defined in those standards. I direct the Department of Education and State Council of Higher Education for Virginia, in consultation with the Virginia Community College System, to develop and issue the tools, instructional resources, and support as needed under the Education Guidelines to provide the necessary assistance around the considerations, implementation, and use of AI at all levels of education. Furthermore, the Secretary of Public Safety and Homeland Security, in conjunction with the Office of the Attorney General, is directed to develop standards for the appropriate use of AI applicable to all Executive Branch law enforcement agencies and enforcement personnel.

Directive

Accordingly, pursuant to the authority vested in me as the Chief Executive Officer of the Commonwealth, and pursuant to Article V of the Constitution of Virginia and the laws of the Commonwealth, I hereby direct all relevant Secretariats to take the following actions:

I. Policy Standards

The AI Policy Standards enacted under this Executive Order set out guiding principles for the ethical use of AI, general parameters to determine the business case for AI, a mandatory approval process for all AI capabilities, a set of mandatory disclaimers to accompany any products or outcomes generated by AI, methods to mitigate third-party risks, and measures to ensure that the data of private citizens are protected. VITA shall publish these policy standards and all Executive Branch Agencies shall follow them. AI Policy Standards

II. Information Technology Standards

The AI Information Technology standards enacted under this Executive Order provide the protocols and requirements for Commonwealth agencies and suppliers to follow if they employ AI products or technologies. These standards apply to both existing and new uses of AI; stand-alone AI embedded in commercial or government systems or applications, and generative AI within other systems or applications; AI developed either by the agency or by third parties on behalf of agencies for the fulfilment of specific agency missions, including relevant data inputs used to train AI and outputs used in support of decision making; and agencies' procurement of AI applications. VITA shall publish these technology standards and all Executive Branch Agencies shall follow them. AI IT Standards

III. Education Guidelines

The AI Education Guidelines enacted under this Executive Order recognize the dual nature - both the opportunities and risks - of this developing technology in education. K-12 schools and postsecondary institutions must embrace innovation, experimentation, and new educational opportunities for students as well as ensure appropriate guardrails and necessary constraints exist to safeguard individual data privacy and mitigate discriminatory outcomes.

Governing boards and system leaders at every education level require flexibility to offer different pathways for their institutions and schools based on their readiness and willingness to integrate this technology, while also prioritizing training for students, educators, and faculty to ensure the responsible and ethical use of AI technology. The Guidelines are also meant to support education institutions to foster learning environments that prepare all students with the knowledge, competencies, and skills for successful careers that utilize AI technology.

The AI Education Guidelines applies to both K-12 and postsecondary institutions AI Education Guidelines

IV. Law Enforcement Considerations

Within nine months of the effective date of this Executive Order the Secretary of Public Safety and Homeland Security in conjunction with the Office of the Attorney General shall develop standards for the employment of AI technologies applicable to all executive branch law enforcement agencies and personnel. In addition, the Secretary of Public Safety and Homeland Security shall provide model standards upon request to local law enforcement jurisdictions to assist them in the use of AI for law enforcement purposes.

The Secretary of Public Safety and Homeland Security, in conjunction with the Secretary of Health and Human Resources, shall examine whether sufficient safeguards currently exist to protect children from online predators using AI technology.

V. Establishment of an Artificial Intelligence Task Force

The Director of the Office of Regulatory Management in conjunction with the Secretary of Administration, shall convene an Artificial Intelligence Task Force to provide ongoing recommendations on the implementation of the above standards and Education Guidelines as well as provide recommendations on the implementation of any AI pilots conducted by executive branch agencies. These recommendations shall be provided by the task force on a biannual basis.

VI. Definition

For purposes of this Executive Order the term "Executive Branch Agency," means any agency, institution, department, board, bureau, commission, council, public institution of higher education, or other instrumentality of state government in the Executive Department as listed in the Appropriations Act.

Effective Date of the Executive Order

This Executive Order shall be effective upon signing and shall remain in full force and effect unless amended or rescinded by further executive order or directive. Given under my hand and under the Seal of the Commonwealth of Virginia this 18th day of January 2024.

/s/ Glenn Youngkin, Governor

GUIDANCE DOCUMENTS

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, Fourth Floor, Richmond, Virginia 23219.

DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Title of Document: [Assisted Living Facility Relocation Plan.](#)

Public Comment Deadline: March 13, 2024.

Effective Date: March 14, 2024.

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

STATE BOARD OF EDUCATION

Title of Document: [Guidelines for Instruction on Problem Gambling and the Addictive Potential Thereof.](#)

Public Comment Deadline: March 13, 2024.

Effective Date: March 14, 2024.

Agency Contact: Jim Chapman, Director of Board Relations, Department of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 750-8750, or email jim.chapman@doe.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Document: [CCC+ Waiver Manual, Chapter 6.](#)

Public Comment Deadline: March 13, 2024.

Effective Date: March 14, 2024.

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

DEPARTMENT OF TAXATION

Title of Document: [Guidelines for the Pass-through Entity Tax.](#)

Public Comment Deadline: March 13, 2024.

Effective Date: March 14, 2024.

Agency Contact: James Ford, Senior Tax Policy Analyst, Department of Taxation, P.O. Box 27185, Richmond, VA 23261-7185, telephone (804) 786-4055, or email james.ford@tax.virginia.gov.

The following guidance documents have been submitted for deletion and the listed agencies have opened up a 30-day public comment period. The listed agencies had previously identified these documents as certified guidance documents, pursuant to § 2.2-4002.1 of the Code of Virginia. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to view the deleted document and comment. This information is also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact.

VIRGINIA COMMONWEALTH UNIVERSITY

Titles of Documents: [Board of Visitor Bylaws.](#)

[Code of Conduct.](#)

[Faculty Handbook.](#)

[Student Code of Conduct.](#)

[Student Honor System and Standards of Academic Conduct.](#)

[VCU Board of Visitors Ethical Leadership Policy.](#)

Public Comment Deadline: March 13, 2024.

Effective Date: March 14, 2024.

Agency Contact: Jason Block, Senior Compliance and Policy Analyst, Virginia Commonwealth University, P.O. Box 842527, 901 West Franklin Street, Richmond, VA 23284, telephone (804) 828-2336, or email blockj2@vcu.edu.

Guidance Documents

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Titles of Documents: [Podiatry Manual, Chapter 2.](#)

[Podiatry Manual, Chapter 4.](#)

[Podiatry Manual, Chapter 5.](#)

[Podiatry Manual, Chapter 6.](#)

[Podiatry Manual, Appendix B.](#)

Public Comment Deadline: March 13, 2024.

Effective Date: March 14, 2024.

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

VIRGINIA RACING COMMISSION

Titles of Documents: [Association of Racing Commissioners International Multiple Violations Penalty System.](#)

[Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances.](#)

Public Comment Deadline: March 13, 2024.

Effective Date: March 14, 2024.

Agency Contact: Kimberly Mackey, Regulatory Coordinator, Virginia Racing Commission, 5707 Huntsman Road, Suite 201-B, Richmond, VA 23250, telephone (804) 966-7406. or email kimberly.mackey@vrc.virginia.gov.

GENERAL NOTICES

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

State Human Rights Committee Decision on Variances to the Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services

Notice of action: The Department of Behavioral Health and Developmental Services (DBHDS), in accordance with Part VI, Variances (12VAC35-115-220), of the Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services (12VAC35-115), hereafter referred to as the "Human Rights Regulations," is announcing a decision on an application for proposed variances to the Human Rights Regulations submitted to the State Human Rights Committee (SHRC). The purpose of the regulations is to ensure and protect the legal and human rights of individuals receiving services in facilities or programs operated, licensed, or funded by DBHDS.

Each variance application references the specific part of the regulation to which a variance is needed, the proposed wording of the substitute rule or procedure, and the justification for a variance. Such application also describes time limits and other conditions for duration and the circumstances that will end the applicability of the variance.

Purpose of notice: After considering all available information at its meeting on January 18, 2024, the SHRC voted to approve the application for variances to the Human Rights Regulations for DBHDS Western State Hospital (WSH) for a three-year period, with quarterly updates to the Local Human Rights Committee and annual updates to the SHRC.

Variance to procedures for behavior treatment plans and use of seclusion, restraint, and time out:

12VAC35-115-105 H: Providers shall not use seclusion in a behavioral treatment plan.

12VAC35-115-110 C 3: Only residential facilities for children that are licensed under the Regulations for Children's Residential Facilities (12VAC35-46) and inpatient hospitals may use seclusion and only in an emergency.

Explanation: The variances will allow WSH to place an individual in an environment of seclusion at the individual's request and not as related to an emergency in order to prevent self-injurious harm to the individual and to the staff members responsible for the individual's care.

Contact Information: Taneika Goldman, Director, Office of Human Rights, Department of Behavioral Health and Developmental Services, 1220 East Bank Street, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3988, FAX (833) 734-1241, or email taneika.goldman@dbhds.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Carver Solar I LLC Notice of Intent for a Small Renewable Energy Project (Solar) Permit by Rule - Isle of Wight County

Carver Solar I LLC has provided the Department of Environmental Quality (DEQ) a notice of intent to submit the necessary documents for a permit by rule for a small renewable energy project (solar) located in southeastern Isle of Wight County pursuant to 9VAC15-60. The project name is Carver Solar I; the DEQ project number is RE0000305.

The project location is 23093 Antioch Road, Windsor, VA 23487; the project is centered at Latitude 36.824472, Longitude -76.780965. The proposed project will have a maximum generating capacity of 91 megawatts alternating current on approximately 637 acres. The project includes the utilization of approximately 220,000 photovoltaic solar modules affixed to a single axis tracking system. The project developer is Hanwha Q CELLS USA Corp.

Contact Information: Amber Foster, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 774-8474, or email amber.foster@deq.virginia.gov.

Sunfish Solar LLC Notice of Intent for a Small Renewable Energy Project (Solar) Permit by Rule - Orange County

Sunfish Solar LLC has provided the Department of Environmental Quality (DEQ) a notice of intent to submit the necessary documents for a permit by rule for a small renewable energy project (solar) located in Orange County pursuant to 9VAC15-60. The project name is Sunfish Solar; the DEQ project number is RE0000306.

The project will be in northern Orange County, east of U.S. Route 522 (Zachary Taylor Highway) and south of the Rapidan River near the Orange County and Culpepper County border; the project will be centered at Latitude 38.335072, Longitude -77.938685. The proposed maximum generating capacity is 80 megawatts alternating current with approximately 588 acres of land disturbance and includes approximately 180,830 photovoltaic solar modules with an average of 580-watt panel rating. The project developer is BayWa r.e.

Contact Information: Amber Foster, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 774-8474, or email amber.foster@deq.virginia.gov.

Proposed Enforcement Action for Dickenson County Public Schools

The Department of Environmental Quality (DEQ) is proposing an enforcement action for Dickenson County Public Schools for violations of the State Water Control Law and regulations

General Notices

at the Ridgeview High and Middle School sewage treatment plant, 310 Wolfpack Way, Clintwood, Dickenson County, VA 24228. The proposed order is available from the DEQ contact listed or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-orders>. The DEQ contact will accept comments by email or postal mail from February 12, 2024, through March 13, 2024.

Contact Information: Jonathan Chapman, Enforcement Specialist, Department of Environmental Quality, Southwest Regional Office, 355-A Deadmore Street, Abingdon, VA 24210, or email jonathan.chapman@deq.virginia.gov.

Proposed Enforcement Action for Linco Inc.

The Department of Environmental Quality (DEQ) is proposing an enforcement action for Linco Inc. for violations of State Water Control Law and regulations in the City of Charlottesville. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-orders>. The DEQ contact will accept written comments from February 12, 2024, to March 12, 2024.

Contact Information: Francesca Wright, Enforcement Specialist, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, Virginia 22801, telephone (804) 543-7707, or email francesca.wright@deq.virginia.gov.

Proposed Enforcement Action for Oak Hill Academy

The Department of Environmental Quality (DEQ) is proposing an amended enforcement action for Oak Hill Academy for violations of the State Water Control Law and regulations at the Oak Hill Academy sewage treatment plant in Grayson County. The proposed order is available from the DEQ contact listed or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-orders>. The DEQ contact will accept comments by email or postal mail from February 12, 2024, through March 13, 2024.

Contact Information: Jonathan Chapman, Enforcement Specialist, Department of Environmental Quality, Southwest Regional Office, 355-A Deadmore Street, Abingdon, VA 24210, or email jonathan.chapman@deq.virginia.gov.

Proposed Enforcement Action for Prins Projects USA LLC

The Department of Environmental Quality (DEQ) is proposing an enforcement action for Prins Projects USA LLC for violations of State Water Control Law and regulations and applicable permit at the Germanna Highway facility located in Stevensburg, Virginia. The proposed consent order is available from the DEQ contact listed or at <https://www.deq.virginia.gov/permits/public-notices>. The DEQ contact will accept written comments from February 13, 2024 to March 14, 2024.

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

Public Meeting and Opportunity for Public Comment for a Cleanup Study of the James, Maury, and Jackson Rivers in the Counties of Albemarle, Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Botetourt, Buckingham, Campbell, Chesterfield, Craig, Cumberland, Fluvanna, Giles, Goochland, Greene, Hanover, Henrico, Highland, Montgomery, Nelson, Powhatan, and Roanoke, and the Cities of Buena Vista, Charlottesville, Covington, Lexington, Lynchburg, and Richmond

Purpose of notice: The Department of Environmental Quality (DEQ) seeks public comment on the development of a cleanup study, also known as a total maximum daily load (TMDL) report, for the James, Maury, and Jackson Rivers in the Counties of Albemarle, Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Botetourt, Buckingham, Campbell, Chesterfield, Craig, Cumberland, Fluvanna, Giles, Goochland, Greene, Hanover, Henrico, Highland, Montgomery, Nelson, Powhatan, and Roanoke. The affected cities include Buena Vista, Charlottesville, Covington, Lexington, Lynchburg, and Richmond. This project affects streams located within the territories of DEQ's Blue Ridge, Valley, and Piedmont Regional Offices. These streams are listed as impaired since monitoring data does not meet Virginia's water quality standards for polychlorinated biphenyls (PCBs) in fish tissue. Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia requires DEQ to develop cleanup studies to address pollutants responsible for causing waters to be on Virginia's § 303(d) list of impaired waters. A component of a cleanup study is the wasteload allocation (WLA); therefore, this notice is provided pursuant to § 2.2-4006 A 14 of the Code of Virginia for adoption of the WLA into the Water Quality Management Planning Regulation (9VAC25-720) after completion of the study. The adoption of the WLA may require new or additional requirements for entities holding a Virginia Pollutant Discharge Elimination System (VPDES) permit in the James, Maury, and Jackson Rivers watersheds.

A study has been completed for James, Maury, and Jackson River watersheds to identify pollutant sources and recommend reductions needed from the sources to meet water quality standards. At the meeting, DEQ will present the results of the study and provide an overview of the draft report. Citizens are invited to provide comment on the study.

Cleanup study location: The study area totals 4,342,969 acres (approximately 6,786 mi²), and consists of four TMDL watersheds: Jackson River, Maury River, Upper James River study area (from the head of the James near Iron Gate to the Bent Creek confluence), and Lower James River study area (from the Bent Creek confluence to I-95 James River Bridge in Richmond).

Previous TMDL public meetings and technical advisory committee meetings: The first public meeting to initiate this cleanup study was convened on January 12, 2021. Technical advisory committee meetings to assist in development of this cleanup study were convened on February 24, 2021, August 2, 2022, and November 2, 2022.

Public meeting: The final public meeting on the development of the cleanup study will be held at Thomas Jefferson Planning District Commission Water Street Center, 407 East Water Street, Charlottesville on February 15, 2024, at 5:30 p.m. In the event of inclement weather, the meeting will be held on February 20, 2024, at the same time and location.

Public comment period: February 15, 2024, to March 18, 2024.

How to comment: DEQ accepts written comments by email or postal mail. All comments must be received by DEQ during the comment period. Submittals must include the name, organization represented (if any), mailing addresses, and telephone numbers of the commenter or requester.

Contacts for public comments, document requests, and additional information:

Mark Richards, Department of Environmental Quality, Central Office, 1111 East Main Street, Suite 1400, Richmond, VA, telephone (804) 659-1126, or email mark.richards@deq.virginia.gov;

Aerin Doughty, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russel Drive, Salem, VA, telephone (540) 988-3684; or email aerin.doughty@deq.virginia.gov for Alleghany, Amherst, Appomattox, Bedford, Botetourt, Campbell, Craig, Giles, Montgomery, Roanoke Counties, and the Cities of Covington and Lynchburg.

Denise Moyer, Department of Environmental Quality Piedmont Regional Office, 4949-A Cox Rd, Glen Allen, VA 23060, telephone (804) 527-5020, or email denise.moyer@deq.virginia.gov for Buckingham, Chesterfield, Cumberland, Goochland, Hanover, Henrico, Powhatan Counties, and the City of Richmond.

Nesha McRae, Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, VA, telephone (540) 217-7173, or email nesha.mcrae@deq.virginia.gov for Albemarle, Augusta, Bath, Fluvanna, Greene Highland, Nelson Counties, and the Cities of Buena Vista, Charlottesville, and Lexington.

The public may review the cleanup study at <https://www.deq.virginia.gov/our-programs/water/water-quality/tmdl-development/tmdls-under-development/pcb-tmdls>.

Contact Information: Mark Richards, Department of Environmental Quality, Central Office, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 659-1126, or email mark.richards@deq.virginia.gov.

BOARD OF PHARMACY

Notice of 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 March 28, 2024. Instructions will be included in the agenda for the board meeting, also on March 28. Public comment may also be submitted electronically or in writing prior to March 28, 2024, to the contact listed at the end of the notice.

Pursuant to § 54.1-3443 D of the Code of Virginia, the Virginia Department of Forensic Science (DFS) has identified four compounds for recommended inclusion into Schedule I of the Drug Control Act (§ 54.1-3400 et seq. of 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-(1,3-benzodioxol-5-yl)-2-(isobutylamino)-1-pentanone (other name: N-isobutylpentylone), 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.

1-(1,3-benzodioxyl-5-yl)-2-(tert-butylamino)-1-pentanone (other name: N-tert-butyl pentylone), 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.

1-Phenyl-N-propylcyclohexanamine (other names: N-(1-phenylcyclohexyl)propanamine, PCPr), 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.

The following compound is classified as a cannabimimetic agent. Compounds of this type have been placed in Schedule I (subdivision 6 of § 54.1-3446 of the Code of Virginia) in previous legislative sessions.

Methyl N-(1H-indazol-3-ylcarbonyl)-3-methyl-valinate (other name: MDMB-INACA), 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.

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.

